

SB0046S02 compared with SB0046S01

~~{deleted text}~~ shows text that was in SB0046S01 but was deleted in SB0046S02.

inserted text shows text that was not in SB0046S01 but was inserted into SB0046S02.

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~~{Senator Michael S. Kennedy}~~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

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Services;

- ▶ removes the authority of the chair of the Utah Substance Use and Mental Health Advisory Council to establish the goals and budget for an application for a federal grant, in a situation where the six-member committee comprised of individuals from the Department of Health and Human Services and local health departments is unable to agree by two-thirds majority on the goals and budget for a reviewable application for a federal grant;
- ▶ modifies the prescribed procedures for the Department of Health and Family Services' review of an individual's appeal of the Compassionate Use Board's denial of the individual's application for a medical cannabis card;
- ▶ creates the Office of Licensing within the Division of Licensing and Background Checks;
- ▶ creates the Office of Background Processing within the Division of Licensing and Background Checks;
- ▶ removes education, experience, and knowledge requirements to serve as the director of Division of Licensing and Background Checks;
- ▶ modifies the definition of "applicant" for individual's seeking approval to have direct access to children or vulnerable adults;
- ▶ modifies the terms of background checks and ongoing fingerprint monitoring to which an applicant must consent in connection with applying to the Office of Background Processing for direct access to children or vulnerable adults;
- ▶ requires the Office of Background Processing to search the Sex and Kidnap Offender Registry as part of its duties in performing a background check;
- ▶ prescribes other procedures for the Office of Background Processing to follow in performing a background check;
- ▶ modifies the parameters under which an applicant with a criminal history, or an applicant who is listed on a child abuse and neglect registry of any state, is screened by the Office of Background Processing or may qualify for direct access to children and vulnerable adults;
- ▶ modifies the numerical limit of foster children who may reside in a home, and establishes when those limits may be exceeded;

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- ▶ reduces from two years ~~{(i.e. 730 days)}~~ to 180 days the length of time a certification for direct patient access is valid before renewal is required;
- ▶ modifies the definition of "rural county" to mean counties of the ~~{first}~~second through ~~{third}~~sixth classes (i.e. ~~{counties}~~classes with populations less than 175,000) and no longer to mean counties with ~~{a population}~~populations less than 50,000;
- ▶ modifies the definition of "rural hospital" as a result of modifying the definition of "rural county;"
- ▶ removes the requirement that the executive director of the Department of Health and Human Services consider the advice of the chairman of the Department of Pathology at the University of Utah and the dean of the law school at the University of Utah;
- ▶ requires that a county executive obtain the approval of the state's chief medical examiner before appointing a county medical examiner;
- ▶ clarifies which records of a medical examiner are subject to production by the medical examiner, when a portion of the medical examiner's record relates to an issue of public health or safety;
- ▶ permits a medical examiner, prior to taking required steps pertaining to identification of an unidentified body, to release the unidentified body to the county in which the body was found;
- ▶ removes the requirement that a county or funeral director adopt the identification number the medical examiner assigned to an unidentified body;
- ▶ removes the requirement that a county inform the medical examiner of certain information pertaining to the county's disposition of an unidentified body;
- ▶ removes the requirement that a medical examiner maintain a file for unidentified bodies;
- ▶ expands the scope of individuals from whom a psychological autopsy examiner may gather information regarding a decedent's death; and
- ▶ expands the scope of information a psychological autopsy examiner may gather regarding a decedent's death.

Money Appropriated in this Bill:

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None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

4-41a-1102, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

4-41a-1202, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

17-43-203, as last amended by Laws of Utah 2004, Chapter 80

17-43-301, as last amended by Laws of Utah 2023, Chapters 15, 327

26A-1-112, as last amended by Laws of Utah 2011, Chapter 297

26A-1-113, as last amended by Laws of Utah 2022, Chapter 415

26A-1-120, as last amended by Laws of Utah 2002, Chapter 249

26B-1-202, as last amended by Laws of Utah 2023, Chapter 302

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

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

26B-1-207, as last amended by Laws of Utah 2023, Chapter 272

26B-1-237, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-324, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-414, as last amended by Laws of Utah 2023, Chapter 249 and renumbered and amended by Laws of Utah 2023, Chapter 305

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- 26B-1-421**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-1-422.1**, as enacted by Laws of Utah 2023, Chapter 269 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 305
- 26B-1-435**, as enacted by Laws of Utah 2023, Chapter 273
- 26B-1-435.1**, as enacted by Laws of Utah 2023, Chapter 273
- 26B-1-502**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-101**, as last amended by Laws of Utah 2023, Chapter 305
- 26B-2-103**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-104**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-120**, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-122**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-128**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-201**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-202**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-204**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-238**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-239**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-240**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-241 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-2-241 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 305
- 26B-3-114**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-3-212**, as last amended by Laws of Utah 2023, Chapter 316 and renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-4-118 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah 2023, Chapter 307

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- 26B-4-136 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-152 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-154 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-201**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-202**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
- 26B-4-213**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
- 26B-4-214**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-222**, as last amended by Laws of Utah 2023, Chapters 273, 281 and renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-4-245**, as enacted by Laws of Utah 2023, Chapter 273
- 26B-4-701**, as renumbered and amended by Laws of Utah 2023, Chapter 307
- 26B-5-101**, as last amended by Laws of Utah 2023, Chapter 308
- 26B-5-403**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 26B-6-401**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 26B-7-213**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 26B-7-215**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 26B-8-201**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-8-202**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-8-203**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-8-205**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-8-207**, as renumbered and amended by Laws of Utah 2023, Chapter 306
- 26B-8-210**, as renumbered and amended by Laws of Utah 2023, Chapter 306

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26B-8-217, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-221, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-223, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-225, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-227, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-229, as renumbered and amended by Laws of Utah 2023, Chapter 306
34A-6-107, as renumbered and amended by Laws of Utah 1997, Chapter 375
53-2a-802, as last amended by Laws of Utah 2022, Chapter 447
53-2d-404 (Effective 07/01/24), as renumbered and amended by Laws of Utah 2023,
Chapters 307, 310
53-2d-503 (Effective 07/01/24), as renumbered and amended by Laws of Utah 2023,
Chapters 307, 310
53-2d-703 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapter 16
and renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-10-404, as last amended by Laws of Utah 2021, Chapter 262
53-10-407, as last amended by Laws of Utah 2021, Chapter 262
53E-10-301, as last amended by Laws of Utah 2021, Chapter 379
53G-8-211, as last amended by Laws of Utah 2023, Chapter 161
53G-8-213, as enacted by Laws of Utah 2023, Chapter 161
53G-10-406, as last amended by Laws of Utah 2022, Chapter 447
58-17b-309.7, as last amended by Laws of Utah 2023, Chapter 328
58-17b-620, as last amended by Laws of Utah 2023, Chapter 328
63B-3-102, as last amended by Laws of Utah 2014, Chapter 196
63B-3-301, as last amended by Laws of Utah 2023, Chapter 369
63B-4-102, as last amended by Laws of Utah 2014, Chapter 196
63B-11-702, as last amended by Laws of Utah 2003, Chapter 171

~~63I-1-226 (Superseded 07/01/24), as last amended by Laws of Utah 2023, Chapters
249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of
Utah 2023, Chapter 329~~

~~63I-1-226 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 249,
269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of~~

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~~Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332~~

- † **63M-7-208**, as last amended by Laws of Utah 2023, Chapter 161
- 63M-7-401**, as last amended by Laws of Utah 2021, Chapter 173
- 63M-7-601**, as last amended by Laws of Utah 2023, Chapter 150
- 63M-7-702**, as last amended by Laws of Utah 2023, Chapter 150
- 63M-7-802**, as enacted by Laws of Utah 2023, Chapter 155
- 67-5b-101**, as last amended by Laws of Utah 2016, Chapter 290
- 76-3-401.5**, as enacted by Laws of Utah 2021, Chapter 37 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261
- 76-5-101**, as last amended by Laws of Utah 2022, Chapter 181
- 76-5-413**, as last amended by Laws of Utah 2022, Chapters 181, 255
- 76-8-311.5**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 77-16b-102**, as last amended by Laws of Utah 2021, Chapter 262
- 77-38-3**, as last amended by Laws of Utah 2023, Chapter 426
- 77-41-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 123
- 77-41-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 123, 128
- 78A-6-212**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 78B-7-804**, as last amended by Laws of Utah 2023, Chapters 237, 426
- 78B-7-805**, as last amended by Laws of Utah 2021, Chapter 159 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 159
- 78B-24-307**, as last amended by Laws of Utah 2023, Chapter 330
- 78B-24-308**, as last amended by Laws of Utah 2023, Chapter 330
- 80-2-301**, as last amended by Laws of Utah 2023, Chapter 280
- 80-2-703**, as renumbered and amended by Laws of Utah 2022, Chapter 334
- 80-2-1001**, as last amended by Laws of Utah 2023, Chapters 309, 330
- 80-2-1002**, as last amended by Laws of Utah 2023, Chapter 330
- 80-3-409**, as last amended by Laws of Utah 2023, Chapters 309, 320
- 80-5-102**, as last amended by Laws of Utah 2022, Chapter 255
- 80-5-103**, as renumbered and amended by Laws of Utah 2021, Chapter 261

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80-5-401, as last amended by Laws of Utah 2023, Chapter 93

80-6-102, as last amended by Laws of Utah 2022, Chapter 155

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

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

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- (a) pesticides;
- (b) heavy metals;
- (c) solvents;
- (d) microbial life;
- (e) artificially derived cannabinoid;
- (f) toxins; or
- (g) foreign matter.

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

- (a) to the public; and
- (b) that is not age restricted to an individual who is at least 21 years old.

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

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

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

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

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

~~[(4)]~~ (5) "Cannabis Research Review Board" means the Cannabis Research Review

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Board created in Section 26B-1-420.

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

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

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

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

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or
- (b) for a medical cannabis cardholder that is a facility, the facility's address.

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

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

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

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

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

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

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

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

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

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

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

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

(a) the department licenses in accordance with Section 4-41a-1201; and
(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

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

(a) is an employee of a medical cannabis courier; and
(b) who holds a valid medical cannabis courier agent registration card.

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

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

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

~~[(35)]~~ (36) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in

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accordance with Section 4-41a-901.

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

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

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

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

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

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

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

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

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

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

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

- (a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information from the medical cannabis pharmacy;
- (b) an in-person marketing event that is:

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- (i) held inside a medical cannabis pharmacy; and
- (ii) in an area where only a medical cannabis cardholder may access the event; or
- (c) other marketing material that is physically available or digitally displayed in:
 - (i) a medical cannabis pharmacy; and
 - (ii) an area where only a medical cannabis cardholder has access.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) has the power to direct or cause the management or control of a proposed medical

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cannabis pharmacy;

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

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

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

(iv) an operating plan that:

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

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

(C) the department approves;

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

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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

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

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

(ii) the department finds multiple other factors, in addition to the existing license, that

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support granting the new license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) conduct an application review; and

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

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

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

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

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

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

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

(iii) a medical cannabis device; or

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

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

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

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

(ii) a corresponding government issued photo identification.

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

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

(2) A medical cannabis pharmacy:

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

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and

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cannabidiol in the cannabis; and

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

(b) may not dispense:

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

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

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

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

(B) if the verification in Subsection (3)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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section.

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

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

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

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

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

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old.

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

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

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

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

(i) a felony; or

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

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

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

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

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

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

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

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

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

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

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

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

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

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to

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national criminal records databases, including the Next Generation Identification System and latent prints; and

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

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

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

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

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

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

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

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

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

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

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

(d) a security plan; and

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

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

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

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10 business days before the date of any change of ownership of the medical cannabis courier.

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

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

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

(A) conduct an application review; and

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

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

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

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

(i) a green cross;

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

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

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

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

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

(a) means:

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

Department of Health and Human Services; and

(ii) state money appropriated by the Legislature to the department, the ~~[Department of Health]~~ Department of Health and Human Services, a county governing body, or a local

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substance abuse authority for the purposes of providing substance abuse programs or services;
and

(b) includes that federal and state money:

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

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

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

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

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

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

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

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

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

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

(3) Each local substance abuse authority that knows or reasonably should know of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be

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required to make full and complete repayment to the state of all public funds improperly used or expended.

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

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

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

(1) As used in this section:

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

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

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

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

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

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

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

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

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

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

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

(ii) cooperate with efforts of the division to promote integrated programs that address

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an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

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

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

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

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

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

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

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

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

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

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

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

(iv) provide for the adoption of management, clinical, financial, procurement,

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personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

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

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

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

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

(5) (a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

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

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

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

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

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

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery,

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either directly by the local mental health authority or by contract;

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

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

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

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

(vii) establish mechanisms allowing for direct citizen input;

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

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

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

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

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

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

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

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

(vii) case management;

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

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

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

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

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

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

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

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

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

(A) waiting on hold; or

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

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

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

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

(i) the division;

(ii) the local mental health authority director;

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

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

(iv) the county legislative body; and

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

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

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

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

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

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

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

26A-1-112. Appointment of personnel.

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) The district attorney or county attorney having criminal jurisdiction shall prosecute criminal violations of the public health laws and rules of the Departments of [~~Health~~]

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Health and Human Services and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws and rules pertaining to health and sanitary matters.

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

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

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

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

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

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

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

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,

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or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by [~~Section 62A-5a-105~~] Section 26B-1-430 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(41) conduct health planning for the state;

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

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health care delivery system;

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

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

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

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

(47) oversee public education vision screening as described in Section 53G-9-404; and

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert.

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

26B-1-204 (Superseded 07/01/24). Creation of boards, divisions, and offices --

Power to organize department.

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

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

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

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

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- (c) Health Facility Committee;
 - (d) State Emergency Medical Services Committee;
 - (e) Air Ambulance Committee;
 - (f) Health Data Committee;
 - (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
 - (h) Child Care Provider Licensing Committee;
 - (i) Primary Care Grant Committee;
 - (j) Adult Autism Treatment Program Advisory Committee;
 - (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
 - (l) any boards, councils, or committees that are created by statute in this title.
- (3) The following divisions are created within the Department of Health and Human

Services:

- (a) relating to operations:
 - (i) the Division of Finance and Administration;
 - (ii) the Division of Licensing and Background Checks;
 - (iii) the Division of Customer Experience;
 - (iv) the Division of Data, Systems, and Evaluation; and
 - (v) the Division of Continuous Quality and Improvement;
- (b) relating to healthcare administration:
 - (i) the Division of Integrated Healthcare, which shall include responsibility for:
 - (A) the state's medical assistance programs; and
 - (B) behavioral health programs described in Chapter 5, Health Care - Substance Use

and Mental Health;

- (ii) the Division of Aging and Adult Services; and
 - (iii) the Division of Services for People with Disabilities; [~~and~~]
- (c) relating to community health and well-being:
- (i) the Division of Child and Family Services;
 - (ii) the Division of Family Health;
 - (iii) the Division of Population Health;
 - (iv) the Division of Juvenile Justice and Youth Services; and
 - (v) the Office of Recovery Services[~~;~~]; and

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

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

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

Section 12. Section **26B-1-204 (Effective 07/01/24)** is amended to read:

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

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

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

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

- (a) Board of Aging and Adult Services;
- (b) Utah State Developmental Center Board;
- (c) Health Facility Committee;
- (d) Health Data Committee;
- (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- (f) Child Care Provider Licensing Committee;
- (g) Primary Care Grant Committee;
- (h) Adult Autism Treatment Program Advisory Committee;
- (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
- (j) any boards, councils, or committees that are created by statute in this title.

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

- (a) relating to operations:

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- (i) the Division of Finance and Administration;
- (ii) the Division of Licensing and Background Checks;
- (iii) the Division of Customer Experience;
- (iv) the Division of Data, Systems, and Evaluation; and
- (v) the Division of Continuous Quality and Improvement;
- (b) relating to healthcare administration:
 - (i) the Division of Integrated Healthcare, which shall include responsibility for:
 - (A) the state's medical assistance programs; and
 - (B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;
 - (ii) the Division of Aging and Adult Services; and
 - (iii) the Division of Services for People with Disabilities; [~~and~~]
- (c) relating to community health and well-being:
 - (i) the Division of Child and Family Services;
 - (ii) the Division of Family Health;
 - (iii) the Division of Population Health;
 - (iv) the Division of Juvenile Justice and Youth Services; and
 - (v) the Office of Recovery Services[~~;~~]; and
 - (d) relating to clinical services, the Division of Health Access.
- (4) The executive director may establish offices [~~and bureaus~~] to facilitate management of the department as required by, and in accordance with this title.
- (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

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

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

- (1) In establishing public health policy, the department shall consult with the local

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health departments established under Title 26A, Chapter 1, Local Health Departments.

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

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

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

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

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

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

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

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

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

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

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

- (i) the executive director, or the executive director's designee;
- (ii) two representatives of the department, appointed by the executive director; and
- (iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance

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with the formula described in Section 26A-1-116;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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or rule;

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

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

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

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

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

The [Utah] Office of Internal Audit:

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

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

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

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

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

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

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

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

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

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

(c) After consultation with the Behavioral Health Crisis Response Commission created in Section 63C-18-202, and local substance use authorities and local mental health authorities

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described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:

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

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

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

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

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

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

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

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

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

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

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

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

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Management Committee that includes:

- (a) the amount of each disbursement from the account;
- (b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;
- (c) any conditions placed by the division on the disbursements from the account;
- (d) the anticipated expenditures from the account for the next fiscal year;
- (e) the amount of any unexpended funds carried forward;
- (f) the number of Statewide Mental Health Crisis Line calls received;
- (g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and
- (h) other relevant justification for ongoing support from the account.

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

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

- (i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
- (ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.

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

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

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

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

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

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with this Subsection (1).

(b) The governor shall appoint three members who:

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

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

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

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

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

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

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

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

(E) a health care provider; and

(F) an architect licensed in the state.

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

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

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

(i) the health care professional is licensed under:

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

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

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

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

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(d)(i)(D) within 90 days after the day on which the

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governor sends the notice described in Subsection (1)(f)(ii)(A).

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

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

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

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

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

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

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Seven members of the licensing committee constitute a quorum for the transaction of business.

(6) A member appointed under Subsection (1)(b) may not vote on any action proposed by the licensing committee regarding residential child care.

(7) A member appointed under Subsection (1)(c) may not vote on any action proposed by the licensing committee regarding center based child care.

(8) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and

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63A-3-107.

(9) The licensing committee shall:

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

(i) adequate facilities and equipment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26B-1-421. Compassionate Use Board.

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

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

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

Senate confirms:

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

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

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

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

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

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

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

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

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

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

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

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

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

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

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service; and

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

(5) The Compassionate Use Board shall:

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

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

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) when a qualified medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

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(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

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

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

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

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

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

(a) time is of the essence;

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

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

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

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

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

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

(A) issue the relevant medical cannabis card; and

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

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

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

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

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

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

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

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

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

26B-1-422.1. Reports.

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

(b) The annual report shall include:

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

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

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

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

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

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

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

(2) In addition to the annual report described in Subsection (1)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent, a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

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

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

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

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

(i) appointed by the executive director:

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

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis

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patients;

- (E) an individual who holds a medical cannabis patient card; and
- (F) a member of the general public who does not hold a medical cannabis card; and
- (ii) appointed by the commissioner of the Department of Agriculture and Food:
- (A) an individual who owns or operates a licensed cannabis cultivation facility, as

defined in Section 4-41a-102;

- (B) an individual who owns or operates a licensed medical cannabis pharmacy; and
- (C) a law enforcement officer.

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

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

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

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

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

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

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

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

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

(a) Sections 63A-3-106 and 63A-3-107; and

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

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(7) The department shall:

- (a) provide staff support for the advisory board; and
- (b) assist the advisory board in conducting meetings.

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

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

(1) The advisory board may recommend:

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

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

(2) The advisory board shall:

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

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

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Utah Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

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

26B-1-502. Initial review.

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

(a) (i) for a death, complete a deceased client report form, created by the department; or

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

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

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

(a) the executive director; and

(b) the fatality review coordinator or the fatality review coordinator's designee.

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

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

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

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

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

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

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

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

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

unless:

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

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

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

to:

(I) a natural cause; or

(II) an accident;

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

(A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;

(B) the near fatality or the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii) (A) the death is caused by suicide; or

(B) the near fatality is caused by attempted suicide; or

(iv) the director of the Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

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

26B-2-101. Definitions.

As used in this part:

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

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

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

(b) that meets the needs of functionally impaired adults through a comprehensive

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program that provides a variety of health, social, recreational, and related support services in a protective setting.

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

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

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

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

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

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

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

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

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(38)(a)~~] (39)(a); or

(B) provides the treatment or services described in Subsection [~~(38)(a)~~] (39)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for

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one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(38)(a)~~] (39)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(38)(a)~~] (39)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(38)(a)~~] (39)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(38)(a)~~] (39)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Certification" means a less restrictive level of licensure issued by the department.

~~[(6)] (7)~~ "Child" means an individual under 18 years old.

~~[(7)] (8)~~ "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

~~[(8)] (9)~~ "Child-placing agency" means a person that engages in child placing.

~~[(9)] (10)~~ "Client" means an individual who receives or has received services from a licensee.

~~[(10)] (11)~~ (a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

~~[(11)] (12)~~ "Day treatment" means specialized treatment that is provided to:

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- (a) a client less than 24 hours a day; and
- (b) four or more persons who:
 - (i) are unrelated to the owner or provider; and
 - (ii) have emotional, psychological, developmental, physical, or behavioral

dysfunctions, impairments, or chemical dependencies.

~~[(12)]~~ (13) "Department contractor" means an individual who:

- (a) provides services under a contract with the department; and
- (b) due to the contract with the department, has or will likely have direct access to a

child or vulnerable adult.

~~[(13)]~~ (14) "Direct access" means that an individual has, or likely will have:

- (a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or
- (b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

~~[(14)]~~ (15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background [~~screening~~] check approval issued by the office.

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

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

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

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

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

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

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

~~[(22)]~~ (23) "Health insurer" means the same as that term is defined in Section

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31A-22-615.5.

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

- (i) a foster home;
- (ii) a therapeutic school;
- (iii) a youth program;
- (iv) an outdoor youth program;
- (v) a residential treatment program;
- (vi) a residential support program;
- (vii) a resource family home;
- (viii) a recovery residence; or
- (ix) a facility or program that provides:
 - (A) adult day care;
 - (B) day treatment;
 - (C) outpatient treatment;
 - (D) domestic violence treatment;
 - (E) child-placing services;
 - (F) social detoxification; or
 - (G) any other human services that are required by contract with the department to be

licensed with the department.

(b) "Human services program" does not include:

- (i) a boarding school; or
- (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

~~[(24)]~~ (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec.

1903.

~~[(25)]~~ (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec.

1151.

~~[(26)]~~ (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec.

1903.

~~[(27)]~~ (28) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

- (a) cannot live independently or in a less restrictive environment; and

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(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

~~[(28)]~~ (29) "Licensee" means an individual or a human services program licensed by the office.

~~[(29)]~~ (30) "Local government" means a city, town, metro township, or county.

~~[(30)]~~ (31) "Minor" means child.

~~[(31)]~~ (32) "Office" means the Office of Licensing within the department.

~~[(32)]~~ (33) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

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

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

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

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

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

~~[(36)]~~ (37) (a) "Recovery residence" means a home, residence, or facility that meets at

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least two of the following requirements:

- (i) provides a supervised living environment for individuals recovering from a substance use disorder;
- (ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;
- (iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;
- (iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or
- (v) (A) receives public funding; or
- (B) is run as a business venture, either for-profit or not-for-profit.
- (b) "Recovery residence" does not mean:
 - (i) a residential treatment program;
 - (ii) residential support program; or
 - (iii) a home, residence, or facility, in which:
 - (A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;
 - (B) residents equitably share rent and housing-related expenses; and
 - (C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

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

- (a) the hours during which services of any kind are provided to a client; or
- (b) the hours during which a client is present at the facility of a licensee.

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

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

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- (i) emotional;
 - (ii) psychological;
 - (iii) developmental; or
 - (iv) behavioral.
- (c) Treatment is not a necessary component of a residential support program.
- (d) "Residential support program" does not include:

- (i) a recovery residence; or
- (ii) a program that provides residential services that are performed:

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

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

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

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

- (i) boarding school;
- (ii) foster home; or
- (iii) recovery residence.

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

- (a) residential treatment; or
- (b) intermediate secure treatment.

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

- (a) away from the individual's peers; and
- (b) in a manner that physically prevents the individual from leaving the room or area.

~~[(42)]~~ (43) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

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

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

~~[(43)]~~ (44) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

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

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

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

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

~~[(45)]~~ (46) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

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(III) behavioral development;

(IV) familial development; or

(V) social development.

~~[(46)]~~ (47) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

~~[(47)]~~ (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

~~[(48)]~~ (49) (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

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

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

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

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

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

~~[(49)]~~ (50) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

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

(i) a relative of the child;

(ii) a state agency; or

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(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

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

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

(1) There is created the [~~Office of Licensing~~] Division of Licensing and Background Checks within the department.

(2) The [~~office~~] division shall be the licensing and background screening authority for the department, and is vested with all the powers, duties, and responsibilities described in:

(a) this part;

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

(c) Part 4, Child Care Licensing; and

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

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

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

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

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

26B-2-104. Division responsibilities.

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

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

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

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

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- (I) physical facility and grounds; and
- (II) area and community surrounding the physical facility;
- (F) transportation safety;
- (G) emergency preparedness and response;
- (H) the administration of medical standards and procedures, consistent with the related provisions of this title;
- (I) staff and client safety and protection;
- (J) the administration and maintenance of client and service records;
- (K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;
- (L) staff to client ratios;
- (M) access to firearms; and
- (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
 - (A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (B) food safety;
 - (C) sanitation;
 - (D) infectious disease control, except that the standards are limited to:
 - (I) those required by law or rule under this title, or Title 26A, Local Health Authorities;
- and
- (II) requiring a separate room for clients who are sick;
- (E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
- (F) transportation safety;
- (G) emergency preparedness and response;
- (H) access to appropriate medical care, including:
 - (I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and
 - (II) storing, tracking, and securing medication;

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(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

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

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

(L) staff to client ratios;

(M) access to firearms; and

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

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

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

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

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

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

(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the department, or one of its divisions; and

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

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this part;

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- (vii) what constitutes an "outpatient treatment program" for purposes of this part;
- (viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;
- (ix) a protocol for the office to investigate and process complaints about licensees;
- (x) a procedure for a licensee to:
 - (A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and
 - (B) report a critical incident within one business day after the day on which the incident occurs;
- (xi) guidelines for the policies and procedures described in Sections 26B-2-109 and 26B-2-123;
- (xii) a procedure for the office to review and approve the policies and procedures described in Sections 26B-2-109 and 26B-2-123; and
- (xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;
- (b) enforce rules relating to the office;
- (c) issue licenses in accordance with this part;
- (d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Inter-country Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:
 - (i) the Inter-country Adoption Act of 2000, Pub. L. No. 106-279; and
 - (ii) the implementing regulations for the Inter-country Adoption Act of 2000, Pub. L. No. 106-279;
- (e) make rules to implement the provisions of Subsection (1)(d);
- (f) conduct surveys and inspections of licensees and facilities in accordance with Section 26B-2-107;
- (g) collect licensure fees;
- (h) notify licensees of the name of a person within the department to contact when filing a complaint;

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- (i) investigate complaints regarding any licensee or human services program;
 - (j) have access to all records, correspondence, and financial data required to be maintained by a licensee;
 - (k) have authority to interview any client, family member of a client, employee, or officer of a licensee;
 - (l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;
 - (m) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (n) upon receiving a local government's request under Section 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.
- (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:
- (a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:
 - (i) on the premises where the licensee operates its human services program;
 - (ii) by or against its clients; or
 - (iii) by or against a staff member while the staff member is on duty;
 - (b) immediately report to emergency medical services any medical emergency, as defined by rule:
 - (i) on the premises where the licensee operates its human services program;
 - (ii) involving its clients; or
 - (iii) involving a staff member while the staff member is on duty; and
 - (c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

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

26B-2-120. Background check -- Direct access to children or vulnerable adults.

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(1) As used in this section:

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

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

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

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

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

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

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

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

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

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) ~~[a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual]~~ an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the [office] division; or

~~[(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)]~~

(J) an individual who is 12 years old or older and is associated with a certification,

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contract, or licensee with the department under this part and has or will likely have direct access.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services;
[or]

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services~~[-];~~

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background ~~[screening]~~ check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

~~[(d) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.]~~

~~[(e)]~~ (d) "Criminal finding" means a record of:

(i) an arrest ~~[or]~~ for a criminal offense;

~~[(ii)]~~ (ii) a warrant for ~~[an]~~ a criminal arrest;

~~[(iii)]~~ (iii) charges for a criminal offense; or

~~[(iv)]~~ (iv) a criminal conviction.

~~[(f)]~~ (e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

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(f) (i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department ends.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

~~[(g) "Mental health professional" means an individual who:]~~

~~[(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and]~~

~~[(ii) engaged in the practice of mental health therapy.]~~

~~[(h) (i) "Non-criminal finding" means a record maintained in:~~

~~(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;~~

~~(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;~~

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

~~(iv) juvenile court arrest, adjudication, and disposition records;~~

~~[(iv) (v) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry; or~~

~~[(v) (vi) a state child abuse or neglect registry.~~

~~(j) "Office" means the Office of Background Processing within the department.~~

~~[(i) (i) "Peer support specialist" means an individual who:]~~

~~[(A) has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder; and]~~

~~[(B) uses personal experience to provide support, guidance, or services to promote resiliency and recovery.]~~

~~[(ii) "Peer support specialist" includes a certified peer support specialist.]~~

~~[(iii) "Peer support specialist" does not include a mental health professional.]~~

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~~(f)~~ (k) "Personal identifying information" means:

- (i) current name, former names, nicknames, and aliases;
- (ii) date of birth;
- (iii) physical address and email address;
- (iv) telephone number;
- (v) driver license or other government-issued identification;
- (vi) social security number;
- (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and
- (viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~(k) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.]~~

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

- (a) personal identifying information;
- (b) a fee established by the office under Section 63J-1-504; ~~[and]~~
- (c) a disclosure form, specified by the office, for consent for:
 - (i) an initial background check upon ~~[submission of the information described in this Subsection (2)]~~ association with a certification, contract, or licensee with the department;
 - (ii) ongoing monitoring of fingerprints and registries until no longer ~~[associated with a licensee for 90 days]~~ associated with a certification, contract, or licensee with the department for 180 days;
 - (iii) a background check when the office determines that reasonable cause exists; and
 - (iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections ~~[(3)(d)]~~ (3)(c) and (4); ~~[and]~~
- (d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories~~[-];~~ and

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(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

~~[(iv)]~~ (v) if the applicant is ~~[applying to become]~~ associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001 ~~[for:];~~

~~[(A) the applicant; and]~~

~~[(B) any adult living in the applicant's home;]~~

~~[(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;]~~

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

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

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided

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under Section 78A-6-209;

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

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

~~(i) for an annual renewal; or~~

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

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

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

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

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

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

~~[(f)] (e) [shall track the status of each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases] shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;~~

~~[(g)] (f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);~~

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~~[(h)]~~ (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any ~~[individual]~~ applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the ~~[applicant submits the information described in Subsection (2)]~~ application is submitted to the office; and

~~[(f)]~~ (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection ~~[(3)(d)]~~ (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal

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activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that ~~[an individual's direct access to a child or a vulnerable adult has ceased for 90 days]~~ an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) Except as provided in Subsection (5)(b), ~~[after conducting the background check described in Subsections (3) and (4);]~~ the office shall deny ~~[an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of]~~ direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

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

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

~~[(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;]~~

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

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(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking

Injunctions:

~~[(E)]~~ (L) aggravated arson, as described in Section 76-6-103;

~~[(F)]~~ (M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

~~[(G)]~~ (O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

~~[(H)]~~ (R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

~~[(I)]~~ (U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

~~[(J) a violent offense committed in the presence of a child, as described in Section 76-3-203.10; or]~~

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider~~;~~ or a mental health professional, [or in a] if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with ~~[Subsection (6)]~~ Subsection (12).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

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

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

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

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

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

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

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

(g) has a misdemeanor charge or conviction that is more than three years from the date

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on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

~~[(e)]~~ (h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection ~~[(5)]~~ (5)(a);

~~[(f)]~~ (i) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

~~[(g)]~~ (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection ~~[(5)]~~ (5)(a);

~~[(h)]~~ (k) has a pending charge for an offense described in Subsection ~~[(5)]~~ (5)(a);

~~[(i)]~~ (l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002 ~~[that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing];~~

~~[(j)]~~ (m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210 ~~[that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing];~~

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or

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non-criminal findings after the date of the listing;

~~[(k)] (p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504 [that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the finding]; or~~

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

~~[(t) (i) is seeking a position:]~~

~~[(A) as a peer support provider;]~~

~~[(B) as a mental health professional; or]~~

~~[(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and]~~

~~[(ii) within three years before the day on which the applicant submits the information described in Subsection (2):]~~

~~[(A) has a felony or misdemeanor charge or conviction;]~~

~~[(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;]~~

~~[(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; or]~~

~~[(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504;]~~

~~[(m) (i) (A) is seeking a position in a congregate care program;]~~

~~[(B) is seeking to become a prospective foster or adoptive parent; or]~~

~~[(C) is an applicant described in Subsection (1)(a)(i)(F); and]~~

~~[(ii) (A) has an infraction conviction for conduct that constitutes an offense or violation described in Subsection (5)(a)(i)(A) or (B);]~~

~~[(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;]~~

~~[(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,~~

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~~neglect, or exploitation database described in Section 26B-6-210;]~~

~~[(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or]~~

~~[(E) has a listing on the registry check described in Subsection (13)(a) as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102; or]~~

~~[(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult living with the applicant who has, a conviction, finding, or listing described in Subsection (6)(m)(ii);]~~

(7) (a) The comprehensive review shall include an examination of:

- (i) the date of the offense or incident;
- (ii) the nature and seriousness of the offense or incident;
- (iii) the circumstances under which the offense or incident occurred;
- (iv) the age of the perpetrator when the offense or incident occurred;
- (v) whether the offense or incident was an isolated or repeated incident;
- (vi) whether the offense or incident directly relates to abuse of a child or vulnerable

adult, including:

- (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- (B) sexual abuse;
- (C) sexual exploitation; or
- (D) negligent treatment;
- (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric

treatment received, or additional academic or vocational schooling completed; and

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying[-];

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny [~~an application to an applicant if the office finds:~~] direct access qualified status to an applicant if

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the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

~~[(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or]~~

~~[(ii) an individual is prohibited from having direct access to a child or vulnerable adult by court order.]~~

(8) The office shall ~~[approve an application]~~ grant direct access qualified status to an applicant who is not denied under this section.

(9) (a) The office may conditionally ~~[approve an application of]~~ grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice ~~[to the applicant under Subsection (11)]~~, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise ~~[approve an application of]~~ grant direct access qualified status to the applicant under this section.

(b) The office may conditionally ~~[approve an application of]~~ grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice ~~[to the applicant under Subsection (11)]~~, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise ~~[approve an application of]~~ grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall ~~[approve or deny the application of]~~ grant or deny direct access qualified status to the applicant in accordance with this section.

(10) (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

~~[(a)]~~ (b) A licensee ~~[or department contractor]~~ may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

~~[(i) the individual is associated with the licensee or department contractor and the~~

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~~department conducts a background screening in accordance with this section;]~~

~~[(ii)] (i)~~ the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

~~[(iii)] (ii)~~ the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

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

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

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

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

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

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

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

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

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

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

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

~~[(b) The exemption described in Subsection (12)(a) does not extend to a program director or a member, as defined by Section 26B-2-105, of the program]~~

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) seeking a position:

(A) as a peer support provider;

(B) mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

~~[(13)(a) Except as provided in Subsection (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program or an applicant seeking to become a prospective foster or adoptive parent, the office shall:]~~

(13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the

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registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) ~~except for applicants seeking a position in a congregate care program,~~ check the child abuse and neglect registry in each state where each adult living in the home of the ~~[applicant described in Subsection (13)(a)(i)]~~ prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

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

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

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

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in ~~[Subsection (5)]~~ Subsections (5), (6), and (7).

~~[(c)]~~ (d) Notwithstanding Subsections (5) through (10), the office shall deny ~~[a clearance to an applicant seeking a position in a congregate care program or an applicant to become a prospective foster or adoptive parent if the applicant has been convicted of]~~ direct access qualified status if the applicant has been convicted of:

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

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

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

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

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

~~[(D)]~~ (E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

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

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

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- ~~[(G)]~~ (H) manslaughter, as described in Section 76-5-205;
- ~~[(H)]~~ (I) child abuse homicide, as described in Section 76-5-208;
- ~~[(I)]~~ (J) homicide by assault, as described in Section 76-5-209;
- ~~[(J)]~~ (K) kidnapping, as described in Section 76-5-301;
- ~~[(K)]~~ (L) child kidnapping, as described in Section 76-5-301.1;
- ~~[(L)]~~ (M) aggravated kidnapping, as described in Section 76-5-302;
- ~~[(M)]~~ (N) human trafficking of a child, as described in Section 76-5-308.5;
- ~~[(N)]~~ (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- ~~[(O)]~~ (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual

Exploitation Act;

- ~~[(P)]~~ (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- ~~[(Q)]~~ (R) aggravated arson, as described in Section 76-6-103;
- ~~[(R)]~~ (S) aggravated burglary, as described in Section 76-6-203;
- ~~[(S)]~~ (T) aggravated robbery, as described in Section 76-6-302;
- ~~[(T)]~~ (U) lewdness involving a child, as described in Section 76-9-702.5;
- ~~[(U)]~~ (V) incest, as described in Section 76-7-102; or
- ~~[(V)]~~ (W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection ~~[(13)(c)(i)]~~ (13)(d)(i).

~~[(d)]~~ (e) Notwithstanding Subsections (5) through (10), the office shall deny ~~[a license or license renewal to an individual seeking a position in a congregate care program or a prospective foster or adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the individual]~~ direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

- (i) aggravated assault, as described in Section 76-5-103;
- (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- (iii) mayhem, as described in Section 76-5-105;
- (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

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(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

~~[(e)]~~ (f) In addition to the circumstances described in Subsection (6), the office shall conduct ~~[the]~~ a comprehensive review of an applicant's background check under this section if ~~[the registry check described in Subsection (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.]~~ the applicant:

(i) has an offense described in Subsection (5)(a), has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(ii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-6-210;

(iv) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(v) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

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

~~[(a)]~~ (i) establish procedures for, and information to be examined in, the comprehensive review described in Subsections ~~[(6) and (7)]~~ (6), (7), and (13); and

~~[(b)]~~ (ii) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services for purposes of ~~[approval or denial of an application for a prospective foster or adoptive parent]~~ granting or denying direct access qualified status to an applicant.

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

26B-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section 26B-6-401.

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

(a) (i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation;

(b) (i) determining whether a direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; or

(c) (i) determining whether a personal care attendant has a supported or substantiated finding of:

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- (A) abuse;
- (B) neglect; or
- (C) exploitation; and

(ii) informing a person described in Subsections 26B-6-401(9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:

- (A) abuse;
- (B) neglect; or
- (C) exploitation.

(3) The department shall receive and process personal identifying information under Subsection [~~26B-2-120(1)~~] 26B-2-120(2) for the purposes described in Subsection (2).

(4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this part and Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210 as having a supported or substantiated finding of abuse, neglect, or exploitation.

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

26B-2-128. Numerical limit of foster children in a foster home.

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

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

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

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

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

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

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

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

~~[(c) a sibling group re-enters foster care and is placed into the foster home where the~~

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~~sibling group previously resided.]~~

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

- (a) to place a child into a foster home where a sibling of the child currently resides; or
- (b) to place a child in a foster home where the child previously resided.

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

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

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

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

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

26B-2-201. Definitions.

As used in this part:

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

(b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under

Section 76-7-301 or Section ~~[76-71-101]~~ 76-7a-101.

(2) "Activities of daily living" means essential activities including:

- (a) dressing;
- (b) eating;
- (c) grooming;
- (d) bathing;
- (e) toileting;
- (f) ambulation;
- (g) transferring; and
- (h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5) (a) "Assisted living facility" means:

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(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self-sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26B-2-228(7).

(7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

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(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that meets the definition of hospital under Section 76-7-301 or [~~76-71-201~~] 76-7a-101, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b) (i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15) (a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech

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therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the

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department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 29. Section **26B-2-202** is amended to read:

26B-2-202. Duties of department.

(1) The department shall:

(a) enforce rules established pursuant to this part;

(b) authorize an agent of the department to conduct inspections of health care facilities pursuant to this part;

(c) collect information authorized by the committee that may be necessary to ensure that adequate health care facilities are available to the public;

(d) collect and credit fees for licenses as free revenue;

(e) collect and credit fees for conducting plan reviews as dedicated credits;

(f) (i) collect and credit fees for conducting [~~clearance~~] certification for direct patient access under Sections 26B-2-239 and 26B-2-240; and

(ii) beginning July 1, 2012:

(A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated credits; and

(B) the fees collected for background checks under Subsection 26B-2-240(6) and Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse

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the Department of Public Safety for its costs in conducting the federal background checks;

(g) designate an executive secretary from within the department to assist the committee in carrying out its powers and responsibilities;

(h) establish reasonable standards for criminal background checks by public and private entities;

(i) recognize those public and private entities that meet the standards established pursuant to Subsection (1)(h); and

(j) provide necessary administrative and staff support to the committee.

(2) The department may:

(a) exercise all incidental powers necessary to carry out the purposes of this part;

(b) review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules as necessary to implement the provisions of this part.

Section 30. Section **26B-2-204** is amended to read:

**26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee --
Licensing of a clinic meeting the definition of hospital.**

(1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the last valid date of an abortion clinic license issued under the requirements of this section, whichever date is later.

(b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an abortion in violation of any provision of state law.

(2) The state may not issue a license for an abortion clinic after May 2, 2023.

(3) For any license for an abortion clinic that is issued under this section:

(a) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

(b) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

(c) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

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- (i) a type I abortion clinic; and
 - (ii) a type II abortion clinic.
- (d) To receive and maintain a license described in this section, an abortion clinic shall:
- (i) apply for a license on a form prescribed by the department;
 - (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established ~~[under 7r]~~ under Subsection (3) that relate to the type of abortion clinic licensed;
 - (iii) comply with the recordkeeping and reporting requirements of Section 76-7-313;
 - (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition;
 - (v) pay the annual licensing fee; and
 - (vi) cooperate with inspections conducted by the department.
- (e) The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic. At least one of the inspections shall be made without providing notice to the abortion clinic.
- (f) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.
- (g) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.
- (4) (a) Notwithstanding any other provision of this section, the department may license a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.
- (b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.
- Section 31. Section **26B-2-238** is amended to read:
- 26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.**
- As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:
- (1) [~~"Clearance"~~] "Certification for direct patient access" means approval by the department under Section 26B-2-239 for an individual to have direct patient access.

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(2) "Covered body" means a covered provider, covered contractor, or covered employer.

(3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.

(4) "Covered employer" means an individual who:

(a) engages a covered individual to provide services in a private residence to:

(i) an aged individual, as defined by department rule; or

(ii) a disabled individual, as defined by department rule;

(b) is not a covered provider; and

(c) is not a licensed health care facility within the state.

(5) "Covered individual":

(a) means an individual:

(i) whom a covered body engages; and

(ii) who may have direct patient access;

(b) includes:

(i) a nursing assistant, as defined by department rule;

(ii) a personal care aide, as defined by department rule;

(iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;

(iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;

(v) an executive;

(vi) administrative staff, including a manager or other administrator;

(vii) dietary and food service staff;

(viii) housekeeping and maintenance staff; and

(ix) any other individual, as defined by department rule, who has direct patient access;

and

(c) does not include a student, as defined by department rule, directly supervised by a member of the staff of the covered body or the student's instructor.

(6) "Covered provider" means:

(a) an end stage renal disease facility;

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- (b) a long-term care hospital;
- (c) a nursing care facility;
- (d) a small health care facility;
- (e) an assisted living facility;
- (f) a hospice;
- (g) a home health agency; or
- (h) a personal care agency.

(7) "Direct patient access" means for an individual to be in a position where the individual could, in relation to a patient or resident of the covered body who engages the individual:

- (a) cause physical or mental harm;
 - (b) commit theft; or
 - (c) view medical or financial records.
- (8) "Engage" means to obtain one's services:

- (a) by employment;
- (b) by contract;
- (c) as a volunteer; or
- (d) by other arrangement.

(9) "Long-term care hospital":

(a) means a hospital that is certified to provide long-term care services under the provisions of 42 U.S.C. Sec. 1395tt; and

(b) does not include a critical access hospital, designated under 42 U.S.C. Sec. 1395i-4(c)(2).

(10) "Patient" means an individual who receives health care services from one of the following covered providers:

- (a) an end stage renal disease facility;
- (b) a long-term care hospital;
- (c) a hospice;
- (d) a home health agency; or
- (e) a personal care agency.

(11) "Personal care agency" means a health care facility defined by department rule.

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(12) "Resident" means an individual who receives health care services from one of the following covered providers:

- (a) a nursing care facility;
- (b) a small health care facility;
- (c) an assisted living facility; or
- (d) a hospice that provides living quarters as part of its services.

(13) "Residential setting" means a place provided by a covered provider:

- (a) for residents to live as part of the services provided by the covered provider; and
- (b) where an individual who is not a resident also lives.

(14) "Volunteer" means an individual, as defined by department rule, who provides services without pay or other compensation.

Section 32. Section **26B-2-239** is amended to read:

26B-2-239. Certification for direct patient access required -- Application by covered providers, covered contractors, and individuals.

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

(2) (a) A covered provider may engage a covered individual only if the individual has [clearance] certification for direct patient access.

(b) A covered contractor may supply a covered individual to a covered employer or covered provider only if the individual has [clearance] certification for direct patient access.

(c) A covered employer may engage a covered individual who does not have [clearance] certification for direct patient access.

(3) (a) Notwithstanding Subsections (2)(a) and (b), if a covered individual does not have [clearance] certification for direct patient access, a covered provider may engage the individual or a covered contractor may supply the individual to a covered provider or covered employer:

- (i) under circumstances specified by department rule; and
- (ii) only while an application for [clearance] certification for direct patient access for the individual is pending.

(b) For purposes of Subsection (3)(a), an application is pending if the following have been submitted to the department for the individual:

- (i) an application for [clearance] certification for direct patient access;

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

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

(4) (a) As provided in Subsection (4)(b), each covered provider and covered contractor operating in this state shall:

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

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

(A) the personal identification information; and

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

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

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

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

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

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

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

(A) the personal identification information; and

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

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

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

(i) the personal identification information specified by the department under

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Subsection 26B-2-240(4)(b); and

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

(b) [~~Clearance~~] Certification for direct patient access granted to an individual who makes application under Subsection (6)(a) is valid for [~~two years~~] 180 days after the date the engaged employment lapses unless the department determines otherwise based on the department's ongoing review under Subsection 26B-2-240(4)(a).

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

26B-2-240. Department authorized to grant, deny, or revoke certification for direct patient access -- Department may limit direct patient access -- Certification for direct patient access.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains [~~clearance~~] certification for direct patient access:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

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(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for [~~clearance~~] certification for direct patient access, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Division of Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for [~~clearance~~] certification for direct patient access.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for [~~clearance~~] certification for direct patient access, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26B-2-241; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether [~~clearance~~]

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certification for direct patient access should be retained.

Section 34. Section **26B-2-241 (Superseded 07/01/24)** is amended to read:

26B-2-241 (Superseded 07/01/24). Direct Access Clearance System database -- Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

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

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

(a) includes the names of individuals for whom the department has received ~~[(i)]~~ [(i)] an application for ~~[clearance]~~ certification for direct patient access under this part; ~~[or (ii)]~~

~~[(ii) an application for background clearance under Section 26B-4-124;]~~ and

(b) indicates whether an application is pending and whether ~~[clearance]~~ certification for direct patient access has been granted and retained for ~~[(i)]~~

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

~~[(ii) an applicant for background clearance under Section 26B-4-124.]~~

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

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

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

(ii) individuals:

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

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

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

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

(4) The Criminal Investigations and Technical Services Division within the

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Department of Public Safety shall:

(a) retain, separate from other division records, personal information, including any fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a); and

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

- (i) a warrant for arrest;
- (ii) an arrest;
- (iii) a conviction, including a plea in abeyance; or
- (iv) a pending diversion agreement.

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

Section 35. Section **26B-2-241 (Effective 07/01/24)** is amended to read:

26B-2-241 (Effective 07/01/24). Direct Access Clearance System database -- Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

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

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

(a) includes the names of individuals for whom ~~[(i)]~~ ~~the department has received an application for [clearance] certification for direct patient access under this part; [or] and~~

~~[(ii) the Bureau of Emergency Medical Services has received an application for background clearance under Section 53-2d-410; and]~~

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

~~[(+)]~~ an applicant under this part ~~[-and]~~.

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

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

(b) Data accessible to a covered provider or covered contractor is limited to the

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information under Subsections (2)(a)(i) and (2)(b)(i) for:

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

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

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

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

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

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

(a) retain, separate from other division records, personal information, including any fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a); and

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

- (i) a warrant for arrest;
- (ii) an arrest;
- (iii) a conviction, including a plea in abeyance; or
- (iv) a pending diversion agreement.

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

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

26B-3-114. Department standards for eligibility under Medicaid -- Funds for abortions.

(1) (a) The department may develop standards and administer policies relating to eligibility under the Medicaid program [~~as long as they are consistent~~] if the standards and

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policies comply with Subsection [~~26B-4-704(8)~~] 26B-3-108.

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

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

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

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

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

26B-3-212. Limited family planning services for low-income individuals.

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

Section 38. Section **26B-4-118 (Superseded 07/01/24)** is amended to read:

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

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

- (i) ambulance;
- (ii) emergency medical response vehicle; and
- (iii) nonemergency secured behavioral health transport vehicle.

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

(2) The department shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 39. Section **26B-4-136 (Superseded 07/01/24)** is amended to read:

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

(1) As used in this section:

- (a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
- (b) "Local government entity" means a political subdivision that:

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

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

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

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

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

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

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

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

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

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

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

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(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The department shall convene an advisory board:

(i) to advise the department on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 40. Section **26B-4-152 (Superseded 07/01/24)** is amended to read:

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

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

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

(3) (a) [~~The department shall prohibit ground~~] Ground ambulance providers and

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paramedic providers [~~from charging~~] may not charge fees for transporting a patient when the provider does not transport the patient.

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

Section 41. Section **26B-4-154 (Superseded 07/01/24)** is amended to read:

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

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

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

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

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

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

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

26B-4-201. Definitions.

As used in this part:

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

(2) "Advertise" [~~or "advertising"~~] means information provided by a [~~medical cannabis pharmacy~~] person in any medium:

(a) to the public; and

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

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(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(4) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(5) "Cannabis" means marijuana.

~~[(6) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.]~~

~~[(7) (6) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.~~

~~[(8) (7) "Cannabis product" means a product that:~~

~~(a) is intended for human use; and~~

~~(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.~~

~~[(9) (8) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.~~

~~[(10) (9) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.~~

~~[(11) (10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.~~

~~[(12) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.]~~

~~[(13) (11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.~~

~~[(14) (12) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.~~

~~[(15) (13) "Delivery address" means:~~

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

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

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~~[(16)]~~ (14) "Department" means the Department of Health and Human Services.

~~[(17)]~~ (15) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26B-4-214; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

~~[(18)]~~ (16) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

~~[(19)]~~ (17) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

~~[(20)] "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.]~~

~~[(21)]~~ (18) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

~~[(22)]~~ (19) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

~~[(23)]~~ (20) "Inventory control system" means the system described in Section 4-41a-103.

~~[(24)]~~ (21) "Legal dosage limit" means an amount that:

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(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26B-4-230(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

~~[(25)]~~ (22) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

~~[(26)]~~ (23) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card [~~or provisional patient card~~] as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).

~~[(27)]~~ (24) "Marijuana" means the same as that term is defined in Section 58-37-2.

~~[(28)]~~ (25) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~[(29)]~~ (26) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

~~[(30)]~~ (27) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection(17)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26B-4-214(1)(b);

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(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

~~[(31)]~~ (28) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

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

(b) is connected to the electronic verification system.

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

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

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

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

(i) facilitates cannabis combustion; or

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

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

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

(b) is connected to the electronic verification system.

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

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

(b) is connected to the electronic verification system.

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

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

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

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

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

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

~~[(40)]~~ (36) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.

~~[(41)]~~ (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

~~[(42)]~~ (38) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that~~[, after December 1, 2022,]~~ does not exceed 30 [ml]

milliliters;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax; or

(J) an aerosol; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis ~~[flowers]~~ flower in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in

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public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and ~~[after December 31, 2020,]~~ a barcode that provides information connected to an inventory control system .

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection (42)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (42)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection (42)(a)(ii), except as provided in Subsection (42)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection (42)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch;

(iv) a liquid suspension that is branded as a beverage; or

(v) a substance described in Subsection (42)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters.

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

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

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

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

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

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(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment;

and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

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

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.

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

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

~~[(50)]~~ (45) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

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

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

~~[(51)]~~ (46) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

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

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

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,

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Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

~~[(53)]~~ (48) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.

~~[(54)]~~ (49) "State electronic verification system" means the system described in Section 26B-4-202.

~~[(55)]~~ "Targeted marketing" means the promotion by a medical cannabis pharmacy of a medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:]

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

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

~~[(i)]~~ held inside a medical cannabis pharmacy; and]

~~[(ii)]~~ in an area where only a medical cannabis cardholder may access the event; or]

~~[(c)]~~ other marketing material that is physically available or digitally displayed in:]

~~[(i)]~~ a medical cannabis pharmacy; and]

~~[(ii)]~~ an area where only a medical cannabis cardholder has access.]

~~[(56)]~~ (50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

~~[(57)]~~ (51) "THC analog" means the same as that term is defined in Section 4-41-102.

Section 43. Section **26B-4-202** is amended to read:

26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

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(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically [~~recommend treatment~~] recommend treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who

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did not originally recommend the medical cannabis treatment during a face-to-face visit

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider;

(iii) record a limited medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

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(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law

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enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

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(b) A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this part authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the

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General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 44. Section **26B-4-213** is amended to read:

26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26B-4-214(4).

(b) (i) Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card

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application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215.

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(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26B-4-214.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's government issued photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;

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and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26B-4-204(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

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(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) visit with the patient face-to-face for an initial recommendation unless the patient:

(i) prefers a virtual visit; and

(ii) (A) is on hospice or has a terminal illness according to the patient's medical provider; or

(B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;

(b) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's government issued photo identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during a visit with the patient; and

(c) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) one year from the day the card is issued.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26B-4-203 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26B-4-203 if the medical

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cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26B-1-421.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a

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cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(8) (a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

(A) violates this part; or

(B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26B-4-203(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) [~~On or before September 1, 2021, the~~] The department shall establish by rule,

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in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

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(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 45. Section **26B-4-214** is amended to read:

26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal --

Revocation.

(1) (a) A cardholder described in Section 26B-4-213 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(b) (i) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a~~] A cardholder described in Section 26B-4-213 may designate one of the following types of facilities as one of the caregivers described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section 26B-2-201;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26B-2-201; or

(C) for a patient, a general acute hospital, as that term is defined in Section 26B-2-201.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if

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the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26B-4-213.

(d) (i) [~~Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon~~] Upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26B-4-203, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under 26B-4-246.

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this part, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for

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direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26B-4-213 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26B-4-213(9) .

(5) An eligible applicant for a medical cannabis caregiver card shall:

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(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26B-4-213 who designated the applicant;

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26B-4-213 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26B-4-213 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26B-4-213 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26B-4-213 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 46. Section **26B-4-222** is amended to read:

26B-4-222. Report.

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(1) By the November interim meeting each year, [~~beginning in 2020,~~] the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies in [~~consultation~~] consultation with the Department of Agriculture and Food.

(2) The report shall include information provided by the Center for Medical Cannabis Research described in Section 53B-17-1402.

(3) The department may not include personally identifying information in the report described in this section.

(4) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 47. Section **26B-4-245** is amended to read:

26B-4-245. Purchasing and use limitations.

An individual with a medical cannabis card:

(1) may purchase, in any one 28-day period, up to the legal dosage limit of:

(a) unprocessed cannabis in a medicinal dosage form; and

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- (b) a cannabis product in a medicinal dosage form;
- (2) may not purchase:
 - (a) more medical cannabis than described in Subsection (1)(a); or
 - (b) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection ~~[26B-4-231(4)]~~ 26B-4-231(5), any medical cannabis; and
- ~~[(3)]~~ (c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection ~~[26B-4-231(4)]~~ 26B-4-231(5), has not recommended.

Section 48. Section **26B-4-701** is amended to read:

26B-4-701. Definitions.

As used in this part:

- (1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.
- (2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician ~~[assistance]~~ assistant education, doctor of pharmacy education, dental education, or registered nursing education.
- (3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.
- (4) "Health care professionals in training" means medical students and residents, ~~[advance]~~ advanced practice nursing students, physician assistant students, doctor of pharmacy students, dental students, and registered nursing students.
- (5) "Hospital" means a general acute hospital, as defined in Section 26B-2-201.
- (6) "Physician" means a person:
 - (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or
 - (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- (7) "Rural county" means a county ~~[with a population of less than 50,000, as determined by:]~~ of the third, fourth, fifth, or sixth class under Section 17-50-501.

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~~[(a) the most recent official census or census estimate of the United States Bureau of the Census; or]~~

~~[(b) the most recent population estimate for the county from the Utah Population Committee, if a population figure for the county is not available under Subsection (7)(a).]~~

(8) "Rural hospital" means a hospital located within a rural county.

(9) "UMEC" means the Utah Medical Education Council created in Section 26B-4-706.

Section 49. Section **26B-5-101** is amended to read:

26B-5-101. Chapter definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section ~~[26B-1-202]~~ 26B-1-1202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual

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who experiences a mental health crisis, which may include:

- (a) direct mental health services;
- (b) on-site intervention provided by a mobile crisis outreach team;
- (c) the provision of safety and care plans;
- (d) prolonged mental health services for up to 90 days after the day on which an

individual experiences a mental health crisis;

- (e) referrals to other community resources;
- (f) local mental health crisis lines; and
- (g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12) (a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the

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contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

- (a) serve a child with or who is at risk for complex emotional and behavioral needs;
- (b) are community based;
- (c) are informed about trauma;
- (d) build meaningful partnerships with families and children;
- (e) integrate service planning, service coordination, and management across state and local entities;
- (f) include individualized case planning;
- (g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and
- (h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Section 50. Section **26B-5-403** is amended to read:

26B-5-403. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant

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to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness;

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

(5) (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow a child to waive the child's right to be present at the commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following

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information, as it relates to the period of current admission:

- (i) the petition for commitment;
- (ii) the admission notes;
- (iii) the child's diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth

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Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

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- (i) the original petition for commitment;
- (ii) admission notes;
- (iii) diagnosis;
- (iv) physicians' orders;
- (v) progress notes;
- (vi) nursing notes; and
- (vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the

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State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's

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current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section [~~26B-5-704~~] 26B-5-404, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 51. Section **26B-6-401** is amended to read:

26B-6-401. Definitions.

As used in this part:

(1) "Approved provider" means a person approved by the division to provide [~~home-based~~] home- and community-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section 26B-1-429.

(3) (a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

(4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i) (A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or

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professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

(5) "Deteriorating disease" includes:

(a) multiple sclerosis;

(b) muscular dystrophy;

(c) Huntington's chorea;

(d) Alzheimer's disease;

(e) ataxia; or

(f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part 5, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and

(b) (i) under a contract with the division;

(ii) under a grant agreement with the division; or

(iii) as an employee of the division.

(9) (a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. Sec. 435.1010;

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(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

(III) learning;

(IV) mobility;

(V) self-direction;

(VI) capacity for independent living; or

(VII) economic self-sufficiency; or

(B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

(I) memory or cognition;

(II) activities of daily life;

(III) judgment and self-protection;

(IV) control of emotions;

(V) communication;

(VI) physical health; or

(VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

(A) may continue throughout life; and

(B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

(i) mental illness;

(ii) personality disorder;

(iii) deafness or being hard of hearing;

(iv) visual impairment;

(v) learning disability;

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(vi) behavior disorder;

(vii) substance abuse; or

(viii) the aging process.

(10) "Division" means the Division of Services for People with Disabilities.

(11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division, to receive services that are administered by the division.

(12) "Endorsed program" means a facility or program that:

(a) is operated:

(i) by the division; or

(ii) under contract with the division; or

(b) provides services to a person committed to the division under Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

(14) "Limited support services" means services that are administered by the division to individuals with a disability:

(a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and

(b) through a program that:

(i) was not operated by the division on or before January 1, 2020; and

(ii) (A) limits the kinds of services that an individual may receive; or

(B) sets a maximum total dollar amount for program services provided to each individual.

(15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

(16) "Public funds" means state or federal funds that are disbursed by the division.

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(17) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

(18) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section 26B-1-331.

Section 52. Section **26B-7-213** is amended to read:

26B-7-213. Sexually transmitted infections -- Examinations by authorities -- Treatment of infected persons.

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with [~~venereal disease~~] sexually transmitted infections. Persons infected with [~~venereal disease~~] sexually transmitted infections shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Section 53. Section **26B-7-215** is amended to read:

26B-7-215. Sexually transmitted infections -- Examination and treatment of persons in prison or jail.

(1) (a) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for [~~venereal diseases~~] sexually transmitted infections by the health authorities.

(b) The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with [~~venereal disease~~] sexually transmitted infections at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2) (a) The department may require persons suffering with [~~venereal disease~~] sexually transmitted infections at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation.

(b) Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section 54. Section **26B-8-201** is amended to read:

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26B-8-201. Definitions.

As used in this part:

(1) "Dead body" means the same as that term is defined in Section 26B-8-101.

(2) (a) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces.

(b) "Death by violence" includes death that appears to have been due to homicide, death that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Health care professional" means any of the following while acting in a professional capacity:

(a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(e).

(5) "Medical examiner" means the state medical examiner appointed pursuant to Section 26B-8-202 or a deputy appointed by the medical examiner.

(6) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent; ~~and~~

(b) reports that the medical examiner makes regarding a decedent~~[-];~~ and

(c) all administrative forms and correspondence related to the decedent's case.

(7) "Regional pathologist" means ~~[a-trained]~~ an American Board of Pathology certified pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26B-8-202(3).

(8) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or

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coma, or death during an acute or unexplained rapidly fatal illness.

(9) "Sudden [~~infant death syndrome~~] unexpected infant death" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(10) "Suicide" means death caused by an intentional and voluntary act of an individual who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(11) "Unattended death" means a death that occurs more than 365 days after the day on which a health care professional examined or treated the deceased individual for any purpose, including writing a prescription.

(12) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(13) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 55. Section **26B-8-202** is amended to read:

26B-8-202. Chief medical examiner -- Appointment -- Qualifications -- Authority.

(1) The executive director [~~with the advice of an advisory board consisting of the chairman of the Department of Pathology at the University of Utah medical school and the dean of the law school at the University of Utah,~~] shall appoint a chief medical examiner who shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic pathologist, certified by the American Board of Pathology.

(2) (a) The medical examiner shall serve at the will of the executive director.

(b) The medical examiner has authority to:

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(i) employ medical, technical and clerical personnel as may be required to effectively administer this chapter, subject to the rules of the department and the state merit system;

(ii) conduct investigations and pathological examinations;

(iii) perform autopsies authorized in this title;

(iv) conduct or authorize necessary examinations on dead bodies; and

(v) notwithstanding the provisions of Subsection 26B-8-321(3), retain tissues and biological samples:

(A) for scientific purposes;

(B) where necessary to accurately certify the cause and manner of death; or

(C) for tissue from an unclaimed body, subject to Section 26B-8-225, in order to donate the tissue or biological sample to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

(c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.

(3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Section 56. Section **26B-8-203** is amended to read:

26B-8-203. County medical examiners.

The county executive, with the advice and consent of the county legislative body and approval of the chief medical examiner, may appoint medical examiners for their respective counties.

Section 57. Section **26B-8-205** is amended to read:

26B-8-205. Jurisdiction of medical examiner.

Upon notification under Section 26B-8-206 or investigation by the medical examiner's office, the medical examiner shall assume [~~custody of~~] jurisdiction over a deceased body if it appears that death:

(1) was by violence, gunshot, suicide, or accident;

(2) was sudden death while in apparent good health;

(3) occurred unattended, except that an autopsy may only be performed in accordance

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with the provisions of Subsection 26B-8-207(3);

(4) occurred under suspicious or unusual circumstances;

(5) resulted from poisoning or overdose of drugs;

(6) resulted from a disease that may constitute a threat to the public health;

(7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;

(8) was due to [~~sudden infant death syndrome~~] sudden unexpected infant death;

(9) occurred while the decedent was in prison, jail, police custody, the state hospital, or in a detention or medical facility operated for the treatment of persons with a mental illness, persons who are emotionally disturbed, or delinquent persons;

(10) resulted directly from the actions of a law enforcement officer, as defined in Section 53-13-103;

(11) was associated with diagnostic or therapeutic procedures; or

(12) was described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

Section 58. Section **26B-8-207** is amended to read:

26B-8-207. Custody of dead body and personal effects -- Examination of scene of death -- Preservation of body -- Autopsies.

(1) (a) Upon notification of a death under Section 26B-8-206, the medical examiner shall assume [~~custody of~~] jurisdiction over the deceased body, clothing on the body, biological samples taken, and any article on or near the body which may aid the medical examiner in determining the cause of death except those articles which will assist the investigative agency to proceed without delay with the investigation.

(b) In all cases the scene of the event may not be disturbed until authorization is given by the senior ranking peace officer from the law enforcement agency having jurisdiction of the case and conducting the investigation.

(c) Where death appears to have occurred under circumstances listed in Section 26B-8-205, the person or persons finding or having custody of the body, or jurisdiction over the investigation of the death, shall take reasonable precautions to preserve the body and body fluids so that minimum deterioration takes place.

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(d) A person may not move a body [~~in the custody~~] under the jurisdiction of the medical examiner unless:

(i) the medical examiner, or district attorney or county attorney that has criminal jurisdiction, authorizes the person to move the body;

(ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person to move the body;

(iii) not moving the body would be an affront to public decency or impractical; or

(iv) the medical examiner determines the cause of death is likely due to natural causes.

(e) The body can under direction of the medical examiner or the medical examiner's designee be moved to a place specified by the medical examiner or the medical examiner's designee.

(2) (a) If the medical examiner has [~~custody of~~] jurisdiction over a body, a person may not clean or embalm the body without first obtaining the medical examiner's permission.

(b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.

(3) (a) When the medical examiner assumes lawful [~~custody of~~] jurisdiction over a body under Subsection 26B-8-205(3) solely because the death was unattended, an autopsy may not be performed unless requested by the district attorney, county attorney having criminal jurisdiction, or law enforcement agency having jurisdiction of the place where the body is found.

(b) The county attorney or district attorney and law enforcement agency having jurisdiction shall consult with the medical examiner to determine the need for an autopsy.

(c) If the deceased chose not to be seen or treated by a health care professional for a spiritual or religious reason, a district attorney, county attorney, or law enforcement agency, may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's choice.

(d) The medical examiner or medical examiner's designee may not conduct a requested autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee determines:

(i) the request violates Subsection (3)(c); or

(ii) the cause of death can be determined without performing an autopsy.

Section 59. Section **26B-8-210** is amended to read:

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26B-8-210. Medical examiner to report death caused by prescribed controlled substance poisoning or overdose.

(1) If a medical examiner determines that the death of a person who is 12 years old or older at the time of death resulted from poisoning or overdose involving a [prescribed] controlled substance prescribed to the decedent, the medical examiner shall, within three business days after the day on which the medical examiner determines the cause of death, send a written report to the Division of Professional Licensing, created in Section 58-1-103, that includes:

- (a) the decedent's name;
- (b) each drug or other substance found in the decedent's system that may have contributed to the poisoning or overdose, if known; and
- (c) the name of each person the medical examiner has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the decedent.

(2) This section does not create a new cause of action.

Section 60. Section **26B-8-217** is amended to read:

26B-8-217. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

- (a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;
- (b) indicate the place where the body was found;
- (c) indicate the date of death;
- (d) indicate the cause and manner of death;
- (e) indicate the occupation of the decedent, if available;
- (f) include all other relevant information concerning the death; and
- (g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) (a) Upon written request from an individual described in Subsections (2)(a)(i) through (iv), the medical examiner shall provide a copy of the [~~medical examiner's final report of examination for the decedent, including the~~] autopsy report, toxicology report, lab reports, [~~and~~] investigative reports, documents generated by the medical examiner related to any report,

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and any other specifically requested portions of the medical examiner record, if any, to any of the following:

(i) a decedent's immediate relative;

(ii) a decedent's legal representative;

(iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) [~~Upon~~] Subject to Subsection (c), upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of [~~the of the medical examiner's final report of examination for the decedent, including any other reports~~] any medical examiner report or other portions of the medical examiner's record described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of [~~the medical examiner's final report of examination, including any other reports~~] a report or portion of the medical examiner's record described in Subsection (2)(a), if the [~~final~~] report or portion of the medical examiner's record relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a

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hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the department; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health and Human Services Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record

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obtained under this section.

(8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 61. Section **26B-8-221** is amended to read:

26B-8-221. Authority of county attorney or district attorney to subpoena witnesses and compel testimony -- Determination if decedent died by unlawful means.

(1) The district attorney or county attorney having criminal jurisdiction may subpoena witnesses and compel testimony concerning the death of any person and have such testimony reduced to writing under his direction and may employ a [~~shorthand~~] court reporter for that purpose at the same compensation as is allowed to reporters in the district courts. When the testimony has been taken down by the [~~shorthand~~] court reporter, a transcript thereof, duly certified, shall constitute the deposition of the witness.

(2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

Section 62. Section **26B-8-223** is amended to read:

26B-8-223. Authority of examiner to provide organ or other tissue for transplant purposes.

(1) When requested by the licensed physician of a patient who is in need of an organ or other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical facility, the medical examiner may provide an organ or other tissue if:

(a) a decedent who may provide a suitable organ or other tissue for the transplant is in the custody of the medical examiner;

(b) the medical examiner is assured that the requesting party has made reasonable search for and inquiry of next of kin of the decedent and that no objection by the next of kin is known by the requesting party; and

(c) the removal of the organ or other tissue will not interfere with the investigation or autopsy or alter the post-mortem facial appearance.

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(2) When the medical examiner [~~is in custody of~~] has jurisdiction over a decedent who may provide a suitable organ or other tissue for transplant purposes, he may contact the appropriate eye bank, organ bank or medical facility and notify them concerning the suitability of the organ or other tissue. In such contact the medical examiner may disclose the name of the decedent so that necessary clearances can be obtained.

(3) No person shall be held civilly or criminally liable for any acts performed pursuant to this section.

Section 63. Section **26B-8-225** is amended to read:

26B-8-225. Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

(1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent [~~burial for~~] disposition of an unclaimed body found in the county.

(2) A county is not responsible for decent [~~burial~~] disposition of an unclaimed body found in the county if the body is requested by the dean of the school of medicine at the University of Utah under Section 53B-17-301.

(3) For an unclaimed body that is temporarily in the medical examiner's custody before [~~burial~~] disposition under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 64. Section **26B-8-227** is amended to read:

26B-8-227. Registry of unidentified deceased persons.

(1) If the identity of a deceased person over which the medical examiner has jurisdiction under Section 26B-8-205 is unknown, the medical examiner shall do the following [~~before releasing the body to the county in which the body was found as provided in Section 26B-8-225~~]:

- (a) assign a unique identifying number to the body;
- (b) create and maintain a file under the assigned number;
- (c) examine the body, take samples, and perform other related tasks for the purpose of deriving information that may be useful in ascertaining the identity of the deceased person;
- (d) use the identifying number in all records created by the medical examiner that

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pertains to the body;

(e) record all information pertaining to the body in the file created and maintained under Subsection (1)(b);

(f) communicate the unique identifying number to the county in which the body was found; and

(g) access information from available government sources and databases in an attempt to ascertain the identity of the deceased person.

~~[(2) A county which has received a body to which Subsection (1) applies:]~~

~~[(a) shall adopt and use the same identifying number assigned by Subsection (1) in all records created by the county that pertain to the body;]~~

~~[(b) require any funeral director or sexton who is involved in the disposition of the body to adopt and use the same identifying number assigned by Subsection (1) in all records created by the funeral director or sexton pertaining to the body; and]~~

~~[(c) shall provide a decent burial for the body.]~~

~~[(3) Within 30 days of receiving a body to which Subsection (1) applies, the county shall inform the medical examiner of the disposition of the body including the burial plot. The medical examiner shall record this information in the file created and maintained under Subsection (1)(b).]~~

~~[(4) The requirements of Subsections (1) and (6) apply to a county examiner appointed under Section 26B-8-203, with the additional requirements that the county examiner:]~~

~~[(a) obtain a unique identifying number from the medical examiner for the body; and]~~

~~[(b) send to the medical examiner a copy of the file created and maintained in accordance with Subsection (1)(b), including the disposition of the body and burial plot, within 30 days of releasing the body.]~~

~~[(5) The medical examiner shall maintain a file received under Subsection (4) in the same way that it maintains a file created and maintained by the medical examiner in accordance with Subsection (1)(b).]~~

~~[(6) (2) The medical examiner shall cooperate and share information generated and maintained under this section with a person who demonstrates:~~

~~(a) a legitimate personal or governmental interest in determining the identity of a deceased person; and~~

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(b) a reasonable belief that the body of that deceased person may have come into the custody of the medical examiner.

Section 65. Section **26B-8-229** is amended to read:

26B-8-229. Psychological autopsy examiner.

(1) With funds appropriated by the Legislature for this purpose, the department shall provide compensation, at a standard rate determined by the department, to a psychological autopsy examiner.

(2) The psychological autopsy examiner shall:

(a) work with the medical examiner to compile data regarding suicide related deaths;

(b) as relatives, associates, and acquaintances of the deceased are willing, gather information [~~from relatives of the deceased~~] regarding the [~~psychological reasons for~~] circumstances that preceded the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b);

(d) in accordance with all applicable privacy laws subject to approval by the department, share the database described in Subsection (2)(c) with the University of Utah Department of Psychiatry or other university-based departments conducting research on suicide;

(e) coordinate no less than monthly with the suicide prevention coordinator described in Subsection 26B-5-611(2); and

(f) coordinate no less than quarterly with the state suicide prevention coalition.

Section 66. Section **34A-6-107** is amended to read:

34A-6-107. Research and related activities.

(1) (a) The division, after consultation with other appropriate agencies, shall conduct, directly or by grants or contracts, whether federal or otherwise, research, experiments, and demonstrations in the area of occupational safety and health, including studies of psychological factors involved in innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(b) (i) The division, to comply with its responsibilities under this section, and to develop needed information regarding toxic substances or harmful physical agents, may make rules requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents reasonably believed to endanger the health or safety of

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employees.

(ii) The division may establish programs for medical examinations and tests necessary for determining the incidence of occupational diseases and the susceptibility of employees to the diseases.

(iii) Nothing in this chapter authorizes or requires a medical examination, immunization, or treatment for persons who object on religious grounds, except when necessary for the protection of the health or safety of others.

(iv) Any employer who is required to measure and record employee exposure to substances or physical agents as provided under Subsection (1)(b) may receive full or partial financial or other assistance to defray additional expense incurred by measuring and recording as provided in this Subsection (1)(b).

(c) (i) Following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, the division shall determine whether any substance normally found in a workplace has toxic effects in the concentrations used or found, and shall submit its determination both to employers and affected employees as soon as possible.

(ii) The division shall immediately take action necessary under Section 34A-6-202 or 34A-6-305 if the division determines that:

(A) any substance is toxic at the concentrations used or found in a workplace; and

(B) the substance is not covered by an occupational safety or health standard promulgated under Section 34A-6-202.

(2) The division may inspect and question employers and employees as provided in Section 34A-6-301, to carry out its functions and responsibilities under this section.

(3) The division is authorized to enter into contracts, agreements, or other arrangements with appropriate federal or state agencies, or private organizations to conduct studies about its responsibilities under this chapter. In carrying out its responsibilities under this subsection, the division shall cooperate with the Department of [~~Health~~] Health and Human Services and the Department of Environmental Quality to avoid any duplication of efforts under this section.

(4) Information obtained by the division under this section shall be disseminated to employers and employees and organizations of them.

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Section 67. Section **53-2a-802** is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

- (i) not physically present or not able to be communicated with for 48 hours; or
- (ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Alcoholic Beverage Services Commission, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of ~~Health~~ Health and Human Services, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, ~~[the Department of Human Services,]~~ the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

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(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 68. Section **53-2d-404 (Effective 07/01/24)** is amended to read:

53-2d-404 (Effective 07/01/24). Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1) (a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance;

(ii) emergency medical response vehicle; and

(iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a requirement that [~~beginning on or after January 31, 2014,~~] every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the bureau for all ambulances and emergency medical response vehicle operators.

(2) The bureau shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 69. Section **53-2d-503 (Effective 07/01/24)** is amended to read:

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53-2d-503 (Effective 07/01/24). Establishment of maximum rates.

(1) The bureau shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the bureau on the maximum rates that should be set under Subsection (1).

(3) (a) [~~The bureau shall prohibit ground~~] Ground ambulance providers and paramedic providers [~~from charging~~] may not charge fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 70. Section **53-2d-703 (Effective 07/01/24)** is amended to read:

53-2d-703 (Effective 07/01/24). Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic Providers; and

(ii) [~~as of January 1, 2022,~~] does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political

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subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The bureau shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section 53-2d-402 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

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(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The bureau shall convene an advisory board:

(i) to advise the bureau on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 71. Section **53-10-404** is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of \$150 on

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the inmate's county trust fund account and may allow a negative balance in the account until the \$150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a

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person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 80-6-608.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

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(A) as a condition of probation for a felony offense; or
(B) for a misdemeanor offense for which collection of a DNA specimen is required;
(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c).; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

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(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8) (a) The Department of Corrections, the juvenile court, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed

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by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 72. Section **53-10-407** is amended to read:

53-10-407. DNA Specimen Restricted Account.

(1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."

(2) The sources of money for the account are:

(a) DNA collection fees paid under Section 53-10-404;

(b) any appropriations made to the account by the Legislature; and

(c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.

(3) The account shall earn interest, and this interest shall be deposited in the account.

(4) The Legislature may appropriate money from the account solely for the following purposes:

(a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;

(b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and 80-6-608;

(c) to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and 80-5-201; and

(d) to the Department of Public Safety for the costs of:

(i) storing and analyzing DNA specimens in accordance with the requirements of this part;

(ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(7); and

(iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections 53-10-404 and 53-10-404.5.

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(5) Appropriations from the account to the Department of Corrections, the juvenile court, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, and to the Department of Public Safety are nonlapsing.

Section 73. Section **53E-10-301** is amended to read:

53E-10-301. Definitions.

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(6).

(5) "Eligible student" means a student who:

(a) (i) is enrolled in, and counted in average daily membership in, a public school within the state; or

(ii) is in the custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services and subject to the jurisdiction of the Youth Parole Authority;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

(6) "Institution of higher education" means an institution described in Subsection 53B-1-102(1)(a).

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

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- (i) number of years teaching in the academic field;
- (ii) holding a higher level secondary teaching credential issued by the state board;
- (iii) research, publications, or other scholarly work in the academic field;
- (iv) continuing professional education in the academic field;
- (v) portfolio of work related to the academic field; or
- (vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 74. Section **53G-8-211** is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section ~~62A-15-102~~ 26B-5-101.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(65)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law

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enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l) (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(a) when school is in session; or

(b) during a school-sponsored activity.

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(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, the school administrator, the school administrator's designee, or a school resource officer may refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services; or

(vi) a tobacco cessation or education program if the offense is a violation of Section 76-10-105; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection (5), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed the same offense on school property on two previous occasions; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for both of the two previous offenses.

(5) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

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(6) Notwithstanding Subsection (4), a school resource officer may:

(a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(b) consult with school administration about the conduct of a minor enrolled in a school;

(c) transport a minor enrolled in a school to a location if the location is permitted by law;

(d) take temporary custody of a minor in accordance with Section 80-6-201; or

(e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(7) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (7)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is a status offense or infraction.

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(e) If a minor is referred to a court under Subsection (4), the court may use, when available, the resources of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services or the [~~Division of Substance Abuse and Mental Health~~] Office of Substance Use and Mental Health to address the minor.

(8) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

Section 75. Section **53G-8-213** is amended to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

(1) As used in this section:

(a) "Multidisciplinary team" means the local education agency, the juvenile court, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; and

(c) an academic intervention for the student.

Section 76. Section **53G-10-406** is amended to read:

53G-10-406. Underage Drinking and Substance Abuse Prevention Program --

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State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program that:

(i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and

(iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.

(2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:

(a) a school-based prevention program for students in grade 4 or 5;

(b) a school-based prevention program for students in grade 7 or 8; and

(c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.

(c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Services or the executive director's designee;

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(b) the executive director of the Department of Health and Human Services or the executive director's designee;

(c) the director of the [~~Division of Substance Abuse and Mental Health~~] Office of Substance Use and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective.

(7) (a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10;

(b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and

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(c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Section 77. Section **58-17b-309.7** is amended to read:

58-17b-309.7. Opioid treatment program.

(1) As used in this section:

(a) "Covered provider" means an individual who is licensed to engage in:

(i) the practice of advanced practice registered nursing as defined in Section 58-31b-102;

(ii) the practice of registered nursing as defined in Section 58-31b-102; or

(iii) practice as a physician assistant as defined in Section 58-70a-102.

(b) "Opioid treatment program" means a program or practitioner that is:

(i) engaged in dispensing an opiate medication assisted treatment for opioid use disorder;

(ii) registered under 21 U.S.C. Sec. 823(g)(1);

(iii) licensed by the ~~[Office of Licensing]~~ Division of Licensing and Background Checks within the Department of Health and Human Services created in Section 26B-2-103; and

(iv) certified by the federal Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11.

(2) A covered provider may dispense opiate medication assisted treatment at an opioid treatment program if the covered provider:

(a) is operating under the direction of a pharmacist;

(b) dispenses the opiate medication assisted treatment under the direction of a pharmacist; and

(c) acts in accordance with division rule made under Subsection (3).

(3) The division shall, in consultation with practitioners who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate medication assisted treatment to a patient in an opioid treatment program under this section.

Section 78. Section **58-17b-620** is amended to read:

58-17b-620. Prescriptions issued within the public health system.

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(1) As used in this section:

(a) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Health department" means either the Department of Health and Human Services or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section 26B-7-201, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

(4) The following prescription procedure shall be carried out in accordance with the

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requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the ~~[physician and the medical director]~~ public health department physician medical director or the physician medical director of the state Department of Health and Human Services licensed under Chapter 67, Utah Medical Practices Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6) (a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

(7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug to treat a sexually transmitted infection if the drug is:

(a) a prepackaged drug as defined in Section 58-17b-802;

(b) dispensed under a prescription authorized by this section;

(c) provided at a location that is described in Subsection (2)(a) or (b) and operated by the health department;

(d) provided in accordance with a dispensing standard that is issued by a physician who is employed by the health department; and

(e) if applicable, in accordance with requirements established by the division in collaboration with the board under Subsection (8).

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(8) The division may make rules in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific requirements regarding the dispensing of a drug under Subsection (7).

Section 79. Section **63B-3-102** is amended to read:

63B-3-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$64,600,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

1	Alterations, Repairs, and Improvements	\$5,000,000
TOTAL IMPROVEMENTS		\$5,000,000

+

CAPITAL AND ECONOMIC DEVELOPMENT

			ESTIMATED OPERATIONS AND MAINTENANCE COSTS
PRIORITY PROJECT	PROJECT DESCRIPTION	AMOUNT FUNDED	
1	University of Utah Marriott Library Phase III (Final)	\$13,811,500	\$881,600

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2	Bridgerland Applied Technology Center Utah State University Space	\$2,400,000	\$0
3	Weber State University - Heat Plant	\$2,332,100	\$9,600
4	Department of <u>Health and Human</u> Services - [Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services] <u>Division of Juvenile Justice and Youth</u> <u>Services</u>	\$4,180,000	\$400,000
5	Snow College - Administrative Services/Student Center	\$3,885,100	\$224,500
6	Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase	\$750,000	\$0
7	Department of Corrections B-Block Remodel	\$1,237,100	\$72,000
8	Utah State University - Old Main Phase III Design	\$550,000	\$0
9	Department of Corrections - 144 bed Uintah Expansion	\$6,700,000	\$168,800
10	Southern Utah University Administrative Services/Student Center	\$5,630,400	\$314,200
11	Anasazi Museum	\$760,200	\$8,500
12	Hill Air Force Base - Easements Purchase	\$9,500,000	\$0
13	Signetics Building Remodel	\$2,000,000	\$0
14	Antelope Island Visitors Center	\$750,000	\$30,000
15	State Fair Park - Master Study	\$150,000	\$0
16	Utah National Guard - Draper Land	\$380,800	\$0

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17	Davis Applied Technology Center - Design	\$325,000	\$0
18	Palisade State Park - Land and Park Development	\$800,000	\$0
19	Department of <u>Health and Human</u> Services - Cedar City Land	\$80,000	\$0
20	Department of <u>Health and Human</u> Services - Clearfield Land	\$163,400	\$0
21	Electronic technology, equipment, and hardware	\$2,500,000	\$0
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$58,885,600	
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT		\$63,885,600	

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(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered

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building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 80. Section **63B-3-301** is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct

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through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the Division of Facilities Construction and Management allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the

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director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$9,000,000 for the acquisition or construction of up to two field offices for the Department of Health and Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to \$5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Services, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Services not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership

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Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and the Division of Facilities Construction and Management participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the ~~[Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services, formerly known as the Division of Youth Corrections and then the Division of Juvenile Justice Services, develop a flexible use prototype facility for ~~[the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services]~~ the Division of Juvenile Justice and Youth Services;

(b) the development process use existing prototype proposals unless it can be

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quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections [~~renamed in 2003 to the Division of Juvenile Justice Services~~], now known as the Division of Juvenile Justice and Youth Services is used to design and construct one facility and design the other;

(ii) the [~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the [~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

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(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of State Parks, formerly known as the Division of Parks and Recreation, and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

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(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City

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to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Division of Facilities Construction and Management;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

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(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 81. Section **63B-4-102** is amended to read:

63B-4-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed \$45,300,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

Alterations, Repairs, and Improvements	\$7,200,000
TOTAL IMPROVEMENTS	\$7,200,000

f

CAPITAL AND ECONOMIC DEVELOPMENT

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PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
Corrections - Uinta IVA	\$11,300,000	\$212,800
Utah County Youth Correctional Facility	\$6,650,000	\$245,000
Ogden Weber Applied Technology Center - Metal Trades	\$5,161,000	\$176,000
Project Reserve Fund	\$3,500,000	None
Weber State University - Browning Center Remodel	\$3,300,000	None
Heber Wells Building Remodel	\$2,000,000	None
Higher Education Davis County - Land Purchase	\$1,600,000	None
National Guard -- Provo Armory	\$1,500,000	\$128,000
Department of Natural Resources - Pioneer Trails Visitor Center	\$900,000	\$65,000
Higher Education Design Projects	\$800,000	Varies depending upon projects selected
Salt Lake Community College - South Valley Planning	\$300,000	None
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</u> - Logan Land Purchase	\$120,000	None
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$37,131,000
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT		\$44,331,000

†

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- ‡ (d) For purposes of this section, operations and maintenance costs:
- (i) are estimates only;
 - (ii) may include any operations and maintenance costs already funded in existing agency budgets; and
 - (iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.

(d) It is also the intent of the Legislature that this authorization to the division does not

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bind future Legislatures to fund projects initiated from this authorization.

Section 82. Section **63B-11-702** is amended to read:

63B-11-702. Other capital facility authorizations and intent language.

(1) It is the intent of the Legislature that:

(a) Salt Lake Community College use donations and other institutional funds to plan, design, and construct a renovation of and addition to the Grand Theater under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the college may request state funds for operations and maintenance to the extent that the college is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) the University of Utah use donations, grants, and other institutional funds to plan, design, and construct a Department of Chemistry Gauss House under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) the University of Utah use donations and other institutional funds to plan, design, and construct an expansion of the Eccles Health Science Library and the associated parking structure under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) It is the intent of the Legislature that:

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(a) the University of Utah use donations and other institutional funds to plan, design, and construct a Phase II Addition to the Moran Eye Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operations and maintenance.

(5) It is the intent of the Legislature that:

(a) the University of Utah use donations and other institutional funds to plan, design, and construct a Children's Dance Theatre under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operations and maintenance.

(6) It is the intent of the Legislature that:

(a) Utah State University use donations and other institutional funds to plan, design, and construct a Teaching Pavilion at its Animal Science Farm under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(7) It is the intent of the Legislature that:

(a) the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services use donations to plan, design, and construct a chapel at the Slate Canyon Youth Corrections Facility under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the division may not request additional state funding for operations and maintenance.

(8) It is the intent of the Legislature that the Utah National Guard use federal funds and proceeds from the sale of property to acquire a site for new facilities in Salt Lake or Davis

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County.

(9) It is the intent of the Legislature that:

(a) the Utah National Guard use donations and grants to plan, design, and construct the renovation and expansion of the Fort Douglas Military Museum under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

(b) no state funds be used for any portion of this project; and

(c) the National Guard may not request additional state funding for operations and maintenance.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management pursue the exchange of public safety facilities in Orem if:

(i) the land and newly constructed replacement facilities meet the needs of the Driver License Division and the Utah Highway Patrol; and

(ii) the replacement property and facilities can be obtained at a cost that is not less than the market value of the existing property and facilities; and

(b) the division confirms the value of the properties to be exchanged.

Section 83. ~~Section 63I-1-226 (Superseded 07/01/24) is amended to read:~~

~~63I-1-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.~~

~~(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.~~

~~(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, [2024] 2034.~~

~~(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~

~~(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~

~~(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.~~

~~(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.~~

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~~—— (7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.~~

~~—— (8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.~~

~~—— (9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.~~

~~—— (10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.~~

~~—— (11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.~~

~~—— (12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.~~

~~—— (13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.~~

~~—— (14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.~~

~~—— (15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.~~

~~—— (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.~~

~~—— (17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.~~

~~—— (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.~~

~~—— (19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.~~

~~—— (20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.~~

~~—— (21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.~~

~~—— (22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention~~

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~~Program, is repealed June 30, 2027.~~

~~—— (23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.~~

~~—— (24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.~~

~~—— (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, [2024] 2034.~~

~~—— (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, [2024] 2034.~~

~~—— (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.~~

~~—— (28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.~~

~~—— (29) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.~~

~~—— (30) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.~~

~~—— (31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.~~

~~—— (32) Section 26B-5-112.5 is repealed December 31, 2026.~~

~~—— (33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.~~

~~—— (34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.~~

~~—— (35) Section 26B-5-120 is repealed December 31, 2026.~~

~~—— (36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:~~

~~—— (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed, and~~

~~—— (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.~~

~~—— (37) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:~~

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- ~~—— (a) Subsection 26B-5-609(1)(a) is repealed;~~
- ~~—— (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;~~
- ~~—— (c) Subsection 26B-5-610(1)(b) is repealed;~~
- ~~—— (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and~~
- ~~—— (e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.~~
- ~~—— (38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.~~
- ~~—— (39) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.~~
- ~~—— (40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.~~
- ~~—— (41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.~~
- ~~—— (42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.~~
- ~~—— (43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.~~
- ~~—— Section 84. Section **63I-1-226 (Effective 07/01/24)** is amended to read:~~
- ~~—— **63I-1-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**~~
- ~~—— (1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.~~
- ~~—— (2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, [2024] 2034.~~
- ~~—— (3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~
- ~~—— (4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~
- ~~—— (5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.~~

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- ~~—— (6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.~~
- ~~—— (7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.~~
- ~~—— (8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.~~
- ~~—— (9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.~~
- ~~—— (10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.~~
- ~~—— (11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.~~
- ~~—— (12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.~~
- ~~—— (13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.~~
- ~~—— (14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.~~
- ~~—— (15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.~~
- ~~—— (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.~~
- ~~—— (17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.~~
- ~~—— (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.~~
- ~~—— (19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.~~
- ~~—— (20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.~~
- ~~—— (21) Section 26B-3-136, which creates the Children's Health Care Coverage Program,~~

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is repealed July 1, 2025.

—— (22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

—— (23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

—— (24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

—— (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, [2024] 2034.

—— (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

—— (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

—— (28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

—— (29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

—— (30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

—— (31) Section 26B-5-112.5 is repealed December 31, 2026.

—— (32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

—— (33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

—— (34) Section 26B-5-120 is repealed December 31, 2026.

—— (35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

—— (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed, and

—— (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

—— (36) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

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- ~~———— (a) Subsection 26B-5-609(1)(a) is repealed;~~
- ~~———— (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;~~
- ~~———— (c) Subsection 26B-5-610(1)(b) is repealed;~~
- ~~———— (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and~~
- ~~———— (e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.~~
- ~~———— (37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.~~
- ~~———— (38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.~~
- ~~———— (39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.~~
- ~~———— (40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.~~
- ~~———— (41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.~~
- ~~———— (42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.~~

~~———— Section 85.} Section 63M-7-208 is amended to read:~~

63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.

- (1) The State Commission on Criminal and Juvenile Justice shall:
 - (a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;
 - (b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);
 - (c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;

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(d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section [~~62A-15-102~~] 26B-5-101;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

(iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and

(v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

(f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;

(g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;

(h) comply with the data collection and reporting requirements under Section 80-6-104;

(i) develop a reasonable timeline within which all programming delivered to minors in

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the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;

(j) provide guidelines to be considered by the Administrative Office of the Courts and the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services in developing tools considered by the Administrative Office of the Courts and the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;

(k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;

(l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services staff, Division of Child and Family Services staff, and program providers;

(m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services for contracted services in the community and contracted out-of-home placement providers;

(n) assist in the development of a validated detention risk assessment tool that is developed or adopted and validated by the Administrative Office of the Courts and the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services as provided in Section 80-5-203; and

(o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.

(2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:

- (a) adolescent development;
- (b) identifying and using local behavioral health resources;
- (c) cross-cultural awareness;

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- (d) graduated responses;
- (e) Utah juvenile justice system data and outcomes; and
- (f) gangs.

(3) The system described in Subsection (1)(m) shall provide incentives for:

(a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);

(b) the use of three-month timelines for program completion; and

(c) evidence-based programs and practices for minors living at home in rural areas.

(4) The State Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the State Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

Section ~~{86}~~84. Section **63M-7-401** is amended to read:

63M-7-401. Creation -- Members -- Appointment -- Qualifications.

(1) There is created a state commission to be known as the Sentencing Commission composed of 28 members. The commission shall develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.

(2) The commission's members shall be:

(a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;

(b) two members of the Senate, appointed by the president of the Senate and not of the same political party;

(c) the executive director of the Department of Corrections or a designee appointed by the executive director;

(d) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services or a designee appointed by the director;

(e) the executive director of the Commission on Criminal and Juvenile Justice or a designee appointed by the executive director;

(f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;

(g) the chair of the Youth Parole Authority or a designee appointed by the chair;

(h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;

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- (i) two juvenile court judges designated by the chair of the Judicial Council;
- (j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;
- (k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;
- (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
- (m) the attorney general or a designee appointed by the attorney general;
- (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
- (o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;
- (p) a representative of the Utah Sheriff's Association appointed by the governor;
- (q) a chief of police appointed by the governor;
- (r) a licensed professional appointed by the governor who assists in the rehabilitation of adult offenders;
- (s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;
- (t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population;
- (u) one member from the public at large appointed by the governor; and
- (v) a representative of an organization that specializes in civil rights or civil liberties on behalf of incarcerated individuals appointed by the governor.

Section ~~87~~85. Section **63M-7-601** is amended to read:

63M-7-601. Creation -- Members -- Chair.

- (1) There is created within the governor's office the Utah Council on Victims of Crime.
- (2) The council is composed of 28 voting members as follows:
 - (a) a representative of the State Commission on Criminal and Juvenile Justice appointed by the executive director;
 - (b) a representative of the Department of Corrections appointed by the executive director;
 - (c) a representative of the Board of Pardons and Parole appointed by the chair;
 - (d) a representative of the Department of Public Safety appointed by the commissioner;

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(e) a representative of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative of the Office of the Attorney General appointed by the attorney general;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;

(j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

(k) a representative of the Department of Health and Human Services Violence and Injury Prevention Program appointed by the program's manager;

(l) the chair of each judicial district's victims' rights committee;

(m) a representative of the Statewide Association of Public Attorneys appointed by that association;

(n) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

(o) a representative of the Utah Sheriffs' Association appointed by the president of that association;

(p) a representative of a Children's Justice Center appointed by the attorney general;

(q) the director of the Division of Child and Family Services or that individual's designee;

(r) the chair of the Utah Victim Services Commission or the chair's designee; and

(s) the following members appointed by the members in Subsections (2)(a) through (2)(r) to serve four-year terms:

(i) an individual who engages in community based advocacy;

(ii) a citizen representative; and

(iii) a citizen representative who has been a victim of crime.

(3) The council shall annually elect:

(a) one member to serve as chair;

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(b) one member to serve as vice-chair; and

(c) one member to serve as treasurer.

Section ~~88~~86. Section 63M-7-702 is amended to read:

63M-7-702. Domestic Violence Offender Treatment Board -- Creation --

Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created within the commission the Domestic Violence Offender Treatment Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the executive director of the Department of Health and Human Services, or the executive director's designee;

(c) one individual who represents a state program that focuses on prevention of injury and domestic violence appointed by the executive director of the Department of Health and Human Services;

(d) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee;

(e) the chair of the Utah Victim Services Commission or the chair's designee;

(f) the director of the Utah Office for Victims of Crime, or the director's designee;

(g) the chair of the Board of Pardons and Parole, or the chair's designee;

(h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, or the director's designee;

(i) one individual who represents the Administrative Office of the Courts appointed by the state court administrator; and

(j) ten individuals appointed by the executive director of the commission, including:

(i) the following four individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) a clinical social worker;

(B) a marriage and family therapist;

(C) a professional counselor; and

(D) a psychologist;

(ii) one individual who represents an association of criminal defense attorneys;

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(iii) one criminal defense attorney who primarily represents indigent criminal defendants;

(iv) one individual who represents an association of prosecuting attorneys;

(v) one individual who represents law enforcement;

(vi) one individual who represents an association of criminal justice victim advocates;

and

(vii) one individual who represents a nonprofit organization that provides domestic violence victim advocate services.

(2) (a) A member may not serve on the board for more than eight consecutive years.

(b) If a vacancy occurs in the membership of the board appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.

(c) A member of the board serves until the member's successor is appointed.

(3) The members of the board shall vote on a chair and co-chair of the board to serve for two years.

(4) (a) A majority of the board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the board.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least quarterly on a date the board sets.

Section ~~89~~87. Section **63M-7-802** is amended to read:

63M-7-802. Sex Offense Management Board - Creation - Members appointment - Qualifications - Terms.

(1) There is created within the commission the Sex Offense Management Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the commissioner of the Department of Public Safety, or the commissioner's

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designee;

(c) the attorney general, or the attorney general's designee;

(d) an officer with the adult probation and parole section of the Department of Corrections with experience supervising adults convicted of sex offenses, appointed by the executive director of the Department of Corrections;

(e) the executive director of the Department of Health and Human Services, or the executive director's designee;

(f) an individual who represents the Administrative Office of the Courts appointed by the state court administrator;

(g) the director of the Utah Office for Victims of Crime, or the director's designee;

(h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, or the director's designee;

(i) the chair of the Board of Pardons and Parole, or the chair's designee; and

(j) nine individuals appointed by the executive director of the commission, including:

(i) the following two individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) an individual with experience in the treatment of adults convicted of sex offenses in the community;

(B) an individual with experience in the treatment of juveniles adjudicated of sex offenses in the community;

(ii) an individual who represents an association of criminal defense attorneys;

(iii) an individual who is a criminal defense attorney experienced in indigent criminal defense;

(iv) an individual who represents an association of prosecuting attorneys;

(v) an individual who represents law enforcement;

(vi) an individual who represents an association of criminal justice victim advocates;

(vii) an individual who is a clinical polygraph examiner experienced in providing polygraph examinations to individuals convicted of sex offenses; and

(viii) an individual who has been previously convicted of a sex offense and has successfully completed treatment and supervision for the offense.

(2) (a) A member described in Subsection (1)(j) shall serve a four-year term.

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(b) If a vacancy occurs among a member described in Subsection (1)(j), the executive director of the commission may appoint a new individual to fill the remainder of the term.

(c) When a term of a member described in Subsection (1)(j) expires, the executive director of the commission shall appoint a new member or reappoint the member whose term has expired to a new four-year term.

(3) The members of the board shall vote on a chair and co-chair of the board from among the members described in Subsection (1) to serve a two-year term.

(4) A majority of the board constitutes a quorum.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least six times per year on dates the board sets.

Section ~~90~~88. Section **67-5b-101** is amended to read:

67-5b-101. Definitions.

As used in this part:

(1) "Center" means a Children's Justice Center established in accordance with Section 67-5b-102.

(2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse victim.

(3) "Child abuse victim" means a child 17 years ~~[of age]~~ old or younger who is:

(a) a victim of:

(i) sexual abuse; or

(ii) physical abuse; or

(b) a victim or a critical witness in any criminal case, such as a child endangerment case described in Section 76-5-112.5.

(4) "Officers and employees" means any person performing services for two or more public agencies as agreed in a memorandum of understanding in accordance with Section 67-5b-104.

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(5) "Public agency" means a municipality, a county, the attorney general, the Division of Child and Family Services, the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services, the Department of Corrections, the juvenile court, or the Administrative Office of the Courts.

(6) "Satellite office" means a child-friendly facility supervised by a Children's Justice Center established in accordance with Section 67-5b-102.

(7) (a) "Volunteer" means any individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(b) "Volunteer" does not include an individual participating in human subjects research or a court-ordered compensatory service worker as defined in Section 67-20-2.

Section ~~91~~89. Section **76-3-401.5** is amended to read:

76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.

(1) As used in this section:

(a) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

(c) "Division" means the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(d) (i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection 80-6-703(2).

(ii) "Juvenile disposition" includes an order for secure care under Subsection 80-6-705(1).

(e) "Secure correctional facility" means the same as that term is defined in Section 64-13-1.

(f) "Secure care" means the same as that term is defined in Section 80-1-102.

(2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court may not terminate the juvenile disposition for the defendant when:

(a) the defendant is convicted of an offense; and

(b) the court imposes a sentence under Section 76-3-201 for the offense.

(3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an offense and the defendant is serving a juvenile disposition at the time of sentencing, the court

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shall determine whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(b) The court shall state on the record and in the order of judgment and commitment whether the sentence imposed is to run concurrently or consecutively with the juvenile disposition.

(c) In determining whether a sentence is to run concurrently or consecutively with a juvenile disposition, the court shall consider:

- (i) the gravity and circumstances of the offense for which the defendant is convicted;
- (ii) the number of victims; and
- (iii) the history, character, and rehabilitative needs of the defendant.

(d) If an order of judgment and commitment does not clearly state whether the sentence is to run consecutively or concurrently with the juvenile disposition, the division shall request clarification from the court.

(e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified order of judgment and commitment stating whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(4) If a court orders a sentence for imprisonment to run concurrently with a juvenile disposition for secure care, the defendant shall serve the sentence in secure care until the juvenile disposition is terminated by the authority in accordance with Section 80-6-804.

(5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a juvenile disposition for secure care and the disposition is terminated before the defendant's sentence for imprisonment in the county jail is terminated, the division shall:

- (a) notify the county jail at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from secure care; and
- (b) facilitate the transfer or release of the defendant in accordance with the order of judgment and commitment imposed by the court.

(6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care:

- (i) the board has authority over the defendant for purposes of ordering parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, restitution, and any other authority granted by law; and

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(ii) the court and the division shall immediately notify the board that the defendant will remain in secure care as described in Subsection (4) for the board to schedule a hearing for the defendant in accordance with board procedures.

(b) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care and the juvenile disposition is terminated before the defendant's sentence is terminated, the division shall:

(i) notify the board and the Department of Corrections at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure care; and

(ii) facilitate a release or transfer of the defendant in accordance with the order of judgment and commitment imposed by the court.

Section ~~{92}~~90. Section **76-5-101** is amended to read:

76-5-101. Definitions.

Unless otherwise provided, as used in this part:

(1) "Detained individual" means an individual detained under Section 77-7-15.

(2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services regardless of whether the confinement is legal.

Section ~~{93}~~91. Section **76-5-413** is amended to read:

76-5-413. Custodial sexual relations with youth receiving state services --

Penalties -- Defenses and limitations.

(1) (a) As used in this section:

(i) "Actor" means:

(A) an individual employed by the Department of Health and Human Services created in Section 26B-1-201, or an employee of a private provider or contractor; or

(B) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(ii) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(iii) "Juvenile court" means the juvenile court of the state created in Section

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78A-6-102.

(iv) "Private provider or contractor" means a person that contracts with the:

(A) department to provide services or functions that are part of the operation of the department; or

(B) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(v) "Youth receiving state services" means an individual:

(A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who is:

(I) in the custody of the department under Section 80-6-703; or

(II) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

(B) younger than 21 years old:

(I) who is in the custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, or the Division of Child and Family Services; or

(II) whose case is under the jurisdiction of the juvenile court.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual relations with a youth receiving state services if:

(i) the actor commits any of the acts described in Subsection (2)(b); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a)(i) are:

(i) having sexual intercourse with a youth receiving state services;

(ii) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual; or

(iii) (A) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) with the intent to cause substantial emotional or bodily pain to any individual or

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with the intent to arouse or gratify the sexual desire of any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a second degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

(5) (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the

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result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section ~~{94}~~92. Section **76-8-311.5** is amended to read:

76-8-311.5. Aiding or concealing a juvenile offender -- Trespass of a secure care facility -- Criminal penalties.

(1) As used in this section:

(a) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

(c) "Secure care" means the same as that term is defined in Section 80-1-102.

(d) "Secure care facility" means the same as that term is defined in Section 80-1-102.

(2) An individual who commits any of the following offenses is guilty of a class A misdemeanor:

(a) entering, or attempting to enter, a building or enclosure appropriated to the use of juvenile offenders, without permission;

(b) entering any premises belonging to a secure care facility and committing or attempting to commit a trespass or damage on the premises of a secure care facility; or

(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a juvenile offender in a secure care facility.

(3) An individual is guilty of a third degree felony who:

(a) knowingly harbors or conceals a juvenile offender who has:

(i) escaped from secure care; or

(ii) as described in Subsection (4), absconded from:

(A) a facility or supervision; or

(B) supervision of the division; or

(b) willfully aided or assisted a juvenile offender who has been lawfully committed to a secure care facility in escaping or attempting to escape from the secure care facility.

(4) As used in this section:

(a) a juvenile offender absconds from a facility under this section when the juvenile offender:

(i) leaves the facility without permission; or

(ii) fails to return at a prescribed time.

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(b) A juvenile offender absconds from supervision when the juvenile offender:

(i) changes the juvenile offender's residence from the residence that the juvenile offender reported to the division as the juvenile offender's correct address to another residence, without notifying the division or obtaining permission; or

(ii) for the purpose of avoiding supervision:

(A) hides at a different location from the juvenile offender's reported residence; or

(B) leaves the juvenile offender's reported residence.

Section ~~95~~93. Section **77-16b-102** is amended to read:

77-16b-102. Definitions.

As used in this chapter:

(1) "Correctional facility" means:

(a) a county jail;

(b) a secure correctional facility as defined by Section 64-13-1; or

(c) a secure care facility as defined in Section 80-1-102.

(2) "Correctional facility administrator" means:

(a) a county sheriff in charge of a county jail;

(b) a designee of the executive director of the Utah Department of Corrections; or

(c) a designee of the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

(3) "Medical supervision" means under the direction of a licensed physician, physician assistant, or nurse practitioner.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Prisoner" means:

(a) any individual who is a pretrial detainee or who has been committed to the custody of a sheriff or the Utah Department of Corrections, and who is physically in a correctional facility; and

(b) any individual who is 18 years old or older and younger than 21 years old, and who has been committed to the custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

Section ~~96~~94. Section **77-38-3** is amended to read:

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77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so

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that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

- (i) a law enforcement agency, including the prosecuting agency;
- (ii) a victims' right committee as provided in Section 77-37-5;
- (iii) a governmentally sponsored victim or witness program;

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- (iv) the Department of Corrections;
- (v) the Utah Office for Victims of Crime;
- (vi) the Commission on Criminal and Juvenile Justice;
- (vii) the Utah State Courts; and
- (viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15) (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

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Section ~~97~~95. Section 77-41-102 (Superseded 07/01/24) is amended to read:

77-41-102 (Superseded 07/01/24). Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental condition; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(5) "Department" means the Department of Corrections.

(6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

(7) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(8) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

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(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(10) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor;

(v) Section 76-5-308.3, human smuggling;

(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vii) Section 76-5-308.5, human trafficking of a child for labor;

(viii) Section 76-5-310, aggravated human trafficking;

(ix) Section 76-5-310.1, aggravated human smuggling;

(x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (10)(a)(i) through (x);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (10)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military

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court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (10), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (10); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (10)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(11) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as defined in Subsection (18).

(13) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar

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name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(14) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(15) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(16) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(17) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(18) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

(iii) Section 76-5-308.1, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

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- (xv) Section 76-5-403.1, sodomy on a child;
 - (xvi) Section 76-5-404, forcible sexual abuse;
 - (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;
 - (xviii) Section 76-5-405, aggravated sexual assault;
 - (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;
 - (xx) Section 76-5b-201, sexual exploitation of a minor;
 - (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
 - (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
 - (xxiii) Section 76-7-102, incest;
 - (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;
 - (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;
 - (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;
 - (xxvii) Section 76-9-702.5, lewdness involving a child;
 - (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
 - (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
 - (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (18)(a);
- (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (18)(a); and
- (ii) who is:
 - (A) a Utah resident; or
 - (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;
 - (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;

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(B) who is required to register as a sex offender by any state, federal, or military court;
or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (18)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (18)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section ~~98~~96. Section 77-41-102 (Effective 07/01/24) is amended to read:

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77-41-102 (Effective 07/01/24). Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) (a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(5) "Department" means the Department of Public Safety.

(6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

(7) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(8) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have

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not been extinguished, including rights-of-way running through the allotments.

(9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(10) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor;

(v) Section 76-5-308.3, human smuggling;

(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vii) Section 76-5-308.5, human trafficking of a child for labor;

(viii) Section 76-5-310, aggravated human trafficking;

(ix) Section 76-5-310.1, aggravated human smuggling;

(x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (10)(a)(i) through (x);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (10)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

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(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (10), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (10); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (10)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(11) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as defined in Subsection (18).

(13) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

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(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(14) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(15) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(16) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(17) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(18) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

(iii) Section 76-5-308.1, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

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- (xvi) Section 76-5-404, forcible sexual abuse;
- (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;
- (xviii) Section 76-5-405, aggravated sexual assault;
- (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;
- (xx) Section 76-5b-201, sexual exploitation of a minor;
- (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- (xxiii) Section 76-7-102, incest;
- (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;
- (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;
- (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;
- (xxvii) Section 76-9-702.5, lewdness involving a child;
- (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (18)(a);
 - (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (18)(a); and
 - (ii) who is:
 - (A) a Utah resident; or
 - (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;
 - (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;
 - (B) who is required to register as a sex offender by any state, federal, or military court;

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or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (18)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (18)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section ~~99~~97. Section **78A-6-212** is amended to read:

78A-6-212. Information supplied to the Division of Juvenile Justice and Youth

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Services.

(1) A juvenile probation officer shall render full and complete cooperation to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in supplying the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services with all pertinent information relating to a juvenile offender committed to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

(2) Information under Subsection (1) includes prior criminal history, social history, psychological evaluations, and identifying information specified by the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

Section ~~100~~98. Section **78B-7-804** is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

(1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence

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crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 38, Crime Victims, and Article I, Section 28 of the Utah Constitution.

(b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless:

(i) the court determines by clear and convincing evidence that the victim does not have a reasonable fear of future harm or abuse; and

(ii) the court conducts a hearing.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) A victim has a right to request a hearing.

(iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court.

(iv) The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described in Subsection (3)(b)(ii).

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

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(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section ~~{101}~~99. Section **78B-7-805** is amended to read:

78B-7-805. Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

(1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

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(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

(b) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

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(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section ~~{102}~~100. Section **78B-24-307** is amended to read:

78B-24-307. Child-placing agency compliance.

(1) [~~The Office of Licensing~~] The Division of Licensing and Background Checks, created in Section 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2) (a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Section ~~{103}~~101. Section **78B-24-308** is amended to read:

78B-24-308. Rulemaking authority.

[~~The Office of Licensing~~] The Division of Licensing and Background Checks, created in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306.

Section ~~{104}~~102. Section **80-2-301** is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs

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under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

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(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405; and

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

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(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i); and

(p) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

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- (i) receive gifts, grants, devises, and donations;
- (ii) encourage merchants and service providers to:
 - (A) donate goods or services; or
 - (B) provide goods or services at a nominal price or below cost;
- (iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and
- (iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

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(7) (a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section ~~{105}~~103. Section **80-2-703** is amended to read:

80-2-703. Conflict child protective services investigations -- Authority of investigators.

(1) (a) The department, through the [~~Office of Quality and Design created in Section 62A-18-103~~] Division of Continuous Quality and Improvement, shall conduct an independent child protective service investigation to investigate reports of abuse or neglect if:

(i) the report occurs while the child is in the custody of the division; or

(ii) the executive director of the department determines that, if the division conducts the investigation, the division would have an actual or potential conflict of interest in the results of the investigation.

(b) If a report is made while a child is in the custody of the division that indicates the child is abused or neglected:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the department, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the department, conduct a conflict investigation of the report.

(c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the department, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) An investigator described in Subsection (1) may also investigate allegations of

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abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) An investigator described in Subsection (1), if not a law enforcement officer, shall have the same rights, duties, and authority of a child welfare caseworker to:

(a) make a thorough investigation under Section 80-2-701 upon receiving a report of alleged abuse or neglect of a child, with the primary purpose of the investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of the investigator's investigation, including determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit, and forward a copy of the report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 if a report is based on or includes an allegation of educational neglect.

Section ~~106~~104. Section **80-2-1001** is amended to read:

80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(2) The Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent failed the child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(3) For a child welfare case, the Management Information System shall provide each child welfare caseworker and the ~~[Office of Licensing]~~ Division of Licensing and Background Checks created in Section 26B-2-103, exclusively for the purposes of foster parent licensure

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and monitoring, with a complete history of each child in the child welfare caseworker's caseload, including:

- (a) a record of all past action taken by the division with regard to the child and the child's siblings;
- (b) the complete case history and all reports and information in the control or keeping of the division regarding the child and the child's siblings;
- (c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;
- (d) the cumulative period of time the child has been in the custody of the division;
- (e) a record of all reports of abuse or neglect received by the division with regard to the child's parent or guardian including:
 - (i) for each report, documentation of the:
 - (A) latest status; or
 - (B) final outcome or determination; and
 - (ii) information that indicates whether each report was found to be:
 - (A) supported;
 - (B) unsupported;
 - (C) substantiated;
 - (D) unsubstantiated; or
 - (E) without merit;
 - (f) the number of times the child's parent failed any child and family plan; and
 - (g) the number of different child welfare caseworkers who have been assigned to the child in the past.

(4) For child protective services cases, the Management Information System shall:

- (a) monitor the compliance of each case with:
 - (i) division rule;
 - (ii) state law; and
 - (iii) federal law and regulation; and
- (b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

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(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis;

(v) as provided in Subsection (6) or Section 80-2-1002; or

(vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described in Section 80-2-1101.

(6) (a) The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from the specific contract provider or Indian tribe.

(c) A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

(d) (i) The Office of Guardian Ad Litem may only access:

(A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is

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appointed by a court to represent the interests of the child; or

(B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) A contract provider or designated representative of the Office of Guardian Ad Litem or an Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper release of information; and

(iii) monitor its employees to ensure that the employees protect the information contained in the Management Information System as required by law.

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section ~~{107}~~105. Section **80-2-1002** is amended to read:

80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1) (a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:

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- (i) for licensing purposes; or
- (ii) as otherwise provided by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 26B-2-121.

(2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

(c) the information described in Subsection (3);

(d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404; and

(f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the finding in the Management Information System.

(4) Information or a record contained in the Licensing Information System is:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, accessible only:

(i) to the [~~Office of Licensing~~] Division of Licensing and Background Checks created in Section 26B-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem at the time

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the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from an individual whose name is listed in the Licensing Information System;

(iii) to a person designated by the Department of Health and Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(iv) to a person designated by the Department of Workforce Services and approved by the Department of Health and Human Services for the purpose of qualifying a child care provider under Section 35A-3-310.5;

(v) as provided in Section 26B-2-121; or

(vi) to the department or another person, as provided in this chapter.

(5) A person designated by the Department of Health and Human Services or the Department of Workforce Services under Subsection (4) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to persons allowed access by statute.

(6) The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

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(7) (a) Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and 80-2-1005.

Section ~~{108}~~106. Section **80-3-409** is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

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(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify

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the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, ~~beyond~~ by a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

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(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (8)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(9) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or

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(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(10) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(11) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

(13) (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

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(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(14) (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(15) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

(16) (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

- (i) the preferential consideration granted to a relative in Section 80-3-302;
- (ii) the rebuttable presumption in Section 80-3-302; and
- (iii) the division's placement authority under Subsections 80-1-102(50) and

80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section ~~109~~ 107. Section **80-5-102** is amended to read:

80-5-102. Definitions.

As used in this chapter:

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(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.

(2) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

(3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.

(6) "Director" means the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

(7) "Discharge" means the same as that term is defined in Section 80-6-102.

(8) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(9) "Homeless youth" means a child, other than an emancipated minor:

(a) who is a runaway; or

(b) who is:

(i) not accompanied by the child's parent or guardian; and

(ii) without care, as defined in Section 80-5-602.

(10) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(11) "Performance based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

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- (12) "Rescission" means the same as that term is defined in Section 80-6-102.
- (13) "Restitution" means the same as that term is defined in Section 80-6-102.
- (14) "Revocation" means the same as that term is defined in Section 80-6-102.
- (15) "Temporary custody" means the same as that term is defined in Section 80-6-102.

(16) "Temporary homeless youth shelter" means a facility that:

(a) provides temporary shelter to homeless youth; and

(b) is licensed by the Department of Health and Human Services, created in Section 26B-1-201, as a residential support program.

(17) "Termination" means the same as that term is defined in Section 80-6-102.

(18) "Victim" means the same as that term is defined in Section 80-6-102.

(19) "Work program" means a nonresidential public or private service work project established and administered by the division for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

(20) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or a runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) "Youth services" include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with the minors' families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) "Youth services" may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time-out placement; and

(iv) family counseling.

(21) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

Section ~~110~~108. Section 80-5-103 is amended to read:

80-5-103. Creation of division -- Jurisdiction.

(1) There is created the [~~Division of Juvenile Justice Services~~] Division of Juvenile

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Justice and Youth Services within the department.

(2) The division shall be under the administration and supervision of the executive director of the department.

(3) The division has jurisdiction over all minors committed to the division under Sections 80-6-703 and 80-6-705.

Section ~~{111}~~109. Section **80-5-401** is amended to read:

80-5-401. Youth services for prevention and early intervention -- Program standards -- Program services.

(1) The division shall establish and operate prevention and early intervention youth services programs which shall include evidence-informed and research-informed interventions to:

- (a) help youth and families avoid entry into the juvenile justice system; and
- (b) improve attendance and academic achievement.

(2) The division shall adopt statewide policies and procedures, including minimum standards for the organization and operation of youth services programs.

(3) The division shall establish housing, programs, and procedures to ensure that minors who are receiving services under this section and who are not committed to the division are served separately from minors who are committed to the division.

(4) The division may enter into contracts with state and local governmental entities and private providers to provide the youth services.

(5) The division shall establish and administer juvenile receiving centers and other programs to provide temporary custody, care, risk-needs assessments, evaluations, and control for nonadjudicated and adjudicated minors placed with the division.

(6) The division shall prioritize use of evidence-based juvenile justice programs and practices.

(7) Youth receiving services under this section or from the division may not be placed into the legal custody of the division unless the youth qualifies for such disposition under Section 80-6-703.

Section ~~{112}~~110. Section **80-6-102** is amended to read:

80-6-102. Definitions.

As used in this chapter:

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(1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.

(5) "Control" means the same as that term is defined in Section 80-5-102.

(6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.

(7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

(8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.

(9) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.

(11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:

(a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and

(b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.

(12) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

(13) "Referral" means a formal referral, a referral to the juvenile court under Section

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53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

(14) "Rescission" means a written order of the authority that rescinds a date for parole.

(15) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

(16) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

(a) terminates supervision of a juvenile offender's parole; and

(b) directs a juvenile offender to return to secure care.

(17) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

(18) "Termination" means a written order of the authority that terminates a juvenile offender from parole.

(19) (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

(i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

(ii) the Utah Office for Victims of Crime.

(20) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(21) "Work program" means the same as that term is defined in Section 80-5-102.

(22) "Youth services" means the same as that term is defined in Section 80-5-102.

Section ~~{113}~~111. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on July 1, 2024:

(a) Section 26B-1-204 (Effective 07/01/24);

(b) Section 26B-2-241 (Effective 07/01/24);

(c) Section 53-2d-404 (Effective 07/01/24);

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(d) Section 53-2d-503 (Effective 07/01/24);

(e) Section 53-2d-703~~;~~

~~—~~ ~~(f) Section 63I-1-226~~ (Effective 07/01/24); and

~~(g)~~ Section 77-41-102 (Effective 07/01/24).