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CRIMINAL JUSTICE MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the criminal penalties for the possession of a controlled substance or controlled substance analog;
- ▶ clarifies provisions related to the Sentencing Commission;
- ▶ clarifies and amends the adult sentencing and supervision length guidelines to address habitual offenders and responses to probation and parole progress or violations;
- ▶ clarifies the juvenile disposition guidelines;
- ▶ requires the Department of Corrections to create a program to allow an offender to earn credits for maintaining stable and verifiable employment that would result in a reduction in the amount of time that the offender is on probation or parole;
- ▶ clarifies and modifies provisions on venue and joinder for a criminal action;
- ▶ addresses the modification of a sentence for an individual who is incarcerated in a state prison or county jail;
- ▶ modifies the crime of unlawful sexual activity with a minor to address a defendant who is 18 years old and enrolled in high school at the time the sexual activity



- 28 occurred;
- 29 ▶ addresses the sentencing of an individual who has been previously convicted of
- 30 felony offenses;
- 31 ▶ modifies the continuing jurisdiction of the sentencing court;
- 32 ▶ addresses pretrial detention of certain individuals who have committed a felony
- 33 offense;
- 34 ▶ modifies the requirements for a magistrate or judge when ordering pretrial release;
- 35 ▶ allows a victim to submit a written statement for a hearing by the Board of Pardons
- 36 and Parole;
- 37 ▶ addresses consideration of a victim's written statement by the Board of Pardons and
- 38 Parole;
- 39 ▶ addresses the information that a court and a prosecuting attorney forwards to the
- 40 Board of Pardons and Parole;
- 41 ▶ modifies the duties of a law enforcement officer with regard to a victim;
- 42 ▶ amends the requirements for a drug court program; and
- 43 ▶ makes technical and conforming changes.

44 **Money Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 This bill provides a special effective date.

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **58-37-8 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 312,

51 329

52 **58-37-8 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 310,

53 312 and 329

54 **63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155,

55 212, 218, 249, 270, 448, 489, and 534

56 **63M-7-102**, as enacted by Laws of Utah 2023, Chapter 177

57 **63M-7-303**, as last amended by Laws of Utah 2023, Chapters 266, 330 and 534 and last

58 amended by Coordination Clause, Laws of Utah 2023, Chapter 330

- 59 [63M-7-402](#), as last amended by Laws of Utah 2020, Chapter 154
- 60 [63M-7-405](#), as last amended by Laws of Utah 2022, Chapter 274
- 61 [63M-7-406](#), as renumbered and amended by Laws of Utah 2008, Chapter 382
- 62 [64-13-6](#), as last amended by Laws of Utah 2023, Chapter 177
- 63 [64-13-21](#), as last amended by Laws of Utah 2022, Chapter 187
- 64 [64-13g-102](#), as last amended by Laws of Utah 2023, Chapter 177
- 65 [76-1-401](#), as last amended by Laws of Utah 1995, Chapter 20
- 66 [76-1-402](#), as last amended by Laws of Utah 1974, Chapter 32
- 67 [76-3-202](#), as last amended by Laws of Utah 2022, Chapter 181
- 68 [76-5-102.1](#), as last amended by Laws of Utah 2023, Chapters 111, 415
- 69 [76-5-207](#), as last amended by Laws of Utah 2023, Chapter 415
- 70 [76-5-401](#), as last amended by Laws of Utah 2023, Chapter 123
- 71 [77-2a-2](#), as last amended by Laws of Utah 2020, Chapter 281
- 72 [77-18-102](#), as last amended by Laws of Utah 2023, Chapter 330
- 73 [77-18-103](#), as last amended by Laws of Utah 2023, Chapter 155
- 74 [77-18-105](#), as last amended by Laws of Utah 2023, Chapters 111, 257
- 75 [77-18-108](#), as last amended by Laws of Utah 2023, Chapter 113
- 76 [77-18-118](#), as last amended by Laws of Utah 2022, Chapter 359
- 77 [77-20-205](#), as last amended by Laws of Utah 2023, Chapters 408, 447
- 78 [77-27-5](#), as last amended by Laws of Utah 2023, Chapters 151, 173
- 79 [77-27-9.5](#), as last amended by Laws of Utah 1998, Chapter 355
- 80 [77-27-11](#), as last amended by Laws of Utah 2022, Chapter 115
- 81 [77-27-13](#), as last amended by Laws of Utah 1998, Chapter 171
- 82 [77-27-32](#), as enacted by Laws of Utah 2023, Chapter 151
- 83 [77-36-2.1](#), as last amended by Laws of Utah 2023, Chapters 138, 447
- 84 [78A-5-201](#), as last amended by Laws of Utah 2023, Chapter 330
- 85 [78B-9-102](#), as last amended by Laws of Utah 2017, Chapter 450
- 86 [80-6-307](#), as renumbered and amended by Laws of Utah 2021, Chapter 261
- 87 [80-6-607](#), as renumbered and amended by Laws of Utah 2021, Chapter 261

88 ENACTS:

- 89 [63M-7-101.5](#), Utah Code Annotated 1953

- 90 **63M-7-401.1**, Utah Code Annotated 1953
- 91 **63M-7-402.5**, Utah Code Annotated 1953
- 92 **63M-7-404.1**, Utah Code Annotated 1953
- 93 **63M-7-404.3**, Utah Code Annotated 1953
- 94 **63M-7-404.5**, Utah Code Annotated 1953
- 95 **76-3-411**, Utah Code Annotated 1953

96 REPEALS AND REENACTS:

97 **76-1-202**, as last amended by Laws of Utah 2017, Chapter 282

98 RENUMBERS AND AMENDS:

99 **63M-7-401.2**, (Renumbered from 63M-7-401, as last amended by Laws of Utah 2021,
100 Chapter 173)

101 **76-1-402.5**, (Renumbered from 77-8a-1, as enacted by Laws of Utah 1990, Chapter
102 201)

103 REPEALS:

104 **63M-7-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382

105 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111



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

108 Section 1. Section **58-37-8 (Superseded 07/01/24)** is amended to read:

109 **58-37-8 (Superseded 07/01/24). Prohibited acts -- Penalties.**

110 (1) Prohibited acts A -- Penalties and reporting:

111 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
112 intentionally:

113 (i) produce, manufacture, or dispense, or to possess with intent to produce,
114 manufacture, or dispense, a controlled or counterfeit substance;

115 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
116 arrange to distribute a controlled or counterfeit substance;

117 (iii) possess a controlled or counterfeit substance with intent to distribute; or

118 (iv) engage in a continuing criminal enterprise where:

119 (A) the person participates, directs, or engages in conduct that results in a violation of
120 this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled

121 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
122 Clandestine Drug Lab Act, that is a felony; and

123 (B) the violation is a part of a continuing series of two or more violations of this
124 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
125 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
126 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
127 more persons with respect to whom the person occupies a position of organizer, supervisor, or
128 any other position of management.

129 (b) A person convicted of violating Subsection (1)(a) with respect to:

130 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
131 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
132 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
133 subsequent conviction is guilty of a first degree felony;

134 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
135 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
136 upon a second or subsequent conviction is guilty of a second degree felony; or

137 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
138 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
139 felony.

140 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
141 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
142 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
143 person or in the person's immediate possession during the commission or in furtherance of the
144 offense, the court shall additionally sentence the person convicted for a term of one year to run
145 consecutively and not concurrently; and the court may additionally sentence the person
146 convicted for an indeterminate term not to exceed five years to run consecutively and not
147 concurrently.

148 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
149 felony punishable by imprisonment for an indeterminate term of not less than:

150 (A) seven years and which may be for life; or

151 (B) 15 years and which may be for life if the trier of fact determined that the defendant

152 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
153 was under 18 years old.

154 (ii) Imposition or execution of the sentence may not be suspended, and the person is
155 not eligible for probation.

156 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
157 offense, was under 18 years old.

158 (e) The Administrative Office of the Courts shall report to the Division of Professional
159 Licensing the name, case number, date of conviction, and if known, the date of birth of each
160 person convicted of violating Subsection (1)(a).

161 (2) Prohibited acts B -- Penalties and reporting:

162 (a) It is unlawful:

163 (i) for a person knowingly and intentionally to possess or use a controlled substance
164 analog or a controlled substance, unless it was obtained under a valid prescription or order,
165 directly from a practitioner while acting in the course of the person's professional practice, or as
166 otherwise authorized by this chapter;

167 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
168 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
169 by persons unlawfully possessing, using, or distributing controlled substances in any of those
170 locations; or

171 (iii) for a person knowingly and intentionally to possess an altered or forged
172 prescription or written order for a controlled substance.

173 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

174 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
175 or

176 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
177 of a class A misdemeanor on a first [~~or second~~] conviction, and on a [~~third~~] second or
178 subsequent conviction if [~~each~~] a prior offense was committed within seven years before the
179 date of the offense upon which the current conviction is based is guilty of a third degree felony.

180 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
181 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
182 penalty than provided in this Subsection (2).

183 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
184 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
185 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

186 (i) Upon a [~~third~~] second conviction, the person is guilty of a class A misdemeanor~~[, if~~
187 ~~each]~~ if a prior offense was committed within seven years before the date of the offense upon
188 which the current conviction is based.

189 (ii) Upon a [~~fourth~~] third or subsequent conviction the person is guilty of a third degree
190 felony if [~~each]~~ a prior offense was committed within seven years before the date of the offense
191 upon which the current conviction is based.

192 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
193 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
194 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
195 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
196 listed in:

197 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
198 indeterminate term as provided by law, and:

199 (A) the court shall additionally sentence the person convicted to a term of one year to
200 run consecutively and not concurrently; and

201 (B) the court may additionally sentence the person convicted for an indeterminate term
202 not to exceed five years to run consecutively and not concurrently; and

203 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
204 indeterminate term as provided by law, and the court shall additionally sentence the person
205 convicted to a term of six months to run consecutively and not concurrently.

206 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

207 (i) on a first conviction, guilty of a class B misdemeanor;

208 (ii) on a second conviction, guilty of a class A misdemeanor; and

209 (iii) on a third or subsequent conviction, guilty of a third degree felony.

210 (g) The Administrative Office of the Courts shall report to the Division of Professional
211 Licensing the name, case number, date of conviction, and if known, the date of birth of each
212 person convicted of violating Subsection (2)(a).

213 (3) Prohibited acts C -- Penalties:

214 (a) It is unlawful for a person knowingly and intentionally:
215 (i) to use in the course of the manufacture or distribution of a controlled substance a
216 license number which is fictitious, revoked, suspended, or issued to another person or, for the
217 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
218 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
219 person;

220 (ii) to acquire or obtain possession of, to procure or attempt to procure the
221 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
222 attempting to acquire or obtain possession of, or to procure the administration of a controlled
223 substance by misrepresentation or failure by the person to disclose receiving a controlled
224 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
225 prescription or written order for a controlled substance, or the use of a false name or address;

226 (iii) to make a false or forged prescription or written order for a controlled substance,
227 or to utter the same, or to alter a prescription or written order issued or written under the terms
228 of this chapter; or

229 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
230 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
231 device of another or any likeness of any of the foregoing upon any drug or container or labeling
232 so as to render a drug a counterfeit controlled substance.

233 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
234 misdemeanor.

235 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
236 degree felony.

237 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

238 (4) Prohibited acts D -- Penalties:

239 (a) Notwithstanding other provisions of this section, a person not authorized under this
240 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
241 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
242 of fact finds the act is committed:

243 (i) in a public or private elementary or secondary school or on the grounds of any of
244 those schools during the hours of 6 a.m. through 10 p.m.;

- 245 (ii) in a public or private vocational school or postsecondary institution or on the
- 246 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;
- 247 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
- 248 facility's hours of operation;
- 249 (iv) in a public park, amusement park, arcade, or recreation center when the public or
- 250 amusement park, arcade, or recreation center is open to the public;
- 251 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;
- 252 (vi) in or on the grounds of a library when the library is open to the public;
- 253 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
- 254 in Subsections (4)(a)(i) through (vi);
- 255 (viii) in the presence of a person younger than 18 years old, regardless of where the act
- 256 occurs; or
- 257 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
- 258 distribution of a substance in violation of this section to an inmate or on the grounds of a
- 259 correctional facility as defined in Section 76-8-311.3.
- 260 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
- 261 and shall be imprisoned for a term of not less than five years if the penalty that would
- 262 otherwise have been established but for this Subsection (4) would have been a first degree
- 263 felony.
- 264 (ii) Imposition or execution of the sentence may not be suspended, and the person is
- 265 not eligible for probation.
- 266 (c) If the classification that would otherwise have been established would have been
- 267 less than a first degree felony but for this Subsection (4), a person convicted under this
- 268 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
- 269 offense.
- 270 (d) (i) If the violation is of Subsection (4)(a)(ix):
- 271 (A) the person may be sentenced to imprisonment for an indeterminate term as
- 272 provided by law, and the court shall additionally sentence the person convicted for a term of
- 273 one year to run consecutively and not concurrently; and
- 274 (B) the court may additionally sentence the person convicted for an indeterminate term
- 275 not to exceed five years to run consecutively and not concurrently; and

276 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
277 the mental state required for the commission of an offense, directly or indirectly solicits,
278 requests, commands, coerces, encourages, or intentionally aids another person to commit a
279 violation of Subsection (4)(a)(ix).

280 (e) It is not a defense to a prosecution under this Subsection (4) that:

281 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
282 the offense or was unaware of the individual's true age; or

283 (ii) the actor mistakenly believed that the location where the act occurred was not as
284 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
285 described in Subsection (4)(a).

286 (5) A violation of this chapter for which no penalty is specified is a class B
287 misdemeanor.

288 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
289 guilty or no contest to a violation or attempted violation of this section or a plea which is held
290 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
291 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
292 abeyance agreement.

293 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
294 conviction that is:

295 (i) from a separate criminal episode than the current charge; and

296 (ii) from a conviction that is separate from any other conviction used to enhance the
297 current charge.

298 (7) A person may be charged and sentenced for a violation of this section,
299 notwithstanding a charge and sentence for a violation of any other section of this chapter.

300 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
301 of, a civil or administrative penalty or sanction authorized by law.

302 (b) When a violation of this chapter violates a federal law or the law of another state,
303 conviction or acquittal under federal law or the law of another state for the same act is a bar to
304 prosecution in this state.

305 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
306 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled

307 substance or substances, is prima facie evidence that the person or persons did so with
308 knowledge of the character of the substance or substances.

309 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
310 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
311 administering controlled substances or from causing the substances to be administered by an
312 assistant or orderly under the veterinarian's direction and supervision.

313 (11) Civil or criminal liability may not be imposed under this section on:

314 (a) a person registered under this chapter who manufactures, distributes, or possesses
315 an imitation controlled substance for use as a placebo or investigational new drug by a
316 registered practitioner in the ordinary course of professional practice or research;

317 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
318 employment; or

319 (c) a healthcare facility, substance use harm reduction services program, or drug
320 addiction treatment facility that temporarily possesses a controlled or counterfeit substance to
321 conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the
322 strength, effectiveness, or purity of the substance for a public health or safety reason.

323 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
324 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
325 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
326 as defined in Section 58-37-2.

327 (b) In a prosecution alleging violation of this section regarding peyote as defined in
328 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
329 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
330 traditional Indian religion.

331 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
332 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
333 trial.

334 (ii) The notice shall include the specific claims of the affirmative defense.

335 (iii) The court may waive the notice requirement in the interest of justice for good
336 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

337 (d) The defendant shall establish the affirmative defense under this Subsection (12) by

338 a preponderance of the evidence. If the defense is established, it is a complete defense to the
339 charges.

340 (13) (a) It is an affirmative defense that the person produced, possessed, or
341 administered a controlled substance listed in Section 58-37-4.2 if the person was:

342 (i) engaged in medical research; and

343 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

344 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
345 a controlled substance listed in Section 58-37-4.2.

346 (14) It is an affirmative defense that the person possessed, in the person's body, a
347 controlled substance listed in Section 58-37-4.2 if:

348 (a) the person was the subject of medical research conducted by a holder of a valid
349 license to possess controlled substances under Section 58-37-6; and

350 (b) the substance was administered to the person by the medical researcher.

351 (15) The application of any increase in penalty under this section to a violation of
352 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
353 Subsection (15) takes precedence over any conflicting provision of this section.

354 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
355 listed in Subsection (16)(b) that the person or bystander:

356 (i) reasonably believes that the person or another person is experiencing an overdose
357 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
358 controlled substance or other substance;

359 (ii) reports, or assists a person who reports, in good faith the overdose event to a
360 medical provider, an emergency medical service provider as defined in Section 26B-4-101, a
361 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
362 person is the subject of a report made under this Subsection (16);

363 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
364 actual location of the overdose event that facilitates responding to the person experiencing the
365 overdose event;

366 (iv) remains at the location of the person experiencing the overdose event until a
367 responding law enforcement officer or emergency medical service provider arrives, or remains
368 at the medical care facility where the person experiencing an overdose event is located until a

369 responding law enforcement officer arrives;

370 (v) cooperates with the responding medical provider, emergency medical service
371 provider, and law enforcement officer, including providing information regarding the person
372 experiencing the overdose event and any substances the person may have injected, inhaled, or
373 otherwise introduced into the person's body; and

374 (vi) is alleged to have committed the offense in the same course of events from which
375 the reported overdose arose.

376 (b) The offenses referred to in Subsection (16)(a) are:

377 (i) the possession or use of less than 16 ounces of marijuana;

378 (ii) the possession or use of a scheduled or listed controlled substance other than
379 marijuana; and

380 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
381 Imitation Controlled Substances Act.

382 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
383 include seeking medical assistance under this section during the course of a law enforcement
384 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

385 (17) If any provision of this chapter, or the application of any provision to any person
386 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
387 invalid provision or application.

388 (18) A legislative body of a political subdivision may not enact an ordinance that is
389 less restrictive than any provision of this chapter.

390 (19) If a minor who is under 18 years old is found by a court to have violated this
391 section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
392 complete:

393 (a) a screening as defined in Section 41-6a-501;

394 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
395 assessment to be appropriate; and

396 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
397 treatment as indicated by an assessment.

398 Section 2. Section 58-37-8 (Effective 07/01/24) is amended to read:

399 **58-37-8 (Effective 07/01/24). Prohibited acts -- Penalties.**

- 400 (1) Prohibited acts A -- Penalties and reporting:
- 401 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
- 402 intentionally:
- 403 (i) produce, manufacture, or dispense, or to possess with intent to produce,
- 404 manufacture, or dispense, a controlled or counterfeit substance;
- 405 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
- 406 arrange to distribute a controlled or counterfeit substance;
- 407 (iii) possess a controlled or counterfeit substance with intent to distribute; or
- 408 (iv) engage in a continuing criminal enterprise where:
- 409 (A) the person participates, directs, or engages in conduct that results in a violation of
- 410 this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
- 411 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
- 412 Clandestine Drug Lab Act, that is a felony; and
- 413 (B) the violation is a part of a continuing series of two or more violations of this
- 414 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
- 415 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
- 416 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
- 417 more persons with respect to whom the person occupies a position of organizer, supervisor, or
- 418 any other position of management.
- 419 (b) A person convicted of violating Subsection (1)(a) with respect to:
- 420 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
- 421 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
- 422 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
- 423 subsequent conviction is guilty of a first degree felony;
- 424 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
- 425 marijuana, or a substance listed in Section [58-37-4.2](#) is guilty of a third degree felony, and
- 426 upon a second or subsequent conviction is guilty of a second degree felony; or
- 427 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
- 428 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
- 429 felony.
- 430 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may

431 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
432 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
433 person or in the person's immediate possession during the commission or in furtherance of the
434 offense, the court shall additionally sentence the person convicted for a term of one year to run
435 consecutively and not concurrently; and the court may additionally sentence the person
436 convicted for an indeterminate term not to exceed five years to run consecutively and not
437 concurrently.

438 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
439 felony punishable by imprisonment for an indeterminate term of not less than:

440 (A) seven years and which may be for life; or

441 (B) 15 years and which may be for life if the trier of fact determined that the defendant
442 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
443 was under 18 years old.

444 (ii) Imposition or execution of the sentence may not be suspended, and the person is
445 not eligible for probation.

446 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
447 offense, was under 18 years old.

448 (e) The Administrative Office of the Courts shall report to the Division of Professional
449 Licensing the name, case number, date of conviction, and if known, the date of birth of each
450 person convicted of violating Subsection (1)(a).

451 (2) Prohibited acts B -- Penalties and reporting:

452 (a) It is unlawful:

453 (i) for a person knowingly and intentionally to possess or use a controlled substance
454 analog or a controlled substance, unless it was obtained under a valid prescription or order,
455 directly from a practitioner while acting in the course of the person's professional practice, or as
456 otherwise authorized by this chapter;

457 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
458 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
459 by persons unlawfully possessing, using, or distributing controlled substances in any of those
460 locations; or

461 (iii) for a person knowingly and intentionally to possess an altered or forged

462 prescription or written order for a controlled substance.

463 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

464 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

465 or

466 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
467 of a class A misdemeanor on a first [~~or second~~] conviction, and on a [~~third~~] second or
468 subsequent conviction if [~~each~~] a prior offense was committed within seven years before the
469 date of the offense upon which the current conviction is based is guilty of a third degree felony.

470 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
471 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
472 penalty than provided in this Subsection (2).

473 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
474 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
475 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

476 (i) Upon a [~~third~~] second conviction the person is guilty of a class A misdemeanor[~~, if~~
477 ~~each~~] if a prior offense was committed within seven years before the date of the offense upon
478 which the current conviction is based.

479 (ii) Upon a [~~fourth~~] third or subsequent conviction the person is guilty of a third degree
480 felony if [~~each~~] a prior offense was committed within seven years before the date of the offense
481 upon which the current conviction is based.

482 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
483 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
484 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
485 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
486 listed in:

487 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
488 indeterminate term as provided by law, and:

489 (A) the court shall additionally sentence the person convicted to a term of one year to
490 run consecutively and not concurrently; and

491 (B) the court may additionally sentence the person convicted for an indeterminate term
492 not to exceed five years to run consecutively and not concurrently; and

493 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
494 indeterminate term as provided by law, and the court shall additionally sentence the person
495 convicted to a term of six months to run consecutively and not concurrently.

496 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

497 (i) on a first conviction, guilty of a class B misdemeanor;

498 (ii) on a second conviction, guilty of a class A misdemeanor; and

499 (iii) on a third or subsequent conviction, guilty of a third degree felony.

500 (g) The Administrative Office of the Courts shall report to the Division of Professional
501 Licensing the name, case number, date of conviction, and if known, the date of birth of each
502 person convicted of violating Subsection (2)(a).

503 (3) Prohibited acts C -- Penalties:

504 (a) It is unlawful for a person knowingly and intentionally:

505 (i) to use in the course of the manufacture or distribution of a controlled substance a
506 license number which is fictitious, revoked, suspended, or issued to another person or, for the
507 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
508 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
509 person;

510 (ii) to acquire or obtain possession of, to procure or attempt to procure the
511 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
512 attempting to acquire or obtain possession of, or to procure the administration of a controlled
513 substance by misrepresentation or failure by the person to disclose receiving a controlled
514 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
515 prescription or written order for a controlled substance, or the use of a false name or address;

516 (iii) to make a false or forged prescription or written order for a controlled substance,
517 or to utter the same, or to alter a prescription or written order issued or written under the terms
518 of this chapter; or

519 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
520 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
521 device of another or any likeness of any of the foregoing upon any drug or container or labeling
522 so as to render a drug a counterfeit controlled substance.

523 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A

524 misdemeanor.

525 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
526 degree felony.

527 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

528 (4) Prohibited acts D -- Penalties:

529 (a) Notwithstanding other provisions of this section, a person not authorized under this
530 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
531 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
532 of fact finds the act is committed:

533 (i) in a public or private elementary or secondary school or on the grounds of any of
534 those schools during the hours of 6 a.m. through 10 p.m.;

535 (ii) in a public or private vocational school or postsecondary institution or on the
536 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

537 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
538 facility's hours of operation;

539 (iv) in a public park, amusement park, arcade, or recreation center when the public or
540 amusement park, arcade, or recreation center is open to the public;

541 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

542 (vi) in or on the grounds of a library when the library is open to the public;

543 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
544 in Subsections (4)(a)(i) through (vi);

545 (viii) in the presence of a person younger than 18 years old, regardless of where the act
546 occurs; or

547 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
548 distribution of a substance in violation of this section to an inmate or on the grounds of a
549 correctional facility as defined in Section 76-8-311.3.

550 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
551 and shall be imprisoned for a term of not less than five years if the penalty that would
552 otherwise have been established but for this Subsection (4) would have been a first degree
553 felony.

554 (ii) Imposition or execution of the sentence may not be suspended, and the person is

555 not eligible for probation.

556 (c) If the classification that would otherwise have been established would have been
557 less than a first degree felony but for this Subsection (4), a person convicted under this
558 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
559 offense.

560 (d) (i) If the violation is of Subsection (4)(a)(ix):

561 (A) the person may be sentenced to imprisonment for an indeterminate term as
562 provided by law, and the court shall additionally sentence the person convicted for a term of
563 one year to run consecutively and not concurrently; and

564 (B) the court may additionally sentence the person convicted for an indeterminate term
565 not to exceed five years to run consecutively and not concurrently; and

566 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
567 the mental state required for the commission of an offense, directly or indirectly solicits,
568 requests, commands, coerces, encourages, or intentionally aids another person to commit a
569 violation of Subsection (4)(a)(ix).

570 (e) It is not a defense to a prosecution under this Subsection (4) that:

571 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
572 the offense or was unaware of the individual's true age; or

573 (ii) the actor mistakenly believed that the location where the act occurred was not as
574 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
575 described in Subsection (4)(a).

576 (5) A violation of this chapter for which no penalty is specified is a class B
577 misdemeanor.

578 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
579 guilty or no contest to a violation or attempted violation of this section or a plea which is held
580 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
581 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
582 abeyance agreement.

583 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
584 conviction that is:

585 (i) from a separate criminal episode than the current charge; and

586 (ii) from a conviction that is separate from any other conviction used to enhance the
587 current charge.

588 (7) A person may be charged and sentenced for a violation of this section,
589 notwithstanding a charge and sentence for a violation of any other section of this chapter.

590 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
591 of, a civil or administrative penalty or sanction authorized by law.

592 (b) When a violation of this chapter violates a federal law or the law of another state,
593 conviction or acquittal under federal law or the law of another state for the same act is a bar to
594 prosecution in this state.

595 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
596 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
597 substance or substances, is prima facie evidence that the person or persons did so with
598 knowledge of the character of the substance or substances.

599 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
600 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
601 administering controlled substances or from causing the substances to be administered by an
602 assistant or orderly under the veterinarian's direction and supervision.

603 (11) Civil or criminal liability may not be imposed under this section on:

604 (a) a person registered under this chapter who manufactures, distributes, or possesses
605 an imitation controlled substance for use as a placebo or investigational new drug by a
606 registered practitioner in the ordinary course of professional practice or research;

607 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
608 employment; or

609 (c) a healthcare facility, substance use harm reduction services program, or drug
610 addiction treatment facility that temporarily possesses a controlled or counterfeit substance to
611 conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the
612 strength, effectiveness, or purity of the substance for a public health or safety reason.

613 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
614 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
615 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
616 as defined in Section 58-37-2.

617 (b) In a prosecution alleging violation of this section regarding peyote as defined in
618 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
619 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
620 traditional Indian religion.

621 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
622 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
623 trial.

624 (ii) The notice shall include the specific claims of the affirmative defense.

625 (iii) The court may waive the notice requirement in the interest of justice for good
626 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

627 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
628 a preponderance of the evidence. If the defense is established, it is a complete defense to the
629 charges.

630 (13) (a) It is an affirmative defense that the person produced, possessed, or
631 administered a controlled substance listed in Section 58-37-4.2 if the person was:

632 (i) engaged in medical research; and

633 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

634 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
635 a controlled substance listed in Section 58-37-4.2.

636 (14) It is an affirmative defense that the person possessed, in the person's body, a
637 controlled substance listed in Section 58-37-4.2 if:

638 (a) the person was the subject of medical research conducted by a holder of a valid
639 license to possess controlled substances under Section 58-37-6; and

640 (b) the substance was administered to the person by the medical researcher.

641 (15) The application of any increase in penalty under this section to a violation of
642 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
643 Subsection (15) takes precedence over any conflicting provision of this section.

644 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
645 listed in Subsection (16)(b) that the person or bystander:

646 (i) reasonably believes that the person or another person is experiencing an overdose
647 event due to the ingestion, injection, inhalation, or other introduction into the human body of a

648 controlled substance or other substance;

649 (ii) reports, or assists a person who reports, in good faith the overdose event to a
650 medical provider, an emergency medical service provider as defined in Section 53-2d-101, a
651 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
652 person is the subject of a report made under this Subsection (16);

653 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
654 actual location of the overdose event that facilitates responding to the person experiencing the
655 overdose event;

656 (iv) remains at the location of the person experiencing the overdose event until a
657 responding law enforcement officer or emergency medical service provider arrives, or remains
658 at the medical care facility where the person experiencing an overdose event is located until a
659 responding law enforcement officer arrives;

660 (v) cooperates with the responding medical provider, emergency medical service
661 provider, and law enforcement officer, including providing information regarding the person
662 experiencing the overdose event and any substances the person may have injected, inhaled, or
663 otherwise introduced into the person's body; and

664 (vi) is alleged to have committed the offense in the same course of events from which
665 the reported overdose arose.

666 (b) The offenses referred to in Subsection (16)(a) are:

667 (i) the possession or use of less than 16 ounces of marijuana;

668 (ii) the possession or use of a scheduled or listed controlled substance other than
669 marijuana; and

670 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
671 Imitation Controlled Substances Act.

672 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
673 include seeking medical assistance under this section during the course of a law enforcement
674 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

675 (17) If any provision of this chapter, or the application of any provision to any person
676 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
677 invalid provision or application.

678 (18) A legislative body of a political subdivision may not enact an ordinance that is

679 less restrictive than any provision of this chapter.

680 (19) If a minor who is under 18 years old is found by a court to have violated this
681 section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
682 complete:

683 (a) a screening as defined in Section 41-6a-501;

684 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
685 assessment to be appropriate; and

686 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
687 treatment as indicated by an assessment.

688 Section 3. Section 63I-1-263 is amended to read:

689 **63I-1-263. Repeal dates: Titles 63A to 63N.**

690 (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital
691 improvement funding, is repealed July 1, 2024.

692 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,
693 2023.

694 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review
695 Committee, are repealed July 1, 2023.

696 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
697 1, 2028.

698 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
699 2025.

700 (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
701 2024.

702 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
703 repealed July 1, 2023.

704 (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
705 December 31, 2026.

706 (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is
707 repealed July 1, 2026.

708 (10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

709 (11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

710 (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December
711 31, 2024.

712 (13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is
713 repealed on July 1, 2028.

714 (14) Section [63G-6a-805](#), which creates the Purchasing from Persons with Disabilities
715 Advisory Board, is repealed July 1, 2026.

716 (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
717 2028.

718 (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
719 2024.

720 (17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

721 (18) Subsection [63J-1-602.2\(25\)](#), related to the Utah Seismic Safety Commission, is
722 repealed January 1, 2025.

723 (19) Section [63L-11-204](#), creating a canyon resource management plan to Provo
724 Canyon, is repealed July 1, 2025.

725 (20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is
726 repealed July 1, 2027.

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

729 (a) Sections [63M-7-301](#), [63M-7-302](#), [63M-7-303](#), [63M-7-304](#), and [63M-7-306](#) are
730 repealed;

731 (b) Section [63M-7-305](#), the language that states "council" is replaced with
732 "commission";

733 (c) Subsection [63M-7-305\(1\)\(a\)](#) is repealed and replaced with:

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

735 (d) Subsection [63M-7-305\(2\)](#) is repealed and replaced with:

736 "(2) The commission shall:

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

739 (b) coordinate the implementation of Section [77-18-104](#) and related provisions in
740 Subsections [~~[77-18-103\(2\)\(c\)](#)~~] [77-18-103\(3\)\(c\)](#) and (d).".

- 741 (22) The Crime Victim Reparations and Assistance Board, created in Section
742 [63M-7-504](#), is repealed July 1, 2027.
- 743 (23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1,
744 2026.
- 745 (24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.
- 746 (25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed
747 January 1, 2025.
- 748 (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.
- 749 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
750 1, 2028.
- 751 (28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed
752 July 1, 2027.
- 753 (29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is
754 repealed July 1, 2025.
- 755 (30) In relation to the Rural Employment Expansion Program, on July 1, 2028:
- 756 (a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed;
757 and
- 758 (b) Subsection [63N-4-805\(5\)\(b\)](#), referring to the Rural Employment Expansion
759 Program, is repealed.
- 760 (31) In relation to the Board of Tourism Development, on July 1, 2025:
- 761 (a) Subsection [63N-2-511\(1\)\(b\)](#), which defines "tourism board," is repealed;
- 762 (b) Subsections [63N-2-511\(3\)\(a\)](#) and (5), the language that states "tourism board" is
763 repealed and replaced with "Utah Office of Tourism";
- 764 (c) Subsection [63N-7-101\(1\)](#), which defines "board," is repealed;
- 765 (d) Subsection [63N-7-102\(3\)\(c\)](#), which requires the Utah Office of Tourism to receive
766 approval from the Board of Tourism Development, is repealed; and
- 767 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.
- 768 (32) Subsection [63N-8-103\(3\)\(c\)](#), which allows the Governor's Office of Economic
769 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed
770 on July 1, 2024.
- 771 Section 4. Section **63M-7-101.5** is enacted to read:

772 **63M-7-101.5. Definitions for chapter.**

773 As used in this chapter:

774 (1) "Commission" means the State Commission on Criminal and Juvenile Justice
775 created in Section [63M-7-201](#).

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

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

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

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

785 Section 5. Section **63M-7-102** is amended to read:

786 **63M-7-102. Recidivism metrics -- Reporting.**

787 [~~(1) For purposes of this chapter:~~]

788 [~~(a) "Commission" means the State Commission on Criminal and Juvenile Justice~~
789 ~~created in Section [63M-7-201](#).]~~]

790 [~~(b) "Desistance" means an individual's abstinence from further criminal activity after a~~
791 ~~previous criminal conviction.]~~]

792 [~~(c) "Intervention" means a program, sanction, supervision, or event that may impact~~
793 ~~recidivism.]~~]

794 [~~(d) "Recidivism" means a return to criminal activity after a previous criminal~~
795 ~~conviction.]~~]

796 [~~(e) "Recidivism standard metric" means the number of individuals who are returned to~~
797 ~~prison for a new conviction within the three years after the day on which the individuals were~~
798 ~~released from prison.]~~]

799 [(2)] (1) (a) The commission, the Department of Corrections, and the Board of Pardons
800 and Parole, when reporting data on statewide recidivism, shall include data reflecting the
801 recidivism standard metric.

802 (b) (i) On or before August 1, 2024, the commission shall reevaluate the recidivism

803 standard metric to determine whether new data streams allow for a broader definition, which
804 may include criminal convictions that do not include prison time.

805 (ii) On or before November 1, 2024, the commission shall report to the Law
806 Enforcement and Criminal Justice Interim Committee:

807 (A) the result of the reevaluation described in Subsection ~~[(2)(b)(i)]~~ (1)(b)(i); and
808 (B) other recommendations regarding standardized recidivism metrics.

809 ~~[(3)]~~ (2) A report on statewide criminal recidivism may also include other information
810 reflecting available recidivism, intervention, or desistance data.

811 ~~[(4)]~~ (3) A criminal justice institution, agency, or entity required to report adult
812 recidivism data to the commission:

813 (a) shall include:

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

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

816 (B) the interventions that are being evaluated;

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

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

820 (b) may include supplementary data including:

821 (i) the length of time that elapsed before a recidivism-triggering event described in
822 Subsection ~~[(4)(a)(iii)]~~ (3)(a)(iii) occurred;

823 (ii) the severity of a recidivism-triggering event described in Subsection ~~[(4)(a)(iii)]~~
824 (3)(a)(iii);

825 (iii) measures of personal well-being, education, employment, housing, health, family
826 or social support, civic or community engagement, or legal involvement; or

827 (iv) other desistance metrics that may capture an individual's behavior following the
828 individual's release from an intervention.

829 ~~[(5)]~~ (4) Unless otherwise specified in statute:

830 (a) the evaluation period described in Subsection ~~[(4)(a)(ii)]~~ (3)(a)(ii) is three years;
831 and

832 (b) a recidivism-triggering event under Subsection ~~[(4)(a)(iii)]~~ (3)(a)(iii) shall include:

833 (i) an arrest;

- 834 (ii) an admission to prison;
- 835 (iii) a criminal charge; or
- 836 (iv) a criminal conviction.

837 Section 6. Section **63M-7-303** is amended to read:

838 **63M-7-303. Duties of council.**

839 (1) The Utah Substance Use and Mental Health Advisory Council shall:

840 (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and
841 eliminate the impact of substance use and mental health disorders in Utah through a
842 comprehensive and evidence-based prevention, treatment, and justice strategy;

843 (b) recommend and coordinate the creation, dissemination, and implementation of
844 statewide policies to address substance use and mental health disorders;

845 (c) facilitate planning for a balanced continuum of substance use and mental health
846 disorder prevention, treatment, and justice services;

847 (d) promote collaboration and mutually beneficial public and private partnerships;

848 (e) coordinate recommendations made by any committee created under Section
849 [63M-7-302](#);

850 (f) analyze and provide an objective assessment of all proposed legislation concerning
851 substance use, mental health, forensic mental health, and related issues;

852 (g) coordinate the implementation of Section [77-18-104](#) and related provisions in
853 Subsections [~~77-18-103(2)(c)~~] [77-18-103\(3\)\(c\)](#) and (d), as provided in Section [63M-7-305](#);

854 (h) comply with Section [32B-2-306](#);

855 (i) oversee coordination for the funding, implementation, and evaluation of suicide
856 prevention efforts described in Section [26B-5-611](#);

857 (j) advise the Department of Health and Human Services regarding the state hospital
858 admissions policy for individuals in the custody of the Department of Corrections;

859 (k) regarding the interaction between an individual with a mental illness or an
860 intellectual disability and the civil commitment system, criminal justice system, or juvenile
861 justice system:

862 (i) promote communication between and coordination among all agencies interacting
863 with the individual;

864 (ii) study, evaluate, and recommend changes to laws and procedures;

865 (iii) identify and promote the implementation of specific policies and programs to deal
866 fairly and efficiently with the individual; and

867 (iv) promote judicial education;

868 (l) study the long-term need for adult patient staffed beds at the state hospital,

869 including:

870 (i) the total number of staffed beds currently in use at the state hospital;

871 (ii) the current staffed bed capacity at the state hospital;

872 (iii) the projected total number of staffed beds needed in the adult general psychiatric

873 unit of the state hospital over the next three, five, and 10 years based on:

874 (A) the state's current and projected population growth;

875 (B) current access to mental health resources in the community; and

876 (C) any other factors the council finds relevant to projecting the total number of staffed

877 beds; and

878 (iv) the cost associated with the projected total number of staffed beds described in

879 Subsection (1)(l)(iii); and

880 (m) each year report on whether the pay of the state hospital's employees is adequate

881 based on market conditions.

882 (2) The council shall meet quarterly or more frequently as determined necessary by the

883 chair.

884 (3) The council shall report:

885 (a) with the assistance and staff support from the state hospital, regarding the items

886 described in Subsections (1)(l) and (m), including any recommendations, to the Health and

887 Human Services Interim Committee before October 1 of each year; and

888 (b) any other recommendations annually to the commission, the governor, the

889 Legislature, and the Judicial Council.

890 Section 7. Section **63M-7-401.1** is enacted to read:

891 **63M-7-401.1. Definitions for part.**

892 As used in this part:

893 (1) "Adjudication" means an adjudication, as that term is defined in Section [80-1-102](#),

894 of an offense under Section [80-6-701](#).

895 (2) "Adult sentencing and supervision length guidelines" means the guidelines

896 established in Section [63M-7-404.3](#).

897 (3) "Civil disability" means a legal right or privilege that is revoked as a result of the
898 individual's conviction or adjudication.

899 (4) "Collateral consequence" means:

900 (a) a discretionary disqualification; or

901 (b) a mandatory sanction.

902 (5) "Conviction" means the same as that term is defined in Section [77-38b-102](#).

903 (6) "Disadvantage" means any legal or regulatory restriction that:

904 (a) is imposed on an individual as a result of the individual's conviction or
905 adjudication; and

906 (b) is not a civil disability or a legal penalty.

907 (7) "Discretionary disqualification" means a penalty, a civil disability, or a
908 disadvantage that a court in a civil proceeding, or a federal, state, or local government agency
909 or official, may impose on an individual as a result of the individual's adjudication or
910 conviction for an offense regardless of whether the penalty, the civil disability, or the
911 disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

912 (8) "Juvenile" means a minor as defined in Section [80-1-102](#).

913 (9) "Juvenile disposition guidelines" means the guidelines established in Section
914 [63M-7-404.5](#).

915 (10) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

916 (a) is imposed on an individual as a result of the individual's adjudication or conviction
917 for an offense regardless of whether the penalty, the civil disability, or the disadvantage is
918 specifically designated as a penalty, a civil disability, or a disadvantage; and

919 (b) is not included in the judgment for the adjudication or conviction.

920 (11) "Master offense list" means a document that contains all offenses that exist in
921 statute and each offense's associated penalty.

922 (12) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under
923 the laws of this state, another state, or the United States.

924 (13) "Penalty" means an administrative, civil, or criminal sanction imposed to punish
925 the individual for the individual's conviction or adjudication.

926 (14) "Sentencing commission" means the sentencing commission created in Section

927 [63M-7-401.2.](#)

928 Section 8. Section **63M-7-401.2**, which is renumbered from Section 63M-7-401 is
929 renumbered and amended to read:

930 ~~[63M-7-401].~~ **63M-7-401.2.** **Creation -- Members -- Appointment --**
931 **Qualifications.**

932 (1) There is created a ~~[state commission to be known as the Sentencing Commission]~~
933 sentencing commission, within the State Commission on Criminal and Juvenile Justice, that is
934 composed of 28 members.

935 (2) The ~~[commission shall]~~ sentencing commission shall:

936 (a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah
937 Administrative Rulemaking Act, ~~[and elect its];~~ and

938 (b) elect the sentencing commission's officers.

939 ~~[(2)]~~ (3) The sentencing commission's members [shall be] are:

940 (a) two members of the House of Representatives, appointed by the speaker of the
941 House and not of the same political party;

942 (b) two members of the Senate, appointed by the president of the Senate and not of the
943 same political party;

944 (c) the executive director of the Department of Corrections or a designee₂ appointed by
945 the executive director;

946 (d) the director of the Division of Juvenile Justice Services or a designee₂ appointed by
947 the director;

948 (e) the executive director of the Commission on Criminal and Juvenile Justice or a
949 designee₂ appointed by the executive director;

950 (f) the chair of the Board of Pardons and Parole or a designee₂ appointed by the chair;

951 (g) the chair of the Youth Parole Authority or a designee₂ appointed by the chair;

952 (h) two trial judges and an appellate judge₂ appointed by the chair of the Judicial
953 Council;

954 (i) two juvenile court judges₂ designated by the chair of the Judicial Council;

955 (j) an attorney in private practice who is a member of the Utah State Bar, experienced
956 in criminal defense[;] and appointed by the Utah ~~[Bar Commission]~~ State Board of Bar

957 Commissioners;

958 (k) an attorney who is a member of the Utah State Bar, experienced in the defense of
 959 minors in juvenile court[;] and appointed by the Utah [~~Bar Commission~~] State Board of Bar
 960 Commissioners;

961 (l) the director of Salt Lake Legal Defenders or a designee₂ appointed by the director;

962 (m) the attorney general or a designee₂ appointed by the attorney general;

963 (n) a criminal prosecutor₂ appointed by the Statewide Association of Public Attorneys
 964 and Prosecutors;

965 (o) a juvenile court prosecutor₂ appointed by the Statewide Association of Public
 966 Attorneys and Prosecutors;

967 (p) a representative of the Utah Sheriff's Association₂ appointed by the governor;

968 (q) a chief of police₂ appointed by the governor;

969 (r) a licensed professional₂ appointed by the governor who assists in the rehabilitation
 970 of adult offenders;

971 (s) a licensed professional₂ appointed by the governor who assists in the rehabilitation
 972 of juvenile offenders;

973 (t) two members from the public₂ appointed by the governor₂ who exhibit sensitivity to
 974 the concerns of victims of crime and the ethnic composition of the population;

975 (u) one member from the public at large₂ appointed by the governor; and

976 (v) a representative of an organization that specializes in civil rights or civil liberties on
 977 behalf of incarcerated individuals₂ appointed by the governor.

978 Section 9. Section **63M-7-402** is amended to read:

979 **63M-7-402. Terms of members -- Reappointment -- Vacancy.**

980 (1) (a) Except as required by Subsection (1)(b), [~~as terms of current commission~~
 981 ~~members expire,~~] the appointing authority shall appoint each new member or reappointed
 982 member to a four-year term as the terms of members of the sentencing commission expire.

983 (b) [~~Notwithstanding the requirements of Subsection (1)(a), the~~] The appointing
 984 authority shall, at the time of appointment or reappointment, adjust the length of terms to
 985 ensure that the terms of [~~commission members~~] members of the sentencing commission are
 986 staggered so that approximately half of the sentencing commission is appointed every two
 987 years.

988 (2) If a member of the sentencing commission no longer holds a qualifying position,

989 resigns, or is unable to serve, the appointing authority shall fill the vacancy.

990 [~~2~~] (3) When a vacancy occurs in the membership for any reason, the replacement
991 shall be appointed for the unexpired term.

992 Section 10. Section **63M-7-402.5** is enacted to read:

993 **63M-7-402.5. Compensation of members.**

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

997 (a) Section [63A-3-106](#);

998 (b) Section [63A-3-107](#); and

999 (c) rules made by the Division of Finance according to Sections [63A-3-106](#) and
1000 [63A-3-107](#).

1001 (2) Compensation and expenses of a member of the sentencing commission who is a
1002 legislator are governed by Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative
1003 Compensation and Expenses.

1004 Section 11. Section **63M-7-404.1** is enacted to read:

1005 **63M-7-404.1. Duties of the sentencing commission.**

1006 (1) The sentencing commission shall establish and maintain:

1007 (a) the adult sentencing and supervision length guidelines described in Section
1008 [63M-7-404.3](#);

1009 (b) the juvenile disposition guidelines described in Section [63M-7-404.5](#);

1010 (c) a master offense list described in Section [63M-7-405](#); and

1011 (d) a collateral consequences guide described in Section [63M-7-405](#).

1012 (2) The sentencing commission may make recommendations to the Legislature, the
1013 governor, and the Judicial Council regarding:

1014 (a) the adult sentencing and supervision length guidelines described in Section
1015 [63M-7-404.3](#);

1016 (b) the juvenile disposition guidelines described in Section [63M-7-404.5](#);

1017 (c) a master offense list described in Section [63M-7-405](#); and

1018 (d) a collateral consequences guide described in Section [63M-7-405](#).

1019 (3) The sentencing commission shall:

1020 (a) use existing data and resources from state criminal justice agencies in carrying out
1021 the duties of the sentencing commission;

1022 (b) assist and respond to questions from all three branches of government; and

1023 (c) coordinate with the State Commission on Criminal and Juvenile Justice on criminal
1024 and juvenile justice issues, budget, and administrative support.

1025 (4) The sentencing commission may employ professional assistance and other staff
1026 members that the sentencing commission considers necessary to comply with this section.

1027 Section 12. Section **63M-7-404.3** is enacted to read:

1028 **63M-7-404.3. Adult sentencing and supervision length guidelines.**

1029 (1) The sentencing commission shall establish and maintain adult sentencing and
1030 supervision length guidelines regarding:

1031 (a) the sentencing and release of offenders in order to:

1032 (i) respond to public comment;

1033 (ii) relate sentencing practices and correctional resources;

1034 (iii) increase equity in sentencing;

1035 (iv) better define responsibility in sentencing; and

1036 (v) enhance the discretion of the sentencing court while preserving the role of the
1037 Board of Pardons and Parole;

1038 (b) the length of supervision of offenders on probation or parole in order to:

1039 (i) respond to public comment;

1040 (ii) increase equity in criminal supervision lengths;

1041 (iii) relate the length of supervision to an offender's progress;

1042 (iv) take into account an offender's risk of offending again;

1043 (v) relate the length of supervision to the amount of time an offender has remained
1044 under supervision in the community; and

1045 (vi) enhance the discretion of the sentencing court while preserving the role of the
1046 Board of Pardons and Parole; and

1047 (c) appropriate, evidence-based probation and parole supervision policies and services
1048 that assist offenders in successfully completing supervision and reduce incarceration rates from
1049 community supervision programs while ensuring public safety, including:

1050 (i) treatment and intervention completion determinations based on individualized case

1051 action plans;
1052 (ii) measured and consistent processes for addressing violations of conditions of
1053 supervision;
1054 (iii) processes that include using positive reinforcement to recognize an offender's
1055 progress in supervision;
1056 (iv) engaging with social services agencies and other stakeholders who provide
1057 services that meet the needs of an offender; and
1058 (v) identifying community violations that may not warrant revocation of probation or
1059 parole.
1060 (2) The adult sentencing and supervision length guidelines shall include guidelines on
1061 sentencing that:
1062 (a) recommend an enhanced sentence that a court or the Board of Pardons and Parole
1063 should consider when determining the period in which a habitual offender, as defined in
1064 Section 77-18-102, will be incarcerated;
1065 (b) provide appropriate sanctions for an offender who commits sexual exploitation of a
1066 minor as described in Section 76-5b-201, or aggravated sexual exploitation of a minor as
1067 described in Section 76-5b-201.1, and recommend the application of aggravating and
1068 mitigating factors specific to the offense; and
1069 (c) provide a sentencing matrix with proportionate escalating sanctions based on the
1070 amount of a victim's loss for the following financial and property offenses for which a
1071 pecuniary loss to a victim may exceed \$50,000:
1072 (i) securities fraud as described in Sections 61-1-1 and 61-1-21;
1073 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
1074 adviser representative as described in Sections 61-1-3 and 61-1-21;
1075 (iii) offer or sale of unregistered security as described in Sections 61-1-7 and 61-1-21;
1076 (iv) abuse or exploitation of a vulnerable adult as described in Title 76, Chapter 5, Part
1077 1, Assault and Related Offenses;
1078 (v) arson as described in Section 76-6-102;
1079 (vi) burglary as described in Section 76-6-202;
1080 (vii) theft as described in Title 76, Chapter 6, Part 4, Theft;
1081 (viii) forgery as described in Section 76-6-501;

- 1082 (ix) unlawful dealing of property by a fiduciary as described in Section 76-6-513;
- 1083 (x) insurance fraud as described in Section 76-6-521;
- 1084 (xi) computer crimes as described in Section 76-6-703;
- 1085 (xii) mortgage fraud as described in Section 76-6-1203;
- 1086 (xiii) pattern of unlawful activity as described in Sections 76-10-1603 and
- 1087 76-10-1603.5;

- 1088 (xiv) communications fraud as described in Section 76-10-1801;
- 1089 (xv) money laundering as described in Section 76-10-1904; and
- 1090 (xvi) other offenses at the discretion of the sentencing commission.

1091 (3) The adult sentencing and supervision guidelines shall include guidelines on
1092 supervision with:

1093 (a) recommended periods of incarceration for offenders:

1094 (i) who are on probation;

1095 (ii) who have violated one or more conditions of probation; and

1096 (iii) whose probation has been revoked by the court;

1097 (b) recommended periods of incarceration for offenders:

1098 (i) who are on parole;

1099 (ii) who have violated a condition of parole; and

1100 (iii) whose parole has been revoked by the Board of Pardons and Parole;

1101 (c) if a court or the Board of Pardons and Parole interact with an offender described in

1102 Subsection (3)(a) or (b), a recommendation that the court or Board of Pardons and Parole
1103 consider:

1104 (i) the seriousness of any violation of the condition of probation or parole;

1105 (ii) the offender's conduct while on probation or parole; and

1106 (iii) the offender's criminal history;

1107 (d) graduated and evidence-based processes to facilitate the prompt and effective

1108 response to an offender's progress in, or violation of, the terms of probation or parole by the

1109 Department of Corrections, or another supervision services provider, to reduce recidivism and
1110 incarceration, including:

1111 (i) responses used when an offender violates a condition of probation or parole as

1112 described in Subsection (4);

- 1113 (ii) responses to recognize positive behavior and progress related to an offender's case
1114 action plan as described in Subsection (5); and
- 1115 (iii) when a violation of a condition of probation or parole should be reported to the
1116 court or the Board of Pardons and Parole; and
- 1117 (e) graduated incentives to facilitate a prompt and effective response by the
1118 Department of Corrections to an offender's:
- 1119 (i) compliance with the terms of probation or parole; and
1120 (ii) positive behavior that exceeds those terms.
- 1121 (4) (a) Subject to Subsection (4)(b), the adult sentencing and supervision length
1122 guidelines shall categorize a violation of a condition of parole or probation as low, medium,
1123 and high based on the nature of the violation.
- 1124 (b) The adult sentencing and supervision length guidelines shall categorize the
1125 following supervision violations as a high violation:
- 1126 (i) the commission of a felony offense, a misdemeanor offense described in Title 76,
1127 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the
1128 influence described in Section [41-6a-502](#);
- 1129 (ii) the possession of a dangerous weapon;
1130 (iii) a positive drug test on two or more occasions; or
1131 (iv) the refusal to comply with the requirements for treatment imposed by the court or
1132 the Board of Pardons and Parole.
- 1133 (c) The responses for a violation of a condition of parole or probation described in
1134 Subsection (3)(d)(i) shall include the following responses for a high violation:
- 1135 (i) a hearing before the court or the Board of Pardons and Parole; or
1136 (ii) except as provided in Subsections [77-18-108\(4\)\(b\)](#) and [77-27-11\(6\)\(c\)](#), a period of
1137 incarceration that does not exceed a period of more than:
- 1138 (A) three consecutive days; and
1139 (B) a total of five days in a period of 30 days.
- 1140 (5) (a) Subject to Subsection (5)(b), the adult sentencing and supervision length
1141 guidelines shall categorize positive behavior and progress for offenders on parole or probation
1142 as low, medium, and high based on the nature of the accomplishment.
- 1143 (b) The adult sentencing and supervision length guidelines shall categorize the

1144 following supervision accomplishments as a high accomplishment:

1145 (i) completion of all conditions of parole or probation; or

1146 (ii) the maintenance of eligible employment as defined in Section [64-13g-101](#).

1147 (c) The responses for positive behavior and progress for offenders on parole or

1148 probation described in Subsections (3)(d)(ii) and (e) shall include the following responses for a
1149 high accomplishment:

1150 (i) early termination from probation or parole;

1151 (ii) a reduction of the offense for which the offender was convicted, as described in

1152 Section [76-3-402](#); or

1153 (iii) a reduction in the fine for which the offender is required to pay for the offense.

1154 (6) The sentencing commission shall modify:

1155 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1156 purposes of protecting the public and ensuring efficient use of state funds; and

1157 (b) the criminal history score in the adult sentencing and supervision length guidelines

1158 to reduce recidivism, including factors in an offender's criminal history that are relevant to the

1159 accurate determination of an individual's risk of offending again.

1160 Section 13. Section **63M-7-404.5** is enacted to read:

1161 **63M-7-404.5. Juvenile disposition guidelines.**

1162 (1) The sentencing commission shall establish and maintain juvenile disposition
1163 guidelines that:

1164 (a) respond to public comment;

1165 (b) relate dispositional practices and rehabilitative resources;

1166 (c) increase equity in disposition orders;

1167 (d) better define responsibility for disposition orders; and

1168 (e) enhance the discretion of the juvenile court while preserving the role of the Youth
1169 Parole Authority.

1170 (2) The juvenile disposition guidelines shall address how to appropriately respond to
1171 negative and positive behavior of juveniles who are:

1172 (a) nonjudicially adjusted;

1173 (b) placed on diversion;

1174 (c) placed on probation;

- 1175 (d) placed on community supervision;
 1176 (e) placed in an out-of-home placement; or
 1177 (f) placed in a secure care facility.
 1178 (3) The juvenile disposition guidelines shall include:
 1179 (a) other sanctions and incentives including:
 1180 (i) recommended responses that are swift and certain;
 1181 (ii) a continuum of community-based options for juveniles living at home;
 1182 (iii) recommended responses that target the juvenile's criminogenic risk and needs; and
 1183 (iv) recommended incentives for compliance, including earned discharge credits;
 1184 (b) a recommendation that, when a juvenile court interacts with a juvenile described in

1185 Subsection (2), the juvenile court consider:

- 1186 (i) the seriousness of the negative and positive behavior of the juvenile;
 1187 (ii) the juvenile's conduct postadjudication; and
 1188 (iii) the juvenile's delinquency history; and
 1189 (c) appropriate sanctions for a juvenile who commits sexual exploitation of a minor as
 1190 described in Section 76-5b-201, or aggravated sexual exploitation of a minor as described in
 1191 Section 76-5b-201.1, including the application of aggravating and mitigating factors specific to
 1192 the offense.

1193 Section 14. Section **63M-7-405** is amended to read:

1194 **63M-7-405. Master offense list -- Collateral consequences guide.**

1195 ~~[(1) (a) A member who is not a legislator may not receive compensation or benefits for~~
 1196 ~~the member's service, but may receive per diem and travel expenses as allowed in:]~~

1197 ~~[(i) Section 63A-3-106;]~~

1198 ~~[(ii) Section 63A-3-107; and]~~

1199 ~~[(iii) rules made by the Division of Finance according to Sections 63A-3-106 and~~
 1200 ~~63A-3-107.]~~

1201 ~~[(b) Compensation and expenses of a member who is a legislator are governed by~~
 1202 ~~Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.]~~

1203 ~~[(2) (a) The commission shall submit to the Legislature, the courts, and the governor at~~
 1204 ~~least 60 days before the annual general session of the Legislature the commission's reports and~~
 1205 ~~recommendations for sentencing guidelines and supervision length guidelines and~~

1206 amendments.]

1207 ~~[(b) The commission shall use existing data and resources from state criminal justice~~
1208 ~~agencies.]~~

1209 ~~[(c) The commission may employ professional assistance and other staff members as it~~
1210 ~~considers necessary or desirable.]~~

1211 ~~[(3) The commission shall assist and respond to questions from all three branches of~~
1212 ~~government, but is part of the Commission on Criminal and Juvenile Justice for coordination~~
1213 ~~on criminal and juvenile justice issues, budget, and administrative support.]~~

1214 ~~[(4)] (1) [(a) As used in this Subsection (4), "master offense list" means a document~~
1215 ~~that contains all offenses that exist in statute and each offense's associated penalty.]~~

1216 ~~[(b)] (a) [No later than May 1, 2017, the] The sentencing commission shall create a~~
1217 ~~master offense list.~~

1218 ~~[(c)] (b) [No later than June 30 of each calendar] On or before June 30 of each year, the~~
1219 ~~sentencing commission shall:~~

1220 (i) after the last day of the general legislative session, update the master offense list;
1221 and

1222 (ii) present the updated master offense list to the Law Enforcement and Criminal
1223 Justice Interim Committee.

1224 ~~[(5) As used in Subsection (6):]~~

1225 ~~[(a) "Adjudication" means an adjudication, as that term is defined in Section [80-1-102](#),~~
1226 ~~of an offense under Section [80-6-701](#).]~~

1227 ~~[(b) "Civil disability" means a legal right or privilege that is revoked as a result of the~~
1228 ~~individual's conviction or adjudication.]~~

1229 ~~[(c) "Collateral consequence" means:]~~

1230 ~~[(i) a discretionary disqualification; or]~~

1231 ~~[(ii) a mandatory sanction.]~~

1232 ~~[(d) "Conviction" means the same as that term is defined in Section [77-38b-102](#).]~~

1233 ~~[(e) "Disadvantage" means any legal or regulatory restriction that:]~~

1234 ~~[(i) is imposed on an individual as a result of the individual's conviction or~~
1235 ~~adjudication; and]~~

1236 ~~[(ii) is not a civil disability or a legal penalty.]~~

1237 ~~[(f) "Discretionary disqualification" means a penalty, a civil disability, or a~~
 1238 ~~disadvantage that a court in a civil proceeding, or a federal, state, or local government agency~~
 1239 ~~or official, may impose on an individual as a result of the individual's adjudication or~~
 1240 ~~conviction for an offense regardless of whether the penalty, the civil disability, or the~~
 1241 ~~disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.]~~

1242 ~~[(g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:]~~

1243 ~~[(i) is imposed on an individual as a result of the individual's adjudication or~~
 1244 ~~conviction for an offense regardless of whether the penalty, the civil disability, or the~~
 1245 ~~disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and]~~

1246 ~~[(ii) is not included in the judgment for the adjudication or conviction.]~~

1247 ~~[(h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under~~
 1248 ~~the laws of this state, another state, or the United States.]~~

1249 ~~[(i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish~~
 1250 ~~the individual for the individual's conviction or adjudication.]~~

1251 ~~[(6)]~~ (2) (a) The sentencing commission shall:

1252 (i) identify any provision of state law, including the Utah Constitution, and any
 1253 administrative rule that imposes a collateral consequence;

1254 (ii) prepare and compile a guide that contains all the provisions identified in
 1255 Subsection ~~[(6)(a)(i)]~~ (2)(a)(i) on or before October 1, 2022; and

1256 (iii) update the guide described in Subsection ~~[(6)(a)(ii)]~~ (2)(a)(ii) annually.

1257 (b) The sentencing commission shall state in the guide described in Subsection ~~[(6)(a)]~~
 1258 (2)(a) that:

1259 (i) the guide has not been enacted into law;

1260 (ii) the guide does not have the force of law;

1261 (iii) the guide is for informational purposes only;

1262 (iv) an error or omission in the guide, or in any reference in the guide:

1263 (A) has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition;

1264 and

1265 (B) does not prevent a collateral consequence from being imposed;

1266 (v) any laws or regulations for a county, a municipality, another state, or the United

1267 States, imposing a collateral consequence are not included in the guide; and

1268 (vi) the guide does not include any provision of state law or any administrative rule
1269 imposing a collateral consequence that is enacted on or after March 31 of each year.

1270 (c) The sentencing commission shall:

1271 (i) place the statements described in Subsection [~~(6)(b)~~] (2)(b) in a prominent place at
1272 the beginning of the guide; and

1273 (ii) make the guide available to the public on the sentencing commission's website.

1274 (d) The sentencing commission shall:

1275 (i) present the updated guide described in Subsection [~~(6)(a)(iii)~~] (2)(a)(iii) annually to
1276 the Law Enforcement and Criminal Justice Interim Committee; and

1277 (ii) identify and recommend legislation on collateral consequences to the Law
1278 Enforcement and Criminal Justice Interim Committee.

1279 Section 15. Section **63M-7-406** is amended to read:

1280 **63M-7-406. Reports -- Publication of reports.**

1281 (1) At least 60 days before the annual general session of the Legislature, the sentencing
1282 commission shall submit to the Legislature, the Judicial Council, and the governor the
1283 sentencing commission's reports and recommendations for the adult sentencing and supervision
1284 length guidelines and the juvenile disposition guidelines.

1285 (2) The sentencing commission shall also be authorized to prepare, publish, and
1286 distribute from time to time reports of [its] studies, recommendations, and statements from the
1287 sentencing commission.

1288 Section 16. Section **64-13-6** is amended to read:

1289 **64-13-6. Department duties.**

1290 (1) The department shall:

1291 (a) protect the public through institutional care and confinement, and supervision in the
1292 community of offenders where appropriate;

1293 (b) implement court-ordered punishment of offenders;

1294 (c) provide evidence-based and evidence-informed program opportunities for offenders
1295 designed to reduce offenders' criminogenic and recidivism risks, including behavioral,
1296 cognitive, educational, and career-readiness program opportunities;

1297 (d) ensure that offender participation in all program opportunities described in
1298 Subsection (1)(c) is voluntary;

- 1299 (e) where appropriate, utilize offender volunteers as mentors in the program
- 1300 opportunities described in Subsection (1)(c);
- 1301 (f) provide treatment for sex offenders who are found to be treatable based upon
- 1302 criteria developed by the department;
- 1303 (g) provide the results of ongoing clinical assessment of sex offenders and objective
- 1304 diagnostic testing to sentencing and release authorities;
- 1305 (h) manage programs that take into account the needs and interests of victims, where
- 1306 reasonable;
- 1307 (i) supervise probationers and parolees as directed by statute and implemented by the
- 1308 courts and the Board of Pardons and Parole;
- 1309 (j) subject to Subsection (2), investigate criminal conduct involving offenders
- 1310 incarcerated in a state correctional facility;
- 1311 (k) cooperate and exchange information with other state, local, and federal law
- 1312 enforcement agencies to achieve greater success in prevention and detection of crime and
- 1313 apprehension of criminals;
- 1314 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
- 1315 Offender Supervision;
- 1316 (m) establish a case action plan based on appropriate validated risk, needs, and
- 1317 responsivity assessments for each offender as follows:
- 1318 (i) (A) if an offender is to be supervised in the community, the department shall
- 1319 establish a case action plan for the offender no later than 60 days after the day on which the
- 1320 department's community supervision of the offender begins; and
- 1321 (B) if the offender is committed to the custody of the department, the department shall
- 1322 establish a case action plan for the offender no later than 90 days after the day on which the
- 1323 offender is committed to the custody of the department;
- 1324 (ii) each case action plan shall integrate an individualized, evidence-based, and
- 1325 evidence-informed treatment and program plan with clearly defined completion requirements;
- 1326 (iii) the department shall share each newly established case action plan with the
- 1327 sentencing and release authority within 30 days after the day on which the case action plan is
- 1328 established; and
- 1329 (iv) the department shall share any changes to a case action plan, including any change

1330 in an offender's risk assessment, with the sentencing and release authority within 30 days after
1331 the day of the change;

1332 (n) ensure that any training or certification required of a public official or public
1333 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter
1334 22, State Training and Certification Requirements, if the training or certification is required:

1335 (i) under this title;

1336 (ii) by the department; or

1337 (iii) by an agency or division within the department; and

1338 (o) when reporting on statewide recidivism, include the metrics and requirements
1339 described in Section 63M-7-102.

1340 (2) The department may in the course of supervising probationers and parolees:

1341 (a) respond [~~in accordance with the graduated and evidence-based processes~~
1342 ~~established by the Utah Sentencing Commission under Subsection 63M-7-404(6);~~] to an
1343 individual's violation of one or more terms of the probation or parole in accordance with the
1344 graduated and evidence-based processes established by the adult sentencing and supervision
1345 length guidelines, as defined in Section 63M-7-404.1; and

1346 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
1347 sanction for an individual's violation of the terms of probation or parole a period of
1348 incarceration of not more than three consecutive days and not more than a total of five days
1349 within a period of 30 days.

1350 (3) (a) By following the procedures in Subsection (3)(b), the department may
1351 investigate the following occurrences at state correctional facilities:

1352 (i) criminal conduct of departmental employees;

1353 (ii) felony crimes resulting in serious bodily injury;

1354 (iii) death of any person; or

1355 (iv) aggravated kidnaping.

1356 (b) Before investigating any occurrence specified in Subsection (3)(a), the department
1357 shall:

1358 (i) notify the sheriff or other appropriate law enforcement agency promptly after
1359 ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has
1360 occurred; and

1361 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
1362 conduct an investigation involving an occurrence specified in Subsection (3)(a).

1363 (4) Upon request, the department shall provide copies of investigative reports of
1364 criminal conduct to the sheriff or other appropriate law enforcement agencies.

1365 (5) (a) The executive director of the department, or the executive director's designee if
1366 the designee possesses expertise in correctional programming, shall consult at least annually
1367 with cognitive and career-readiness staff experts from the Utah system of higher education and
1368 the State Board of Education to review the department's evidence-based and evidence-informed
1369 treatment and program opportunities.

1370 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
1371 Law Enforcement and Criminal Justice Interim Committee regarding the department's
1372 implementation of and offender participation in evidence-based and evidence-informed
1373 treatment and program opportunities designed to reduce the criminogenic and recidivism risks
1374 of offenders over time.

1375 (6) (a) As used in this Subsection (6):

1376 (i) "Accounts receivable" means any amount owed by an offender arising from a
1377 criminal judgment that has not been paid.

1378 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
1379 surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims,
1380 reimbursement of a reward, and damages that an offender is ordered to pay.

1381 (b) The department shall collect and disburse, with any interest and any other costs
1382 assessed under Section 64-13-21, an accounts receivable for an offender during:

1383 (i) the parole period and any extension of that period in accordance with Subsection
1384 (6)(c); and

1385 (ii) the probation period for which the court orders supervised probation and any
1386 extension of that period by the department in accordance with Subsection 77-18-105(7).

1387 (c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the
1388 time that the offender's sentence expires or terminates, the department shall be referred to the
1389 sentencing court for the sentencing court to enter a civil judgment of restitution and a civil
1390 accounts receivable as described in Section 77-18-114.

1391 (ii) If the board makes an order for restitution within 60 days from the day on which

1392 the offender's sentence expires or terminates, the board shall refer the order for restitution to
1393 the sentencing court to be entered as a civil judgment of restitution as described in Section
1394 [77-18-114](#).

1395 (d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.
1396 Section 17. Section **64-13-21** is amended to read:

1397 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
1398 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
1399 **fee.**

1400 (1) (a) The department, except as otherwise provided by law, shall supervise sentenced
1401 offenders placed in the community on probation by the courts, on parole by the Board of
1402 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate
1403 Compact for the Supervision of Parolees and Probationers.

1404 (b) If a sentenced offender participates in substance use treatment or a residential,
1405 vocational and life skills program, as defined in Section [13-53-102](#), while under supervision on
1406 probation or parole, the department shall monitor the offender's compliance with and
1407 completion of the treatment or program.

1408 (c) The department shall establish standards for:

1409 (i) the supervision of offenders in accordance with sentencing guidelines and
1410 supervision length guidelines, including the graduated and evidence-based responses,
1411 established by the Utah Sentencing Commission, giving priority, based on available resources,
1412 to felony offenders and offenders sentenced under Subsection [58-37-8](#) (2)(b)(ii); and

1413 (ii) the monitoring described in Subsection (1)(b).

1414 (2) The department shall apply the graduated and evidence-based responses established
1415 by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an
1416 individual's violation of the terms of probation or parole, including:

1417 (a) sanctions to be used in response to a violation of the terms of probation or parole;
1418 and

1419 (b) requesting approval from the court or Board of Pardons and Parole to impose a
1420 sanction for an individual's violation of the terms of probation or parole, for a period of
1421 incarceration of not more than three consecutive days and not more than a total of five days
1422 within a period of 30 days.

1423 (3) The department shall implement a program of graduated incentives as established
1424 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
1425 response to an offender's:

1426 (a) compliance with the terms of probation or parole; or

1427 (b) positive conduct that exceeds those terms.

1428 (4) (a) The department shall, in collaboration with the State Commission on Criminal
1429 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards
1430 and procedures for the collection of information, including cost savings related to recidivism
1431 reduction and the reduction in the number of inmates, related to the use of the graduated and
1432 evidence-based responses and graduated incentives, and offenders' outcomes.

1433 (b) The collected information shall be provided to the State Commission on Criminal
1434 and Juvenile Justice not less frequently than annually on or before August 31.

1435 (5) Employees of the department who are POST certified as law enforcement officers
1436 or correctional officers and who are designated as parole and probation officers by the
1437 executive director have the following duties:

1438 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
1439 with the conditions of the parole or probation agreement;

1440 (b) investigating or apprehending any offender who has escaped from the custody of
1441 the department or absconded from supervision;

1442 (c) supervising any offender during transportation; or

1443 (d) collecting DNA specimens when the specimens are required under Section
1444 [53-10-404](#).

1445 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on
1446 probation or parole.

1447 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
1448 department upon a showing by the offender that imposition would create a substantial hardship
1449 or if the offender owes restitution to a victim.

1450 (b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
1451 Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the
1452 supervision fee and the circumstances under which an offender may request a hearing.

1453 (ii) In determining whether the imposition of the supervision fee would constitute a

1454 substantial hardship, the department shall consider the financial resources of the offender and
1455 the burden that the fee would impose, with regard to the offender's other obligations.

1456 (7) (a) For offenders placed on probation under Section [77-18-105](#) or parole under
1457 Subsection [76-3-202\(2\)\(a\)](#) on or after October 1, 2015, but before January 1, 2019, the
1458 department shall establish a program allowing [~~an offender to earn credits for the offender's~~
1459 ~~compliance with the terms of the offender's probation or parole, which shall be applied to~~
1460 ~~reducing the period of probation or parole as provided in this Subsection (7).]~~

1461 [~~(b) The program shall provide that an offender earns]~~ an offender to earn a reduction
1462 credit of 30 days from the offender's period of probation or parole for each month the offender
1463 [~~completes without any violation of]~~ complies with the terms of the offender's probation or
1464 parole agreement, including the case action plan.

1465 (b) For offenders placed on probation under Section [77-18-105](#) or parole under Section
1466 [76-3-202](#) on or after October 1, 2024, the department shall establish a program allowing an
1467 offender to earn a reduction credit of 15 days from the offender's period of probation or parole
1468 for each month that the offender:

1469 (i) maintains stable and verifiable employment; and

1470 (ii) complies with the terms of the offender's probation or parole agreement.

1471 (c) The department shall:

1472 (i) maintain a record of credits earned by an offender under this Subsection (7) [and
1473 shall]; and

1474 (ii) request from the court or the Board of Pardons and Parole the termination of
1475 probation or parole not fewer than 30 days prior to the termination date that reflects the credits
1476 earned under this Subsection (7).

1477 (d) This Subsection (7) does not prohibit the department from requesting a termination
1478 date earlier than the termination date established by earned credits under Subsection (7)(c).

1479 (e) The court or the Board of Pardons and Parole shall terminate an offender's
1480 probation or parole upon completion of the period of probation or parole accrued by time
1481 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
1482 and Parole finds that termination would interrupt the completion of a necessary treatment
1483 program, in which case the termination of probation or parole shall occur when the treatment
1484 program is completed.

1485 (f) The department shall report annually to the State Commission on Criminal and
1486 Juvenile Justice on or before August 31:

1487 (i) the number of offenders who have earned probation or parole credits under this
1488 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
1489 offenders on probation or parole during that time that this number represents;

1490 (ii) the average number of credits earned by those offenders who earned credits;

1491 (iii) the number of offenders who earned credits by county of residence while on
1492 probation or parole;

1493 (iv) the cost savings associated with sentencing reform programs and practices; and

1494 (v) a description of how the savings will be invested in treatment and

1495 early-intervention programs and practices at the county and state levels.

1496 Section 18. Section **64-13g-102** is amended to read:

1497 **64-13g-102. Adult Probation and Parole Employment Incentive Program.**

1498 (1) There is created the Adult Probation and Parole Employment Incentive Program.

1499 (2) The department and the office shall implement the program in accordance with the
1500 requirements of this chapter.

1501 (3) Beginning July 2026, and each July after 2026, the department shall calculate and
1502 report to the office, for the preceding fiscal year, for each region and statewide:

1503 (a) the parole employment rate and the average length of employment of individuals on
1504 parole;

1505 (b) the probation employment rate and average length of employment of individuals on
1506 felony probation;

1507 (c) the recidivism percentage, using applicable recidivism metrics described in
1508 Subsections [~~63M-7-102(2) and (4)~~] 63M-7-102(1) and (3);

1509 (d) the number and percentage of individuals who successfully complete parole or
1510 felony probation;

1511 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in
1512 the recidivism percentage when compared to the fiscal year immediately preceding the fiscal
1513 year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated
1514 costs of incarceration savings to the state, based on the marginal cost of incarceration;

1515 (f) the number of individuals who successfully complete parole and, during the entire

1516 six months before the day on which the individuals' parole ends, held eligible employment; and
1517 (g) the number of individuals who successfully complete felony probation and, during
1518 the entire six months before the day on which the individuals' parole ended, held eligible
1519 employment.

1520 (4) In addition to the information described in Subsection (3), the department shall
1521 report, for each region, the number and types of parole or probation programs that were
1522 created, replaced, or discontinued during the preceding fiscal year.

1523 (5) After receiving the information described in Subsections (3) and (4), the office, in
1524 consultation with the department, shall, for each region:

1525 (a) add the region's baseline parole employment rate and the region's baseline probation
1526 employment rate;

1527 (b) add the region's parole employment rate and the region's probation employment
1528 rate;

1529 (c) subtract the sum described in Subsection (5)(a) from the sum described in
1530 Subsection (5)(b); and

1531 (d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero,
1532 assign an employment incentive payment of zero to the region; or

1533 (ii) except as provided in Subsection (7), if the rate difference described in Subsection
1534 (5)(c) is greater than zero, assign an employment incentive payment to the region by:

1535 (A) multiplying the rate difference by the average daily population for that region; and

1536 (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by
1537 \$2,500.

1538 (6) In addition to the employment incentive payment described in Subsection (5), after
1539 receiving the information described in Subsections (3) and (4), the office, in consultation with
1540 the department, shall, for each region, multiply the sum of the numbers described in
1541 Subsections (3)(f) and (g) for the region by \$2,500 to determine the end-of-supervision
1542 employment incentive payment for the region.

1543 (7) The employment incentive payment, or end-of-supervision employment supervision
1544 payment, for a region is zero if the recidivism percentage for the region, described in
1545 Subsection (3)(c), represents an increase in the recidivism percentage when compared to the
1546 fiscal year immediately preceding the fiscal year to which the recidivism percentage for the

1547 region, described in Subsection (3)(c), relates.

1548 (8) Upon determining an employment incentive payment for a region in accordance
1549 with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the
1550 restricted account, of the incentive payment as follows:

1551 (a) 15% of the payment may be used by the department for expenses related to
1552 administering the program; and

1553 (b) 85% of the payment shall be used by the region to improve and expand supervision
1554 and rehabilitative services to individuals on parole or adult probation, including by:

1555 (i) implementing and expanding evidence-based practices for risk and needs
1556 assessments for individuals;

1557 (ii) implementing and expanding intermediate sanctions, including mandatory
1558 community service, home detention, day reporting, restorative justice programs, and furlough
1559 programs;

1560 (iii) expanding the availability of evidence-based practices for rehabilitation programs,
1561 including drug and alcohol treatment, mental health treatment, anger management, cognitive
1562 behavior programs, and job training and other employment services;

1563 (iv) hiring additional officers, contractors, or other personnel to implement
1564 evidence-based practices for rehabilitative and vocational programing;

1565 (v) purchasing and adopting new technologies or equipment that are relevant to, and
1566 enhance, supervision, rehabilitation, or vocational training; or

1567 (vi) evaluating the effectiveness of rehabilitation and supervision programs and
1568 ensuring program fidelity.

1569 (9) (a) The report described in Subsections (3) and (4) is a public record.

1570 (b) The department shall maintain a complete and accurate accounting of the payment
1571 and use of funds under this section.

1572 (c) If the money in the restricted account is insufficient to make the full employment
1573 incentive payments or the full end-of-supervision employment incentive payments, the office
1574 shall authorize the payments on a prorated basis.

1575 Section 19. Section **76-1-202** is repealed and reenacted to read:

1576 **76-1-202. Venue for criminal actions.**

1577 (1) As used in this section, "body of water" includes a stream, river, lake, or reservoir

1578 regardless of whether the stream, river, lake or reservoir is natural or man-made.

1579 (2) A prosecuting attorney shall bring a criminal action in the county in which the
1580 offense is alleged to have been committed.

1581 (3) In determining the proper venue under Subsection (2), a prosecuting attorney shall
1582 bring a criminal action for an offense:

1583 (a) if the commission of the offense commenced outside the state and the offense is
1584 committed within this state, in the county in which the offense is committed;

1585 (b) if conduct constituting the elements of an offense, or results that constitute the
1586 elements of an offense, occurred in more than one county, in any county in which the conduct
1587 occurred;

1588 (c) if an actor committed the offense in one county and the victim was located in
1589 another county at the time of the offense, in the county in which:

1590 (i) the offense was committed; or

1591 (ii) the victim was located;

1592 (d) if an actor committed the offense in one county, the offense resulted in a death, and
1593 the death occurred in another county, in the county in which:

1594 (i) the offense was committed; or

1595 (ii) the death occurred;

1596 (e) if an actor committed an inchoate offense, in the county in which an element of the
1597 inchoate offense occurred;

1598 (f) if an actor in one county solicited, aided, abetted, agreed, or attempted to aid
1599 another individual in the planning or commission of an offense in another county, in the county
1600 in which:

1601 (i) the actor solicited, aided, abetted, agreed, or attempted to aid another individual; or

1602 (ii) the offense was committed or was planned to be committed;

1603 (g) if the offense is a violation of Subsection [77-41-105\(3\)](#) concerning sex offender
1604 registration, or Subsection [77-43-105\(3\)](#) concerning child abuse offender registration, in the
1605 county in which:

1606 (i) the actor's most recent registered primary residency is located if the actual location
1607 of the actor is not known; or

1608 (ii) the actor is located at the time that the actor is apprehended; or

- 1609 (h) if the actor commits an offense described in Chapter 6, Part 11, Identity Fraud Act,
1610 in the county in which:
- 1611 (i) the victim's personal identifying information was obtained;
1612 (ii) the actor used or attempted to use the victim's personally identifying information;
1613 (iii) the victim resides or is found; or
1614 (iv) if multiple offenses occur in multiple jurisdictions:
1615 (A) the victim's identity was used or obtained; or
1616 (B) the victim resides or is found.
1617 (4) If an offense is committed within this state but a prosecuting attorney cannot
1618 determine in which county that the offense occurred, the prosecuting attorney shall bring the
1619 criminal action:
- 1620 (a) for an offense committed on a railroad car, vehicle, watercraft, or aircraft passing
1621 within the state, in any county in which the railroad car, vehicle, watercraft, or aircraft passed;
1622 (b) for an offense committed on a body of water bordering on or within this state, in the
1623 county adjacent to the body of water;
1624 (c) for a theft offense, in a county in which the actor exerted control over the property
1625 subject to the theft;
1626 (d) for an offense committed on or near the boundary of two counties, in either county;
1627 or
- 1628 (e) for any other offense, in the county:
1629 (i) in which the actor resides;
1630 (ii) in which the actor is apprehended; or
1631 (iii) to which the actor is extradited.
1632 (5) (a) Notwithstanding Subsections (2), (3), and (4), if a prosecuting attorney brings a
1633 criminal action for multiple offenses that occurred within a 48-hour period as described in
1634 Subsection 76-1-402.5(1)(b), the prosecuting attorney shall bring the criminal action in the
1635 county in which the most serious offense was committed.
- 1636 (b) For purposes of Subsection (5)(a), the prosecuting attorney, or the defendant, may
1637 bring a motion to consolidate the offenses into one single criminal action in the county in
1638 which the most serious offense was committed.
- 1639 (6) A defendant waives an objection to the venue of a criminal action if the defendant

1640 fails to bring the objection before trial.

1641 Section 20. Section **76-1-401** is amended to read:

1642 **76-1-401. Definitions.**

1643 [~~In this part unless the context requires a different definition, "single~~] As used in this
1644 part:

1645 (1) "Lesser included offense" means an offense that:

1646 (a) is established by proof of the same or fewer than all the facts required to establish
1647 the commission of the offense charged;

1648 (b) constitutes an attempt, solicitation, conspiracy, or form of preparation to commit
1649 the offense charged or an offense otherwise included in the offense charged; or

1650 (c) is specifically designated by a statute as a lesser included offense.

1651 (2) "Single criminal episode" means all conduct [which] that is closely related in time
1652 and is incident to an attempt or an accomplishment of a single criminal objective.

1653 [~~Nothing in this part shall be construed to limit or modify the effect of Section 77-8a-1~~
1654 ~~in controlling the joinder of offenses and defendants in criminal proceedings.]~~

1655 Section 21. Section **76-1-402** is amended to read:

1656 **76-1-402. Mandatory joinder of separate offenses arising out of single criminal**
1657 **episode -- Lesser included offenses.**

1658 [~~(1) A defendant may be prosecuted in a single criminal action for all separate offenses~~
1659 ~~arising out of a single criminal episode; however, when the same act of a defendant under a~~
1660 ~~single criminal episode shall establish offenses which may be punished in different ways under~~
1661 ~~different provisions of this code, the act shall be punishable under only one such provision; an~~
1662 ~~acquittal or conviction and sentence under any such provision bars a prosecution under any~~
1663 ~~other such provision.]~~

1664 (1) (a) Except as provided by Subsections (1)(b) and (c), a prosecuting attorney may
1665 prosecute a defendant in a single criminal action for all separate offenses arising out of a single
1666 criminal episode.

1667 (b) If a defendant's act within a single criminal episode consists of different offenses
1668 that may be punished in different ways under different provisions of the Utah Code, the
1669 defendant may only be convicted and sentenced under one provision.

1670 (c) An acquittal or conviction and sentence based on a defendant's acts during a single

1671 criminal episode bars the prosecution under another provision of the Utah Code based on those
1672 actions.

1673 ~~(2) [Whenever conduct may establish separate offenses under]~~

1674 (a) If multiple offenses arise out of a single criminal episode, ~~[unless the court~~
1675 ~~otherwise orders to promote justice, a defendant shall not]~~ the defendant may not be subject to
1676 separate trials for the multiple offenses ~~[when]~~ if:

1677 ~~[(a)]~~ (i) [The] the offenses are within the jurisdiction of a single court; and

1678 ~~[(b)]~~ (ii) [The] the offenses are known to the prosecuting attorney at the time the
1679 defendant is arraigned on the first information or indictment.

1680 (b) Notwithstanding Subsection (2)(a), a court may order separate trials in the interests
1681 of justice.

1682 (3) (a) A defendant may be convicted of [an offense included in] a lesser included
1683 offense for the offense charged [but].

1684 (b) Notwithstanding Subsection (3)(a), a defendant may not be convicted of both the
1685 offense charged and the lesser included offense. ~~[An offense is so included when:]~~

1686 ~~[(a) It is established by proof of the same or less than all the facts required to establish~~
1687 ~~the commission of the offense charged; or]~~

1688 ~~[(b) It constitutes an attempt, solicitation, conspiracy, or form of preparation to commit~~
1689 ~~the offense charged or an offense otherwise included therein; or]~~

1690 ~~[(c) It is specifically designated by a statute as a lesser included offense.]~~

1691 (4) The court [shall not] may not be obligated to charge the jury with respect to ~~[an~~
1692 ~~included offense]~~ a lesser included offense unless there is a rational basis for a verdict
1693 acquitting the defendant of the offense charged and convicting ~~[him of the]~~ the defendant of the
1694 lesser included offense.

1695 (5) A district court, or an appellate court on appeal or certiorari, may set aside or
1696 reverse a conviction and enter a judgment of conviction for a lesser included offense without
1697 holding a new trial if:

1698 (a) the defendant files a motion with the court seeking to have a lesser included offense
1699 entered in place of the original conviction;

1700 (b) there is insufficient evidence to support the original conviction;

1701 (c) there is sufficient evidence to support a conviction for the lesser included offense;

1702 and

1703 (d) the trier of fact found every fact required for the court to determine that the
 1704 defendant's actions meet the elements of the lesser included offense.

1705 ~~[(5) If the district court on motion after verdict or judgment, or an appellate court on~~
 1706 ~~appeal or certiorari, shall determine that there is insufficient evidence to support a conviction~~
 1707 ~~for the offense charged but that there is sufficient evidence to support a conviction for an~~
 1708 ~~included offense and the trier of fact necessarily found every fact required for conviction of that~~
 1709 ~~included offense, the verdict or judgment of conviction may be set aside or reversed and a~~
 1710 ~~judgment of conviction entered for the included offense, without necessity of a new trial, if~~
 1711 ~~such relief is sought by the defendant.]~~

1712 Section 22. Section ~~76-1-402.5~~, which is renumbered from Section 77-8a-1 is
 1713 renumbered and amended to read:

1714 ~~[77-8a-1].~~ **76-1-402.5. Permissive joinder of offenses and of defendants.**

1715 (1) ~~[Two or more felonies, misdemeanors, or both, may be charged]~~ A prosecuting
 1716 attorney may charge two or more felonies or misdemeanors in the same indictment or
 1717 information if:

1718 (a) each offense is a separate count and [if] the offenses charged are:

1719 ~~[(a)]~~ (i) based on the same conduct or are otherwise connected together in [their
 1720 commission] the commission of the offenses; or

1721 ~~[(b)]~~ (ii) alleged to have been part of a common scheme or plan[-]; or

1722 (b) each offense is a separate count and the offenses charged:

1723 (i) are within the jurisdiction of a single court;

1724 (ii) were committed within 48 hours after the time at which the first offense was
 1725 committed; and

1726 (iii) were committed in more than one county.

1727 (2) (a) When a felony and misdemeanor are charged ~~[together]~~ in the same indictment
 1728 or information, the defendant is afforded a preliminary hearing ~~[with respect to]~~ for both the
 1729 misdemeanor and felony offenses.

1730 (b) ~~[Two]~~ A prosecuting attorney may charge two or more defendants [may be
 1731 charged] in the same indictment or information if ~~[they]~~ the defendants are alleged to have
 1732 participated in the same act or conduct or in the same criminal episode.

- 1733 (c) ~~[The defendants may be charged]~~ The prosecuting attorney:
- 1734 (i) may charge the defendants in one or more counts together or separately ~~[and all of~~
- 1735 ~~the defendants need not be charged]~~; and
- 1736 (ii) is not required to charge all of the defendants in each count.
- 1737 (d) When two or more defendants are jointly charged with ~~[any]~~ an offense, ~~[they]~~ the
- 1738 defendants shall be tried jointly, unless the court, in ~~[its]~~ the court's discretion on motion or
- 1739 otherwise, orders separate trials consistent with the interests of justice.
- 1740 (3) (a) The court may order two or more indictments or informations or both to be tried
- 1741 together if the offenses, and the defendants, if there is more than one, could have been joined in
- 1742 a single indictment or information.
- 1743 (b) The procedure ~~[shall be]~~ is the same as if the prosecution were under a single
- 1744 indictment or information.
- 1745 (4) (a) If the court finds a defendant or the prosecution is prejudiced by a joinder of
- 1746 offenses or defendants in an indictment or information or by a joinder for trial together, the
- 1747 court shall:
- 1748 (i) order an election of separate trials of separate counts[-];
- 1749 (ii) grant a severance of defendants[-]; or
- 1750 (iii) provide other relief as justice requires.
- 1751 (b) A defendant's right to severance of offenses or defendants is waived if the motion is
- 1752 not made at least five days before trial.
- 1753 (c) In ruling on a motion by defendant for severance, the court may order the
- 1754 ~~[prosecutor]~~ prosecuting attorney to disclose any statements made by the defendants ~~[which he]~~
- 1755 that the prosecuting attorney intends to introduce ~~[in]~~ into evidence at the trial.
- 1756 (5) Section 76-1-402 applies to a criminal action in which there is the permissive
- 1757 joinder of offenses or defendants.
- 1758 (6) Nothing in this part limits or modifies the effect of this section in controlling the
- 1759 permissive joinder of offenses and defendants in criminal proceedings.
- 1760 Section 23. Section **76-3-202** is amended to read:
- 1761 **76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time**
- 1762 **served on parole -- Discretion of Board of Pardons and Parole.**
- 1763 ~~[(1) Every]~~

1764 (1) (a) Except as provided in Subsection (1)(b), an individual committed to the state
1765 prison to serve an indeterminate term and~~[, after December 31, 2018,]~~ released on parole after
1766 December 31, 2018, shall complete a term of parole that extends through the expiration of the
1767 individual's maximum sentence ~~[unless the parole is earlier terminated by the Board of Pardons~~
1768 ~~and Parole in accordance with the supervision length guidelines established by the Utah~~
1769 ~~Sentencing Commission under Section 63M-7-404, as described in Subsection 77-27-5(7), to~~
1770 ~~the extent the guidelines are consistent with the requirements of the law.].~~

1771 (b) The Board of Pardons and Parole may terminate an individual's parole earlier than
1772 required under Subsection (1) in accordance with the adult sentencing and supervision length
1773 guidelines, as defined in Section 63M-7-404.1, to the extent that the guidelines are consistent
1774 with the requirements of the law.

1775 (2) (a) Except as provided in Subsection (2)(b), ~~[every]~~ an individual committed to the
1776 state prison to serve an indeterminate term and released on parole on or after October 1, 2015,
1777 but before January 1, 2019, shall, upon completion of three years on parole outside of
1778 confinement and without violation, be terminated from the individual's sentence unless the
1779 parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to
1780 Section 64-13-21.

1781 (b) ~~[Every]~~ An individual committed to the state prison to serve an indeterminate term
1782 and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was
1783 convicted of any felony offense under Chapter 5, Offenses Against the Individual, or any
1784 attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a
1785 term of parole that extends through the expiration of the individual's maximum sentence,
1786 unless the parole is earlier terminated by the Board of Pardons and Parole.

1787 (3) ~~[Every]~~ An individual convicted of a second degree felony for violating Section
1788 76-5-404, forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section
1789 76-5-404.3, aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the
1790 commission of a violation of any of those sections, and who is paroled before July 1, 2008,
1791 shall, upon completion of 10 years parole outside of confinement and without violation, be
1792 terminated from the sentence unless the individual is earlier terminated by the Board of
1793 Pardons and Parole.

1794 (4) An individual who violates the terms of parole, while serving parole, for any

1795 offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and
1796 Parole be recommitted to prison to serve the portion of the balance of the term as determined
1797 by the Board of Pardons and Parole, but not to exceed the maximum term.

1798 (5) An individual paroled following a former parole revocation may not be discharged
1799 from the individual's sentence until:

1800 (a) the individual has served the applicable period of parole under this section outside
1801 of confinement;

1802 (b) the individual's maximum sentence has expired; or

1803 (c) the Board of Pardons and Parole orders the individual to be discharged from the
1804 sentence.

1805 (6) (a) All time served on parole, outside of confinement and without violation,
1806 constitutes service toward the total sentence.

1807 (b) Any time an individual spends outside of confinement after commission of a parole
1808 violation does not constitute service toward the total sentence unless the individual is
1809 exonerated at a parole revocation hearing.

1810 (c) (i) Any time an individual spends in confinement awaiting a hearing before the
1811 Board of Pardons and Parole or a decision by the board concerning revocation of parole
1812 constitutes service toward the total sentence.

1813 (ii) In the case of exoneration by the board, the time spent is included in computing the
1814 total parole term.

1815 (7) When a parolee causes the parolee's absence from the state without authority from
1816 the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence,
1817 avoidance, or evasion tolls the parole period.

1818 (8) (a) While on parole, time spent in confinement outside the state may not be credited
1819 toward the service of any Utah sentence.

1820 (b) Time in confinement outside the state or in the custody of any tribal authority or the
1821 United States government for a conviction obtained in another jurisdiction tolls the expiration
1822 of the Utah sentence.

1823 (9) This section does not preclude the Board of Pardons and Parole from paroling or
1824 discharging an inmate at any time within the discretion of the Board of Pardons and Parole
1825 unless otherwise specifically provided by law.

1826 (10) A parolee sentenced to lifetime parole may petition the Board of Pardons and
1827 Parole for termination of lifetime parole.

1828 Section 24. Section **76-3-411** is enacted to read:

1829 **76-3-411. Modifying a sentence -- Factors for modification.**

1830 (1) As used in this section:

1831 (a) "Offender" means an individual who is convicted within this state and is
1832 incarcerated in a county jail or state prison.

1833 (b) "Rehabilitation program" means the same as that term is defined in Section
1834 76-3-402.

1835 (2) A prosecuting attorney may bring a petition in the sentencing court seeking to
1836 modify the sentence of an offender.

1837 (3) Upon a petition described in Subsection (2), the sentencing court may modify the
1838 sentence of an offender to a lesser sentence if permitted by this title and the court finds that
1839 modifying the sentence is in the interest of justice.

1840 (4) In determining whether modifying an offender's sentence is in the interest of
1841 justice:

1842 (a) the sentencing court shall consider:

1843 (i) the nature, circumstances, and severity of the offense;

1844 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
1845 offense; and

1846 (iii) any input from a victim of the offense; and

1847 (b) the sentencing court may consider:

1848 (i) any special characteristics or circumstances of the offender, including the offender's
1849 criminogenic risks and needs;

1850 (ii) the offender's criminal history;

1851 (iii) the offender's employment and community service history;

1852 (iv) whether the offender has successfully completed a rehabilitation program;

1853 (v) whether the level of the offense has been reduced by law after the offender's
1854 conviction;

1855 (vi) any potential impact that the modification of the offender's sentence would have on
1856 public safety; or

- 1857 (vii) any other circumstances that are reasonably related to the offender or the offense.
- 1858 (5) The prosecuting attorney has the burden to provide evidence sufficient to
- 1859 demonstrate that an offender's sentence should be modified in the interest of justice.
- 1860 (6) A sentencing court may not modify a sentence under this section unless:
- 1861 (a) the offender is notified of the motion to modify;
- 1862 (b) the prosecuting attorney has made reasonable efforts to notify any victim of the
- 1863 offense;
- 1864 (c) a hearing is held if a hearing is requested by the prosecuting attorney or the
- 1865 offender; and
- 1866 (d) any victim has been given an opportunity to submit a written or oral statement to
- 1867 the court.
- 1868 (7) A court may not modify a sentence under this section for:
- 1869 (a) an individual who is on parole; or
- 1870 (b) an offense described in Section [76-3-406](#).
- 1871 (8) This section does not require a sentencing court to modify an offender's sentence.
- 1872 Section 25. Section **76-5-102.1** is amended to read:
- 1873 **76-5-102.1. Negligently operating a vehicle resulting in injury.**
- 1874 (1) (a) As used in this section:
- 1875 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).
- 1876 (ii) "Drug" means the same as that term is defined in Section [76-5-207](#).
- 1877 (iii) "Negligent" or "negligence" means the same as that term is defined in Section
- 1878 [76-5-207](#).
- 1879 (iv) "Vehicle" means the same as that term is defined in Section [41-6a-501](#).
- 1880 (b) Terms defined in Section [76-1-101.5](#) apply to this section.
- 1881 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:
- 1882 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and
- 1883 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
- 1884 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
- 1885 time of the test;
- 1886 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and
- 1887 a drug to a degree that renders the actor incapable of safely operating a vehicle; or

1888 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
1889 operation; or

1890 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to
1891 another; and

1892 (ii) has in the actor's body any measurable amount of a controlled substance.

1893 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:

1894 (a) (i) a class A misdemeanor; or

1895 (ii) a third degree felony if the bodily injury is serious bodily injury; and

1896 (b) a separate offense for each victim suffering bodily injury as a result of the actor's
1897 violation of this section, regardless of whether the injuries arise from the same episode of
1898 driving.

1899 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under
1900 Subsection (2)(b) if:

1901 (a) the controlled substance was obtained under a valid prescription or order, directly
1902 from a practitioner while acting in the course of the practitioner's professional practice, or as
1903 otherwise authorized by Title 58, Occupations and Professions;

1904 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

1905 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
1906 [58-37-4.2](#) if:

1907 (i) the actor is the subject of medical research conducted by a holder of a valid license
1908 to possess controlled substances under Section [58-37-6](#); and

1909 (ii) the substance was administered to the actor by the medical researcher.

1910 (5) (a) A judge imposing a sentence under this section may consider:

1911 (i) the ~~[sentencing guidelines developed in accordance with Section [63M-7-404](#)]~~ adult
1912 sentencing and supervision length guidelines, as defined in Section [63M-7-404.1](#);

1913 (ii) the defendant's history;

1914 (iii) the facts of the case;

1915 (iv) aggravating and mitigating factors; or

1916 (v) any other relevant fact.

1917 (b) The judge may not impose a lesser sentence than would be required for a conviction
1918 based on the defendant's history under Section [41-6a-505](#).

1919 (c) The standards for chemical breath analysis under Section 41-6a-515 and the
1920 provisions for the admissibility of chemical test results under Section 41-6a-516 apply to
1921 determination and proof of blood alcohol content under this section.

1922 (d) A calculation of blood or breath alcohol concentration under this section shall be
1923 made in accordance with Subsection 41-6a-502(3).

1924 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
1925 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1926 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
1927 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,
1928 or the Utah Constitution.

1929 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
1930 described in this section may not be held in abeyance.

1931 Section 26. Section 76-5-207 is amended to read:

1932 **76-5-207. Negligently operating a vehicle resulting in death -- Penalties --**

1933 **Evidence.**

1934 (1) (a) As used in this section:

1935 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

1936 (ii) "Criminally negligent" means the same as that term is described in Subsection
1937 76-2-103(4).

1938 (iii) "Drug" means:

1939 (A) a controlled substance;

1940 (B) a drug as defined in Section 58-37-2; or

1941 (C) a substance that, when knowingly, intentionally, or recklessly taken into the human
1942 body, can impair the ability of an individual to safely operate a vehicle.

1943 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that
1944 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

1945 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1946 (b) Terms defined in Section 76-1-101.5 apply to this section.

1947 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

1948 (a) (i) operates a vehicle in a negligent or criminally negligent manner causing the
1949 death of another individual;

1950 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
1951 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
1952 time of the test;

1953 (B) is under the influence of alcohol, any drug, or the combined influence of alcohol
1954 and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

1955 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
1956 operation; or

1957 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

1958 (ii) has in the actor's body any measurable amount of a controlled substance.

1959 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty

1960 of:

1961 (a) a second degree felony; and

1962 (b) a separate offense for each victim suffering death as a result of the actor's violation
1963 of this section, regardless of whether the deaths arise from the same episode of driving.

1964 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in
1965 death under Subsection (2)(b) if:

1966 (a) the controlled substance was obtained under a valid prescription or order, directly
1967 from a practitioner while acting in the course of the practitioner's professional practice, or as
1968 otherwise authorized by Title 58, Occupations and Professions;

1969 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

1970 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
1971 [58-37-4.2](#) if:

1972 (i) the actor is the subject of medical research conducted by a holder of a valid license
1973 to possess controlled substances under Section [58-37-6](#); and

1974 (ii) the substance was administered to the actor by the medical researcher.

1975 (5) (a) A judge imposing a sentence under this section may consider:

1976 (i) the ~~[sentencing guidelines developed in accordance with Section [63M-7-404](#)]~~ adult
1977 sentencing and supervision length guidelines, as defined in Section [63M-7-404.1](#);

1978 (ii) the defendant's history;

1979 (iii) the facts of the case;

1980 (iv) aggravating and mitigating factors; or

1981 (v) any other relevant fact.

1982 (b) The judge may not impose a lesser sentence than would be required for a conviction
1983 based on the defendant's history under Section 41-6a-505.

1984 (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and
1985 the provisions for the admissibility of chemical test results as provided by Section 41-6a-516
1986 apply to determination and proof of blood alcohol content under this section.

1987 (d) A calculation of blood or breath alcohol concentration under this section shall be
1988 made in accordance with Subsection 41-6a-502(3).

1989 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
1990 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1991 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
1992 admissible except when prohibited by the Utah Rules of Evidence, the United States
1993 Constitution, or the Utah Constitution.

1994 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
1995 described in this section may not be held in abeyance.

1996 Section 27. Section 76-5-401 is amended to read:

1997 **76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
1998 **raised by defendant -- Limitations.**

1999 (1) (a) As used in this section, "minor" means an individual who is 14 years old or
2000 older, but younger than 16 years old, at the time the sexual activity described in Subsection (2)
2001 occurred.

2002 (b) Terms defined in Section 76-1-101.5 apply to this section.

2003 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
2004 actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

2005 (i) has sexual intercourse with the minor;

2006 (ii) engages in any sexual act with the minor involving the genitals of an individual and
2007 the mouth or anus of another individual; or

2008 (iii) causes the penetration, however slight, of the genital or anal opening of the minor
2009 by a foreign object, substance, instrument, or device, including a part of the human body, with
2010 the intent to cause substantial emotional or bodily pain to any individual or with the intent to
2011 arouse or gratify the sexual desire of any individual.

2012 (b) Any touching, however slight, is sufficient to constitute the relevant element of a
2013 violation of Subsection (2)(a)(ii).

2014 (3) (a) A violation of Subsection (2) is a third degree felony.

2015 (b) (i) Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a class
2016 B misdemeanor if the defendant establishes by a preponderance of the evidence the mitigating
2017 factor that:

2018 (A) the defendant is less than four years older than the minor at the time the sexual
2019 activity occurred[~~, the offense is a class B misdemeanor.~~]; or

2020 (B) the defendant is 18 years old and enrolled in high school at the time the sexual
2021 activity occurred.

2022 (ii) An offense under Subsection (3)(b)(i) is not subject to registration under
2023 Subsection 77-41-102(18)(a)(vii).

2024 (c) (i) Notwithstanding Subsection (3)(a), if the defendant establishes by a
2025 preponderance of the evidence the mitigating factor that the defendant was younger than 21
2026 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

2027 (ii) An offense under Subsection (3)(c)(i) is not subject to registration under
2028 Subsection 77-41-102(18)(a)(vii).

2029 (4) The offenses referred to in Subsection (2)(a) are:

2030 (a) rape, in violation of Section 76-5-402;

2031 (b) object rape, in violation of Section 76-5-402.2;

2032 (c) forcible sodomy, in violation of Section 76-5-403;

2033 (d) aggravated sexual assault, in violation of Section 76-5-405; or

2034 (e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

2035 Section 28. Section 77-2a-2 is amended to read:

2036 **77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**
2037 **agreement -- Waiver of time for sentencing.**

2038 (1) At any time after acceptance of a plea of guilty or no contest but before entry of
2039 judgment of conviction and imposition of sentence, the court may, upon motion of both the
2040 prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of
2041 conviction against the defendant nor impose sentence upon the defendant within the time
2042 periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

2043 (2) A defendant shall be represented by counsel during negotiations for a plea in
2044 abeyance and at the time of acknowledgment and affirmation of any plea in abeyance
2045 agreement unless the defendant knowingly and intelligently waives the defendant's right to
2046 counsel.

2047 (3) A defendant has the right to be represented by counsel at any court hearing relating
2048 to a plea in abeyance agreement.

2049 (4) (a) Any plea in abeyance agreement entered into between the prosecution and the
2050 defendant and approved by the court shall include a full, detailed recitation of the requirements
2051 and conditions agreed to by the defendant and the reason for requesting the court to hold the
2052 plea in abeyance.

2053 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the
2054 agreement shall be in writing and shall, before acceptance by the court, be executed by the
2055 prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

2056 (5) (a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for
2057 a period longer than 18 months if the plea is to any class of misdemeanor or longer than three
2058 years if the plea is to any degree of felony or to any combination of misdemeanors and felonies.

2059 (b) (i) For a plea in abeyance agreement that [~~Adult Probation and Parole~~] the
2060 Department of Corrections supervises, the plea may not be held in abeyance for a period longer
2061 than the initial term of probation required under the [~~supervision length guidelines described in~~
2062 ~~Section 63M-7-404~~] adult sentencing and supervision length guidelines, as defined in Section
2063 63M-7-404.1, if the initial term of probation is shorter than the period required under
2064 Subsection (5)(a).

2065 (ii) Subsection (5)(b)(i) does not:

2066 (A) apply to a plea that is held in abeyance in a drug court created under Title 78A,
2067 Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

2068 (B) prohibit court supervision of a plea in abeyance agreement after the day on which
2069 the [~~Adult Probation and Parole~~] Department of Corrections supervision described in
2070 Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

2071 (6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years
2072 if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a
2073 condition that the defendant participate in a problem solving court approved by the Judicial

2074 Council.

2075 (7) A plea in abeyance agreement may not be approved unless the defendant, before the
2076 court, and any written agreement, knowingly and intelligently waives time for sentencing as
2077 designated in Rule 22(a), Utah Rules of Criminal Procedure.

2078 Section 29. Section **77-18-102** is amended to read:

2079 **77-18-102. Definitions.**

2080 As used in this chapter:

2081 (1) "Assessment" means, except as provided in Section [77-18-104](#), the same as the
2082 term "risk and needs assessment" in Section [77-1-3](#).

2083 (2) "Board" means the Board of Pardons and Parole.

2084 (3) "Civil accounts receivable" means the same as that term is defined in Section
2085 [77-32b-102](#).

2086 (4) "Civil judgment of restitution" means the same as that term is defined in Section
2087 [77-32b-102](#).

2088 (5) "Convicted" means the same as that term is defined in Section [76-3-201](#).

2089 (6) "Criminal accounts receivable" means the same as that term is defined in Section
2090 [77-32b-102](#).

2091 (7) "Default" means the same as that term is defined in Section [77-32b-102](#).

2092 (8) "Delinquent" means the same as that term is defined in Section [77-32b-102](#).

2093 (9) "Department" means the Department of Corrections created in Section [64-13-2](#).

2094 (10) "Habitual offender" means an individual who has been convicted in:

2095 (a) at least six cases for one or more felony offenses in each case; and

2096 (b) each case described in Subsection (10)(a) within five years before the day on which
2097 the defendant is convicted of the felony offense before the court.

2098 [~~(10)~~] (11) "Payment schedule" means the same as that term is defined in Section
2099 [77-32b-102](#).

2100 [~~(11)~~] (12) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

2101 [~~(12)~~] (13) "Screening" means, except as provided in Section [77-18-104](#), a tool or
2102 questionnaire that is designed to determine whether an individual needs further assessment or
2103 any additional resource or referral for treatment.

2104 [~~(13)~~] (14) "Substance use disorder treatment" means treatment obtained through a

2105 substance use disorder program that is licensed by the Office of Licensing within the
2106 Department of Health and Human Services.

2107 Section 30. Section **77-18-103** is amended to read:

2108 **77-18-103. Presentence investigation report -- Classification of presentence**
2109 **investigation report -- Evidence or other information at sentencing.**

2110 (1) Before the imposition of a sentence, the court may:

2111 (a) upon agreement of the defendant, continue the date for the imposition of the
2112 sentence for a reasonable period of time for the purpose of obtaining a presentence
2113 investigation report from the department or a law enforcement agency, or information from any
2114 other source about the defendant; and

2115 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
2116 department or a law enforcement agency prepare a presentence investigation report for the
2117 defendant.

2118 (2) (a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense
2119 and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the
2120 defendant is a habitual offender.

2121 (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence
2122 for the conviction without ordering and obtaining a presentence investigation report, unless the
2123 court finds good cause to proceed with sentencing without the presentence investigation report.

2124 ~~[(2)]~~ (3) If a presentence investigation report is required under Subsection (2) or the
2125 standards established by the department described in Section **77-18-109**, the presentence
2126 investigation report under Subsection (1) shall include:

2127 (a) any impact statement provided by a victim as described in Subsection
2128 **77-38b-203(3)(c)**;

2129 (b) information on restitution as described in Subsections **77-38b-203(3)(a)** and (b);

2130 (c) findings from any screening and any assessment of the defendant conducted under
2131 Section **77-18-104**;

2132 (d) recommendations for treatment for the defendant; and

2133 (e) the number of days since the commission of the offense that the defendant has spent
2134 in the custody of the jail and the number of days, if any, the defendant was released to a
2135 supervised release program or an alternative incarceration program under Section **17-22-5.5**.

2136 ~~[(3)]~~ (4) The department or law enforcement agency shall provide the presentence
2137 investigation report to the defendant's attorney, or the defendant if the defendant is not
2138 represented by counsel, the prosecuting attorney, and the court for review within three working
2139 days before the day on which the defendant is sentenced.

2140 ~~[(4)]~~ (5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report
2141 that is not resolved by the parties and the department or law enforcement agency before
2142 sentencing:

2143 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;
2144 and

2145 (B) the court may grant an additional 10 working days after the day on which the
2146 alleged inaccuracy is brought to the court's attention to allow the parties and the department to
2147 resolve the alleged inaccuracy in the presentence investigation report.

2148 (ii) If the court does not grant additional time under Subsection ~~[(4)(a)(i)(B)]~~
2149 (5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court
2150 finds that there is an inaccuracy in the presentence investigation report, the court shall:

2151 (A) enter a written finding as to the relevance and accuracy of the challenged portion of
2152 the presentence investigation report; and

2153 (B) provide the written finding to the ~~[Division of Adult Probation and Parole]~~
2154 department or the law enforcement agency.

2155 (b) The ~~[Division of Adult Probation and Parole]~~ department shall attach the written
2156 finding to the presentence investigation report as an addendum.

2157 (c) If a party fails to challenge the accuracy of the presentence investigation report at
2158 the time of sentencing, the matter shall be considered waived.

2159 ~~[(5)]~~ (6) The contents of the presentence investigation report are protected and not
2160 available except by court order for purposes of sentencing as provided by rule of the Judicial
2161 Council or for use by the department or law enforcement agency.

2162 ~~[(6)]~~ (7) (a) A presentence investigation report is classified as protected in accordance
2163 with Title 63G, Chapter 2, Government Records Access and Management Act.

2164 (b) Notwithstanding Sections [63G-2-403](#) and [63G-2-404](#), the State Records Committee
2165 may not order the disclosure of a presentence investigation report.

2166 ~~[(7)]~~ (8) Except for disclosure at the time of sentencing in accordance with this section,

2167 the department or law enforcement agency may disclose a presentence investigation only when:

2168 (a) ordered by the court in accordance with Subsection 63G-2-202(7);

2169 (b) requested by a law enforcement agency or other agency approved by the department
2170 for purposes of supervision, confinement, and treatment of a defendant;

2171 (c) requested by the board;

2172 (d) requested by the subject of the presentence investigation report or the subject's
2173 authorized representative;

2174 (e) requested by the victim of the offense discussed in the presentence investigation
2175 report, or the victim's authorized representative, if the disclosure is only information relating
2176 to:

2177 (i) statements or materials provided by the victim;

2178 (ii) the circumstances of the offense, including statements by the defendant; or

2179 (iii) the impact of the offense on the victim or the victim's household; or

2180 (f) requested by a sex offender treatment provider:

2181 (i) who is certified to provide treatment under the certification program established in
2182 Subsection 64-13-25(2);

2183 (ii) who is providing, at the time of the request, sex offender treatment to the offender
2184 who is the subject of the presentence investigation report; and

2185 (iii) who provides written assurance to the department that the report:

2186 (A) is necessary for the treatment of the defendant;

2187 (B) will be used solely for the treatment of the defendant; and

2188 (C) will not be disclosed to an individual or entity other than the defendant.

2189 ~~[(8)]~~ (9) (a) At the time of sentence, the court shall receive any testimony, evidence, or
2190 information that the defendant or the prosecuting attorney desires to present concerning the
2191 appropriate sentence.

2192 (b) Testimony, evidence, or information under Subsection ~~[(8)(a)]~~ (9)(a) shall be
2193 presented in open court on record and in the presence of the defendant.

2194 Section 31. Section 77-18-105 is amended to read:

2195 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**

2196 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**

2197 **supervision for payments on criminal accounts receivable.**

2198 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
2199 abeyance agreement, the court may hold the plea in abeyance:
2200 (a) in accordance with Chapter 2a, Pleas in Abeyance; and
2201 (b) under the terms of the plea in abeyance agreement.
2202 (2) If a defendant is convicted, the court:
2203 (a) shall impose a sentence in accordance with Section 76-3-201; and
2204 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
2205 defendant:
2206 (i) on probation under the supervision of the department;
2207 (ii) on probation under the supervision of an agency of a local government or a private
2208 organization; or
2209 (iii) on court probation under the jurisdiction of the sentencing court.
2210 (3) (a) The legal custody of all probationers under the supervision of the department is
2211 with the department.
2212 (b) The legal custody of all probationers under the jurisdiction of the sentencing court
2213 is vested as ordered by the court.
2214 (c) The court has continuing jurisdiction over all probationers.
2215 (4) (a) Court probation may include an administrative level of services, including
2216 notification to the sentencing court of scheduled periodic reviews of the probationer's
2217 compliance with conditions.
2218 (b) Supervised probation services provided by the department, an agency of a local
2219 government, or a private organization shall specifically address the defendant's risk of
2220 reoffending as identified by a screening or an assessment.
2221 (c) If a court orders supervised probation and determines that a public probation
2222 provider is unavailable or inappropriate to supervise the defendant, the court shall make
2223 available to the defendant the list of private probation providers prepared by a criminal justice
2224 coordinating council under Section 17-55-201.
2225 (5) (a) Before ordering supervised probation, the court shall consider the supervision
2226 costs to the defendant for each entity that can supervise the defendant.
2227 (b) (i) A court may order an agency of a local government to supervise the probation
2228 for an individual convicted of any crime if:

- 2229 (A) the agency has the capacity to supervise the individual; and
- 2230 (B) the individual's supervision needs will be met by the agency.
- 2231 (ii) A court may only order:
 - 2232 (A) the department to supervise the probation for an individual convicted of a class A
 - 2233 misdemeanor or any felony; or
 - 2234 (B) a private organization to supervise the probation for an individual convicted of a
 - 2235 class A, B, or C misdemeanor or an infraction.
 - 2236 (c) A court may not order a specific private organization to supervise an individual
 - 2237 unless there is only one private organization that can provide the specific supervision services
 - 2238 required to meet the individual's supervision needs.
- 2239 (6) (a) If a defendant is placed on probation, the court may order the defendant as a
- 2240 condition of the defendant's probation:
 - 2241 (i) to provide for the support of persons for whose support the defendant is legally
 - 2242 liable;
 - 2243 (ii) to participate in available treatment programs, including any treatment program in
 - 2244 which the defendant is currently participating if the program is acceptable to the court;
 - 2245 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and
 - 2246 Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;
 - 2247 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an
 - 2248 initial condition of probation that does not exceed one year in a county jail designated by the
 - 2249 department, after considering any recommendation by the court as to which jail the court finds
 - 2250 most appropriate;
 - 2251 (v) to serve a term of home confinement in accordance with Section 77-18-107;
 - 2252 (vi) to participate in compensatory service programs, including the compensatory
 - 2253 service program described in Section 76-3-410;
 - 2254 (vii) to pay for the costs of investigation, probation, or treatment services;
 - 2255 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime
 - 2256 Victims Restitution Act; or
 - 2257 (ix) to comply with other terms and conditions the court considers appropriate to
 - 2258 ensure public safety or increase a defendant's likelihood of success on probation.
- 2259 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a

2260 defendant to include a period of time that is served in a county jail immediately before the
2261 termination of probation as long as that period of time does not exceed one year.

2262 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation
2263 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply
2264 to the period of time that the court orders the defendant to serve in a county jail under this
2265 Subsection (6)(b)(ii).

2266 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on
2267 probation after December 31, 2018:

2268 (i) may not exceed the individual's maximum sentence;

2269 (ii) shall be for a period of time that is in accordance with the ~~[supervision length~~
2270 ~~guidelines established by the Utah Sentencing Commission under Section 63M-7-404]~~ adult
2271 sentencing and supervision length guidelines, as defined in Section 63M-7-404.1, to the extent
2272 the guidelines are consistent with the requirements of the law; and

2273 (iii) shall be terminated in accordance with the ~~[supervision length guidelines~~
2274 ~~established by the Utah Sentencing Commission under Section 63M-7-404]~~ adult sentencing
2275 and supervision length guidelines, as defined in Section 63M-7-404.1, to the extent the
2276 guidelines are consistent with the requirements of the law.

2277 (b) Probation of an individual placed on probation after December 31, 2018, whose
2278 maximum sentence is one year or less, may not exceed 36 months.

2279 (c) Probation of an individual placed on probation on or after October 1, 2015, but
2280 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
2281 completion without violation of 36 months probation in felony or class A misdemeanor cases,
2282 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance
2283 with Section 64-13-21 regarding earned credits.

2284 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
2285 offense for criminal nonsupport under Section 76-7-201.

2286 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
2287 accounts receivable for the defendant upon termination of the probation period for the
2288 defendant under Subsection (7), the court may require the defendant to continue to make
2289 payments towards the criminal accounts receivable in accordance with the payment schedule
2290 established by the court under Section 77-32b-103.

2291 (b) A court may not require the defendant to make payments as described in Subsection
2292 (8)(a) beyond the expiration of the defendant's sentence.

2293 (c) If the court requires a defendant to continue to pay in accordance with the payment
2294 schedule for the criminal accounts receivable under this Subsection (8) and the defendant
2295 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil
2296 judgment of restitution and a civil accounts receivable for the defendant as described in Section
2297 77-18-114.

2298 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
2299 own motion, the court may require a defendant to show cause as to why the defendant's failure
2300 to pay in accordance with the payment schedule should not be treated as contempt of court.

2301 (ii) A court may hold a defendant in contempt for failure to make payments for a
2302 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

2303 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
2304 offense for criminal nonsupport under Section 76-7-201.

2305 (9) When making any decision regarding probation, the court shall consider
2306 information provided by the Department of Corrections regarding a defendant's individual case
2307 action plan, including any progress the defendant has made in satisfying the case action plan's
2308 completion requirements.

2309 Section 32. Section 77-18-108 is amended to read:

2310 **77-18-108. Termination, revocation, modification, or extension of probation --**
2311 **Violation of probation -- Hearing on violation.**

2312 (1) (a) The department shall send a written notice to the court:

2313 (i) when the department is recommending termination of supervision for a defendant;
2314 or

2315 (ii) before a defendant's supervision will be terminated by law.

2316 (b) The written notice under this Subsection (1) shall include:

2317 (i) a probation progress report; and

2318 (ii) if the department is responsible for the collection of the defendant's criminal
2319 accounts receivable, a summary of the criminal accounts receivable, including the amount of
2320 restitution ordered and the amount of restitution that has been paid.

2321 (c) (i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

2322 (A) file the written notice on the docket; and

2323 (B) provide notice to all parties in the criminal case.

2324 (ii) A party shall have a reasonable opportunity to respond to the written notice under
2325 Subsection (1)(a).

2326 (d) If a defendant's probation is being terminated, and the defendant's criminal accounts
2327 receivable has an unpaid balance or there is any outstanding debt with the department, the
2328 department shall send a written notice to the Office of State Debt Collection with a summary of
2329 the defendant's criminal accounts receivable, including the amount of restitution ordered and
2330 the amount of restitution that has been paid.

2331 (2) (a) The court may modify the defendant's probation in accordance with the
2332 ~~[supervision length guidelines and the graduated and evidence-based responses and graduated~~
2333 ~~incentives developed by the Utah Sentencing Commission under Section 63M-7-404]~~ adult
2334 sentencing and supervision length guidelines, as defined in Section 63M-7-404.1.

2335 (b) The court may not:

2336 (i) extend the length of a defendant's probation, except upon:

2337 (A) waiver of a hearing by the defendant; or

2338 (B) a hearing and a finding by the court that the defendant has violated the terms of
2339 probation;

2340 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court
2341 that the terms of probation have been violated; or

2342 (iii) terminate a defendant's probation before expiration of the probation period until
2343 the court:

2344 (A) reviews the docket to determine whether the defendant owes a balance on the
2345 defendant's criminal accounts receivable; and

2346 (B) enters a finding of whether the defendant owes restitution under Section
2347 77-38b-205.

2348 (c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe
2349 restitution if no request for restitution has been filed with the court.

2350 (3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in
2351 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act,
2352 alleging with particularity facts asserted to constitute violation of the terms of a defendant's

2353 probation, the court shall determine if the affidavit or unsworn written declaration establishes
2354 probable cause to believe that revocation, modification, or extension of the defendant's
2355 probation is justified.

2356 (b) (i) If the court determines there is probable cause, the court shall order that the
2357 defendant be served with:

2358 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written
2359 declaration; and

2360 (B) an order to show cause as to why the defendant's probation should not be revoked,
2361 modified, or extended.

2362 (ii) The order under Subsection (3)(b)(i)(B) shall:

2363 (A) be served upon the defendant at least five days before the day on which the hearing
2364 is held;

2365 (B) specify the time and place of the hearing; and

2366 (C) inform the defendant of the right to be represented by counsel at the hearing, the
2367 right to have counsel appointed if the defendant is indigent, and the right to present evidence at
2368 the hearing.

2369 (iii) The defendant shall show good cause for a continuance of the hearing.

2370 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or
2371 unsworn written declaration.

2372 (d) (i) If the defendant denies the allegations of the affidavit or unsworn written
2373 declaration, the prosecuting attorney shall present evidence on the allegations.

2374 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is
2375 delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall
2376 present evidence to establish, by a preponderance of the evidence, that the defendant:

2377 (A) was aware of the defendant's obligation to pay the balance of the criminal accounts
2378 receivable;

2379 (B) failed to pay on the balance of the criminal accounts receivable as ordered by the
2380 court; and

2381 (C) had the ability to make a payment on the balance of the criminal accounts
2382 receivable if the defendant opposes an order to show cause, in writing, and presents evidence
2383 that the defendant was unable to make a payment on the balance of the criminal accounts

2384 receivable.

2385 (e) The persons who have given adverse information on which the allegations are
2386 based shall be presented as witnesses subject to questioning by the defendant, unless the court
2387 for good cause otherwise orders.

2388 (f) At the hearing, the defendant may:

2389 (i) call witnesses;

2390 (ii) appear and speak in the defendant's own behalf; and

2391 (iii) present evidence.

2392 (g) (i) After the hearing, the court shall make findings of fact.

2393 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,
2394 the court may order the defendant's probation terminated, revoked, modified, continued, or
2395 reinstated for all or a portion of the original term of probation.

2396 (4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a
2397 defendant to remain on probation for a period of time that exceeds the length of the defendant's
2398 maximum sentence.

2399 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is
2400 revoked and later reinstated, the total time of all periods of probation that the defendant serves,
2401 in relation to the same sentence, may not exceed the defendant's maximum sentence.

2402 (b) If the court orders a sanction for a defendant who violated terms of probation, the
2403 court may:

2404 (i) order a period of incarceration that is consistent with the ~~[guidelines established by~~
2405 ~~the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4)]~~ adult
2406 sentencing and supervision length guidelines, as defined in Section 63M-7-404.1;

2407 (ii) order a period of incarceration that deviates from the guidelines with an
2408 explanation for the deviation on the record;

2409 (iii) order treatment services that are immediately available in the community for a
2410 defendant that needs substance abuse or mental health treatment, as determined by a screening
2411 and assessment;

2412 (iv) execute the sentence previously imposed; or

2413 (v) order any other appropriate sanction.

2414 (c) If the defendant had, before the imposition of a term of incarceration or the

2415 execution of the previously imposed sentence under this section, served time in jail as a term of
2416 probation or due to a violation of probation, the time that the defendant served in jail
2417 constitutes service of time toward the sentence previously imposed.

2418 (5) (a) Any time served by a defendant:

2419 (i) outside of confinement after having been charged with a probation violation, and
2420 before a hearing to revoke probation, does not constitute service of time toward the total
2421 probation term, unless the defendant is exonerated at a hearing to revoke the defendant's
2422 probation;

2423 (ii) in confinement awaiting a hearing or a decision concerning revocation of the
2424 defendant's probation does not constitute service of time toward the total probation term, unless
2425 the defendant is exonerated at the hearing to revoke probation; or

2426 (iii) in confinement awaiting a hearing or a decision concerning revocation of the
2427 defendant's probation constitutes service of time toward a term of incarceration imposed as a
2428 result of the revocation of probation or a graduated and evidence-based response imposed
2429 under the ~~[guidelines established by the Utah Sentencing Commission in accordance with~~
2430 ~~Section 63M-7-404]~~ adult sentencing and supervision length guidelines, as defined in Section
2431 63M-7-404.1.

2432 (b) The running of the probation period is tolled upon:

2433 (i) the filing of a report with the court alleging a violation of the terms of the
2434 defendant's probation; or

2435 (ii) the issuance of an order or a warrant under Subsection (3).

2436 Section 33. Section **77-18-118** is amended to read:

2437 **77-18-118. Continuing jurisdiction of a sentencing court.**

2438 (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

2439 (a) if the defendant is on probation as described in Subsection **77-18-105(3)(c)**;

2440 (b) if the defendant is on probation and the probation period has terminated under
2441 Subsection **77-18-105(7)**, to require the defendant to continue to make payments towards a
2442 criminal accounts receivable until the defendant's sentence expires;

2443 (c) within the time periods described in Subsection **77-38b-205(5)**, to enter or modify
2444 an order for a criminal accounts receivable in accordance with Section **77-32b-103**;

2445 (d) within the time periods described in Subsection **77-38b-205(5)**, to enter or modify

2446 an order for restitution in accordance with Section [77-38b-205](#);

2447 (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts
2448 receivable in accordance with Subsection [77-32b-105\(1\)\(a\)](#);

2449 (f) until a defendant's sentence is terminated, to modify a payment schedule for a
2450 criminal accounts receivable in accordance with Subsection [77-32b-105\(1\)\(b\)](#);

2451 (g) if a defendant files a petition for remittance under Subsection [77-32b-106\(1\)](#) within
2452 90 days from the day on which the defendant's sentence is terminated, to determine whether to
2453 remit, in whole or in part, the defendant's criminal accounts receivable; [~~and~~]

2454 (h) to enter an order for a civil accounts receivable and a civil judgment of restitution
2455 in accordance with Section [77-18-114](#)[~~;~~]; and

2456 (i) to modify a sentence upon a petition by a prosecuting attorney as described in
2457 Section [76-3-411](#).

2458 (2) This section does not prevent a court from exercising jurisdiction over:

2459 (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3,
2460 Contempt; or

2461 (b) enforcement of a civil accounts receivable or a civil judgment of restitution.

2462 Section 34. Section **77-20-205** is amended to read:

2463 **77-20-205. Pretrial release by a magistrate or judge.**

2464 (1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable
2465 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure,
2466 the magistrate shall issue a temporary pretrial status order that:

2467 (i) releases the individual on the individual's own recognizance during the time the
2468 individual awaits trial or other resolution of criminal charges;

2469 (ii) designates a condition, or a combination of conditions, to be imposed upon the
2470 individual's release during the time the individual awaits trial or other resolution of criminal
2471 charges; or

2472 (iii) orders the individual be detained during the time the individual awaits trial or
2473 other resolution of criminal charges.

2474 (b) At the time that a magistrate issues a summons, the magistrate may issue a
2475 temporary pretrial status order that:

2476 (i) releases the individual on the individual's own recognizance during the time the

2477 individual awaits trial or other resolution of criminal charges; or

2478 (ii) designates a condition, or a combination of conditions, to be imposed upon the
2479 individual's release during the time the individual awaits trial or other resolution of criminal
2480 charges.

2481 (c) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary
2482 pretrial status order under Subsection (1) that detains an individual if the individual is arrested
2483 for a felony offense and the magistrate finds:

2484 (i) there is probable cause to support the individual's arrest for the felony offense;

2485 (ii) the individual committed the felony offense while:

2486 (A) the individual was on parole or probation for a conviction of a felony offense; or

2487 (B) the individual was released and awaiting trial on a previous charge for a felony
2488 offense; and

2489 (iii) based on information reasonably available to the magistrate, the individual has at
2490 least nine cases where the individual has been charged or convicted, or entered a plea of guilty,
2491 within five years from the day on which the individual was arrested for the felony offense
2492 described in Subsection (1)(c)(i).

2493 (d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an
2494 individual who does not meet the requirements described in Subsection (1)(c).

2495 (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
2496 pretrial status order at an individual's first appearance before the court.

2497 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
2498 individual's first appearance before the court:

2499 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
2500 pretrial detention as described in Section [77-20-206](#);

2501 (ii) if a party requests a delay; or

2502 (iii) if there is good cause to delay the issuance.

2503 (c) If a magistrate or judge delays the issuance of a pretrial status order under
2504 Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
2505 the issuance of a pretrial status order.

2506 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order
2507 shall:

2508 (i) release the individual on the individual's own recognizance during the time the
2509 individual awaits trial or other resolution of criminal charges;

2510 (ii) designate a condition, or a combination of conditions, to be imposed upon the
2511 individual's release during the time the individual awaits trial or other resolution of criminal
2512 charges; or

2513 (iii) order the individual to be detained during the time that individual awaits trial or
2514 other resolution of criminal charges.

2515 (b) In making a determination about pretrial release in a pretrial status order, the
2516 magistrate or judge may not give any deference to a magistrate's decision in a temporary
2517 pretrial status order.

2518 (4) In making a determination about pretrial release, a magistrate or judge shall
2519 impose:

2520 (a) only conditions of release that are reasonably available [~~and necessary to reasonably~~
2521 ~~ensure~~]; and

2522 (b) conditions of release that ensure:

2523 ~~(a)~~ (i) the individual's appearance in court when required;

2524 ~~(b)~~ (ii) the safety of any witnesses or victims of the offense allegedly committed by
2525 the individual;

2526 ~~(c)~~ (iii) the safety and welfare of the public; and

2527 ~~(d)~~ (iv) that the individual will not obstruct, or attempt to obstruct, the criminal
2528 justice process.

2529 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a
2530 condition, or combination of conditions, for pretrial release that requires an individual to:

2531 (a) not commit a federal, state, or local offense during the period of pretrial release;

2532 (b) avoid contact with a victim of the alleged offense;

2533 (c) avoid contact with a witness who:

2534 (i) may testify concerning the alleged offense; and

2535 (ii) is named in the pretrial status order;

2536 (d) not consume alcohol or any narcotic drug or other controlled substance unless
2537 prescribed by a licensed medical practitioner;

2538 (e) submit to drug or alcohol testing;

- 2539 (f) complete a substance abuse evaluation and comply with any recommended
2540 treatment or release program;
- 2541 (g) submit to electronic monitoring or location device tracking;
- 2542 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
2543 psychiatric treatment;
- 2544 (i) maintain employment or actively seek employment if unemployed;
- 2545 (j) maintain or commence an education program;
- 2546 (k) comply with limitations on where the individual is allowed to be located or the
2547 times that the individual shall be, or may not be, at a specified location;
- 2548 (l) comply with specified restrictions on personal associations, place of residence, or
2549 travel;
- 2550 (m) report to a law enforcement agency, pretrial services program, or other designated
2551 agency at a specified frequency or on specified dates;
- 2552 (n) comply with a specified curfew;
- 2553 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 2554 (p) if the individual is charged with an offense against a child, limit or prohibit access
2555 to any location or occupation where children are located, including any residence where
2556 children are on the premises, activities where children are involved, locations where children
2557 congregate, or where a reasonable person would know that children congregate;
- 2558 (q) comply with requirements for house arrest;
- 2559 (r) return to custody for a specified period of time following release for employment,
2560 schooling, or other limited purposes;
- 2561 (s) remain in custody of one or more designated individuals who agree to:
- 2562 (i) supervise and report on the behavior and activities of the individual; and
2563 (ii) encourage compliance with all court orders and attendance at all required court
2564 proceedings;
- 2565 (t) comply with a financial condition; or
- 2566 (u) comply with any other condition that is reasonably available and necessary to
2567 ensure compliance with Subsection (4).
- 2568 (6) (a) If a county or municipality has established a pretrial services program, the
2569 magistrate or judge shall consider the services that the county or municipality has identified as

2570 available in determining what conditions of release to impose.

2571 (b) The magistrate or judge may not order conditions of release that would require the
2572 county or municipality to provide services that are not currently available from the county or
2573 municipality.

2574 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions
2575 of release not identified by the county or municipality so long as the condition does not require
2576 assistance or resources from the county or municipality.

2577 (7) (a) If the magistrate or judge determines that a financial condition, other than an
2578 unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall
2579 consider the individual's ability to pay when determining the amount of the financial condition.

2580 (b) If the magistrate or judge determines that a financial condition is necessary to
2581 impose as a condition of release, and a county jail official fixed a financial condition for the
2582 individual under Section 77-20-204, the magistrate or judge may not give any deference to:

2583 (i) the county jail official's action to fix a financial condition; or

2584 (ii) the amount of the financial condition that the individual was required to pay for
2585 pretrial release.

2586 (c) If a magistrate or judge orders a financial condition as a condition of release, the
2587 judge or magistrate shall set the financial condition at a single amount per case.

2588 (8) In making a determination about pretrial release, the magistrate or judge may:

2589 (a) rely upon information contained in:

2590 (i) the indictment or information;

2591 (ii) any sworn or probable cause statement or other information provided by law
2592 enforcement;

2593 (iii) a pretrial risk assessment;

2594 (iv) an affidavit of indigency described in Section 78B-22-201.5;

2595 (v) witness statements or testimony;

2596 (vi) the results of a lethality assessment completed in accordance with Section
2597 77-36-2.1; or

2598 (vii) any other reliable record or source, including proffered evidence; and

2599 (b) consider:

2600 (i) the nature and circumstances of the offense, or offenses, that the individual was

2601 arrested for, or charged with, including:

2602 (A) whether the offense is a violent offense; and

2603 (B) the vulnerability of a witness or alleged victim;

2604 (ii) the nature and circumstances of the individual, including the individual's:

2605 (A) character;

2606 (B) physical and mental health;

2607 (C) family and community ties;

2608 (D) employment status or history;

2609 (E) financial resources;

2610 (F) past criminal conduct;

2611 (G) history of drug or alcohol abuse; and

2612 (H) history of timely appearances at required court proceedings;

2613 (iii) the potential danger to another individual, or individuals, posed by the release of

2614 the individual;

2615 (iv) whether the individual was on probation, parole, or release pending an upcoming

2616 court proceeding at the time the individual allegedly committed the offense or offenses;

2617 (v) the availability of:

2618 (A) other individuals who agree to assist the individual in attending court when

2619 required; or

2620 (B) supervision of the individual in the individual's community;

2621 (vi) the eligibility and willingness of the individual to participate in various treatment

2622 programs, including drug treatment; or

2623 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the

2624 law if released.

2625 (9) The magistrate or judge may not base a determination about pretrial release solely

2626 on the seriousness or type of offense that the individual is arrested for or charged with, unless

2627 the individual is arrested for or charged with a capital felony.

2628 (10) An individual arrested for violation of a jail release agreement, or a jail release

2629 court order, issued in accordance with Section [78B-7-802](#):

2630 (a) may not be released before the individual's first appearance before a magistrate or

2631 judge; and

2632 (b) may be denied pretrial release by the magistrate or judge.

2633 Section 35. Section 77-27-5 is amended to read:

2634 **77-27-5. Board of Pardons and Parole authority.**

2635 (1) (a) Subject to this chapter and other laws of the state, and except for a conviction
2636 for treason or impeachment, the board shall determine by majority decision when and under
2637 what conditions an offender's conviction may be pardoned or commuted.

2638 (b) The Board of Pardons and Parole shall determine by majority decision when and
2639 under what conditions an offender committed to serve a sentence at a penal or correctional
2640 facility, which is under the jurisdiction of the department, may:

2641 (i) be released upon parole;

2642 (ii) have a fine or forfeiture remitted;

2643 (iii) have the offender's criminal accounts receivable remitted in accordance with
2644 Section 77-32b-105 or 77-32b-106;

2645 (iv) have the offender's payment schedule modified in accordance with Section
2646 77-32b-103; or

2647 (v) have the offender's sentence terminated.

2648 (c) The board shall prioritize public safety when making a determination under
2649 Subsection (1)(a) or (1)(b).

2650 (d) (i) The board may sit together or in panels to conduct hearings.

2651 (ii) The chair shall appoint members to the panels in any combination and in
2652 accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative
2653 Rulemaking Act, by the board.

2654 (iii) The chair may participate on any panel and when doing so is chair of the panel.

2655 (iv) The chair of the board may designate the chair for any other panel.

2656 (e) (i) Except after a hearing before the board, or the board's appointed examiner, in an
2657 open session, the board may not:

2658 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts
2659 receivable;

2660 (B) release the offender on parole; or

2661 (C) commute, pardon, or terminate an offender's sentence.

2662 (ii) An action taken under this Subsection (1) other than by a majority of the board

2663 shall be affirmed by a majority of the board.

2664 (f) A commutation or pardon may be granted only after a full hearing before the board.

2665 (2) (a) In the case of any hearings, timely prior notice of the time and location of the
2666 hearing shall be given to the offender.

2667 (b) The county or district attorney's office responsible for prosecution of the case, the
2668 sentencing court, and law enforcement officials responsible for the defendant's arrest and
2669 conviction shall be notified of any board hearings through the board's website.

2670 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
2671 notified of original hearings and any hearing after that if notification is requested and current
2672 contact information has been provided to the board.

2673 (d) (i) Notice to the victim or the victim's representative shall include information
2674 provided in Section 77-27-9.5, and any related rules made by the board under that section.

2675 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are
2676 reasonable for the lay person to understand.

2677 (3) (a) A decision by the board is final and not subject for judicial review if the
2678 decision is regarding:

2679 (i) a pardon, parole, commutation, or termination of an offender's sentence;

2680 (ii) the modification of an offender's payment schedule for restitution; or

2681 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

2682 (b) Deliberative processes are not public and the board is exempt from Title 52,
2683 Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's
2684 deliberative process.

2685 (c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process
2686 are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

2687 (d) Unless it will interfere with a constitutional right, deliberative processes are not
2688 subject to disclosure, including discovery.

2689 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

2690 (4) (a) This chapter may not be construed as a denial of or limitation of the governor's
2691 power to grant respite or reprieves in all cases of convictions for offenses against the state,
2692 except treason or conviction on impeachment.

2693 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the

2694 next session of the Board of Pardons and Parole.

2695 (c) At the next session of the board, the board:

2696 (i) shall continue or terminate the respite or reprieve; or

2697 (ii) may commute the punishment or pardon the offense as provided.

2698 (d) In the case of conviction for treason, the governor may suspend execution of the
2699 sentence until the case is reported to the Legislature at the Legislature's next session.

2700 (e) The Legislature shall pardon or commute the sentence or direct the sentence's
2701 execution.

2702 (5) (a) In determining when, where, and under what conditions an offender serving a
2703 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's
2704 criminal accounts receivable remitted, or have the offender's sentence commuted or terminated,
2705 the board shall:

2706 (i) consider whether the offender has made restitution ordered by the court under
2707 Section [77-38b-205](#), or is prepared to pay restitution as a condition of any parole, pardon,
2708 remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or
2709 termination of the offender's sentence;

2710 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for
2711 making determinations under this Subsection (5);

2712 (iii) consider information provided by the Department of Corrections regarding an
2713 offender's individual case action plan; and

2714 (iv) review an offender's status within 60 days after the day on which the board
2715 receives notice from the Department of Corrections that the offender has completed all of the
2716 offender's case action plan components that relate to activities that can be accomplished while
2717 the offender is imprisoned.

2718 (b) The board shall determine whether to remit an offender's criminal accounts
2719 receivable under this Subsection (5) in accordance with Section [77-32b-105](#) or [77-32b-106](#).

2720 (6) In determining whether parole may be terminated, the board shall consider:

2721 (a) the offense committed by the parolee; and

2722 (b) the parole period under Section [76-3-202](#), and in accordance with Section
2723 [77-27-13](#).

2724 (7) For an offender placed on parole after December 31, 2018, the board shall

2725 terminate parole in accordance with the [~~supervision length guidelines established by the Utah~~
2726 ~~Sentencing Commission under Section 63M-7-404~~] adult sentencing and supervision length
2727 guidelines, as defined in Section 63M-7-404.1, to the extent the guidelines are consistent with
2728 the requirements of the law.

2729 Section 36. Section 77-27-9.5 is amended to read:

2730 **77-27-9.5. Victim may attend hearings.**

2731 (1) As used in this section, "hearing" means a hearing for a parole grant or revocation,
2732 or a rehearing of either of these if the offender is present.

2733 (2) (a) Except as provided in Subsection (2)(b), when a hearing is held regarding any
2734 offense committed by the defendant that involved the victim, the victim may attend the hearing
2735 to present [~~his~~] the victim's views concerning the decisions to be made regarding the defendant.

2736 (b) (i) The victim may not attend a redetermination or special attention hearing[;] if the
2737 offender is not present.

2738 (ii) At that redetermination or special attention hearing, the board shall give
2739 consideration to any presentation previously given by the victim regarding that offender.

2740 (3) (a) The notice of the hearing shall be timely sent to the victim at [~~his~~] the victim's
2741 most recent address of record with the board.

2742 (b) The notice shall include:

2743 (i) the date, time, and location of the hearing;

2744 (ii) a clear statement of the reason for the hearing, including all offenses involved;

2745 (iii) the statutes and rules applicable to the victim's participation in the hearing;

2746 (iv) the address and telephone number of an office or person the victim may contact for
2747 further explanation of the procedure regarding victim participation in the hearing; and

2748 (v) specific information about how, when, and where the victim may obtain the results
2749 of the hearing.

2750 (c) If the victim is dead, or the board is otherwise unable to contact the victim, the
2751 board shall make reasonable efforts to notify the victim's immediate family of the hearing.

2752 (d) The victim may communicate with the board for consideration of continuance of
2753 the hearing if travel or other significant conflict prohibits [~~their~~] the victim's attendance at the
2754 hearing.

2755 (4) The victim, or family members if the victim is deceased or unable to attend due to

2756 physical incapacity, may:

2757 (a) attend the hearing to observe;

2758 (b) make a statement to the board, or ~~[its appointed examiner either]~~ the board's
2759 appointed examiner, in person or through a representative appointed by the victim or ~~[his]~~ the
2760 victim's family; and

2761 (c) remain present for the hearing if ~~[he]~~ the victim appoints another to make a
2762 statement on ~~[his]~~ the victim's behalf.

2763 (5) The statement under Subsection (4) may be presented:

2764 (a) as a written statement, which may also be read aloud, if the presenter desires; or

2765 (b) as an oral statement presented by the person selected under Subsection (4).

2766 (6) The victim may be accompanied by a member of his family or another individual,
2767 present to provide emotional support to the victim.

2768 (7) The victim may, upon request, testify outside the presence of the defendant but a
2769 separate hearing may not be held for this purpose.

2770 (8) (a) If a victim does not attend a hearing, the victim may provide a written statement
2771 that complies with board rules.

2772 (b) If the victim does not offer a verbal or written statement at the time of the hearing,
2773 the board shall consider any statement from the victim that was previously provided to the
2774 board.

2775 (c) The board may not afford a written statement provided by a victim less weight than
2776 a verbal statement solely because the statement is written.

2777 Section 37. Section **77-27-11** is amended to read:

2778 **77-27-11. Revocation of parole.**

2779 (1) The board may revoke the parole of any individual who is found to have violated
2780 any condition of the individual's parole.

2781 (2) (a) If a parolee is confined by the department or any law enforcement official for a
2782 suspected violation of parole, the department:

2783 (i) shall immediately report the alleged violation to the board, by means of an incident
2784 report; and

2785 (ii) make any recommendation regarding the incident.

2786 (b) A parolee may not be held for a period longer than 72 hours, excluding weekends

2787 and holidays, without first obtaining a warrant.

2788 (3) Any member of the board may:

2789 (a) issue a warrant based upon a certified warrant request to a peace officer or other
2790 persons authorized to arrest, detain, and return to actual custody a parolee; and

2791 (b) upon arrest of the parolee, determine, or direct the department to determine, if there
2792 is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

2793 (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned
2794 again pending a hearing by the board or the board's appointed examiner.

2795 (5) (a) The board or the board's appointed examiner shall conduct a hearing on the
2796 alleged violation, and the parolee shall have written notice of the time and location of the
2797 hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

2798 (b) The board or the board's appointed examiner shall provide the parolee the
2799 opportunity:

2800 (i) to be present;

2801 (ii) to be heard;

2802 (iii) to present witnesses and documentary evidence;

2803 (iv) to confront and cross-examine adverse witnesses, absent a showing of good cause
2804 for not allowing the confrontation; and

2805 (v) to be represented by counsel when the parolee is mentally incompetent or pleading
2806 not guilty.

2807 (c) (i) If heard by an appointed examiner, the examiner shall make a written decision
2808 which shall include a statement of the facts relied upon by the examiner in determining the
2809 guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the
2810 alleged violation occurred.

2811 (ii) The appointed examiner shall then refer the case to the board for disposition.

2812 (d) (i) A final decision shall be reached by a majority vote of the sitting members of the
2813 board.

2814 (ii) A parolee shall be promptly notified in writing of the board's findings and decision.

2815 (6) (a) If a parolee is found to have violated the terms of parole, the board, at the
2816 board's discretion, may:

2817 (i) return the parolee to parole;

2818 (ii) modify the payment schedule for the parolee's criminal accounts receivable in
2819 accordance with Section [77-32b-105](#);

2820 (iii) order the parolee to pay pecuniary damages that are proximately caused by a
2821 defendant's violation of the terms of the defendant's parole;

2822 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of
2823 imprisonment for the parolee's sentence; or

2824 (v) order any other conditions for the parolee.

2825 (b) If the board returns the parolee to parole, the length of parole may not be for a
2826 period of time that exceeds the length of the parolee's maximum sentence.

2827 (c) If the board revokes parole for a violation and orders incarceration, the board may
2828 impose a period of incarceration:

2829 (i) consistent with the [~~guidelines under Subsection [63M-7-404\(5\)](#)] adult sentencing
2830 and supervision length guidelines, as defined in Section [63M-7-404.1](#); or~~

2831 (ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from
2832 the guidelines.

2833 (d) The following periods of time constitute service of time toward the period of
2834 incarceration imposed under Subsection (6)(c):

2835 (i) time served in jail by a parolee awaiting a hearing or decision concerning revocation
2836 of parole; and

2837 (ii) time served in jail by a parolee due to a violation of parole under Subsection
2838 [64-13-6\(2\)](#).

2839 Section 38. Section **77-27-13** is amended to read:

2840 **77-27-13. Board of Pardons and Parole -- Duties of the judiciary, the Department**
2841 **of Corrections, and law enforcement -- Removal of material from files.**

2842 (1) The chief executive officer and employees of each penal or correctional institution
2843 shall cooperate fully with the board, permit board members free access to offenders, and
2844 furnish the board with pertinent information regarding an offender's physical, mental, and
2845 social history and his institutional record of behavior, discipline, work, efforts of
2846 self-improvement, and attitude toward society.

2847 (2) (a) The [~~Department of Corrections shall~~] department shall:

2848 (i) furnish any pertinent information [~~it has~~], within the department's possession, to the

2849 board; and [shall]

2850 (ii) provide a copy of the [pre-sentence report] presentence report, any available
2851 information within the department's possession concerning the impact a crime may have had
2852 upon the victim or the victim's family, and any other investigative reports to the board.

2853 (b) In all cases where a [pre-sentence] presentence report has not been completed, the
2854 department shall:

2855 (i) make a [post-sentence] postsentence report [and shall]; and

2856 (ii) provide a copy of [it] the postsentence report to the board as soon as possible.

2857 (c) The department shall provide the board, upon request, any additional investigations
2858 or information needed by the board to reach a decision or conduct a hearing.

2859 (3) The department shall make [its] the department's facilities available to the board to
2860 carry out [its] the board's functions.

2861 (4) Law enforcement officials responsible for the offender's arrest, conviction, and
2862 sentence shall furnish all pertinent data requested by the board.

2863 ~~[(5)(a) In all cases where an indeterminate sentence is imposed, the judge imposing~~
2864 ~~the sentence may within 30 days from the date of the sentence, mail to the chief executive of~~
2865 ~~the board a statement in writing setting out the term for which, in his opinion, the offender~~
2866 ~~sentenced should be imprisoned, and any information he may have regarding the character of~~
2867 ~~the offender or any mitigating or aggravating circumstances connected with the offense for~~
2868 ~~which the offender has been convicted. In addition, the prosecutor shall in all cases, within 30~~
2869 ~~days from the date of sentence, forward in writing to the chief executive of the board a full and~~
2870 ~~complete description of the crime, a written record of any plea bargain entered into, a statement~~
2871 ~~of the mitigating or aggravating circumstances or both, all investigative reports, a victim~~
2872 ~~impact statement referring to physical, mental, or economic loss suffered, and any other~~
2873 ~~information the prosecutor believes will be relevant to the board. These statements shall be~~
2874 ~~preserved in the files of the board.]~~

2875 (5) (a) If an indeterminate sentence is imposed in a case, the court shall forward, within
2876 30 days after the day on which the sentence was imposed, to the board:

2877 (i) a record of the judgment and commitment;

2878 (ii) if available and in the court's possession, a victim impact statement referring to any
2879 loss suffered by a victim; and

2880 (iii) any other record that the court believes will be relevant to the board, including a
 2881 statement:

2882 (A) proposing the term for which, in the court's opinion, the offender should be
 2883 imprisoned;

2884 (B) any information the court may have regarding the character of the offender; and

2885 (C) any mitigating or aggravating circumstances connected with the offense for which
 2886 the offender has been convicted.

2887 (b) If the court amends an order for a judgment and commitment, the court shall
 2888 forward the amended order to the board within 30 days after the day on which the amended
 2889 order is entered.

2890 (6) If an indeterminate sentence is imposed in a case and the offender is committed to
 2891 prison, the prosecuting attorney shall forward, in writing and within 30 days after the day on
 2892 which the sentence was imposed, to the board:

2893 (a) a victim impact statement referring to any loss suffered by a victim; and

2894 (b) any other information the prosecuting attorney believes will be relevant to the
 2895 board, including a summary and recommendations related to the case.

2896 [(b)] (7) Notwithstanding Subsection [(5)(a)] (5) or (6), the board may remove from
 2897 [its] the board's files any:

2898 [(i)] (a) statement that [it] the board is not going to rely on in [its decisionmaking] the
 2899 board's decision-making process;

2900 [(ii)] (b) information found to be incorrect by a court, the [Board of Pardons and
 2901 Parole] board, or an administrative agency; or

2902 [(iii)] (c) duplicative materials.

2903 [(6)] (8) The chief executive officer of any penal or correctional institution shall permit
 2904 offenders to send mail to the board without censorship.

2905 Section 39. Section **77-27-32** is amended to read:

2906 **77-27-32. Reporting requirements.**

2907 (1) The board shall publicly display metrics on the board's website, including:

2908 (a) a measure of recidivism;

2909 (b) a measure of time under board jurisdiction;

2910 (c) a measure of prison releases by category;

2911 (d) a measure of parole revocations;

2912 (e) a measure of alignment of board decisions with the ~~[guidelines established by the~~
 2913 ~~Sentencing Commission under Section 63M-7-404]~~ adult sentencing and supervision length
 2914 guidelines, as defined in Section 63M-7-404.1; and

2915 (f) a measure of the aggregate reasons for departing from the guidelines described in
 2916 Subsection (1)(e).

2917 (2) On or before September 30 of each year, the board shall submit to the commission
 2918 and the Law Enforcement and Criminal Justice Interim Committee a report for the previous
 2919 fiscal year that summarizes the metrics in Subsection (1).

2920 Section 40. Section 77-36-2.1 is amended to read:

2921 **77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality**
 2922 **assessments.**

2923 (1) ~~[For purposes of]~~ As used in this section:

2924 (a) "Criminal justice system victim advocate" means the same as that term is defined in
 2925 Section 77-38-403.

2926 ~~[(a)]~~ (b) (i) "Dating relationship" means a social relationship of a romantic or intimate
 2927 nature, or a relationship which has romance or intimacy as a goal by one or both parties,
 2928 regardless of whether the relationship involves sexual intimacy.

2929 (ii) "Dating relationship" does not include casual fraternization in a business,
 2930 educational, or social context.

2931 ~~[(b)]~~ (c) "Intimate partner" means an emancipated individual under Section 15-2-1 or
 2932 an individual who is 16 years old or older who:

2933 (i) is or was a spouse of the other party;

2934 (ii) is or was living as if a spouse of the other party;

2935 (iii) has or had one or more children in common with the other party;

2936 (iv) is the biological parent of the other party's unborn child;

2937 (v) is or was in a consensual sexual relationship with the other party; or

2938 (vi) is or was in a dating relationship with the other party.

2939 ~~[(c)]~~ (d) "Nongovernment organization victim advocate" means the same as that term is
 2940 defined in Section 77-38-403.

2941 ~~[(d)]~~ (e) "Primary purpose domestic violence organization" means a contract provider

2942 of domestic violence services as described in Section 80-2-301.

2943 (2) A law enforcement officer who responds to an allegation of domestic violence
2944 shall:

2945 (a) use all reasonable means to protect the victim and prevent further violence,
2946 including:

2947 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide
2948 for the safety of the victim and any family or household member;

2949 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;

2950 (iii) making arrangements for the victim and any child to obtain emergency housing or
2951 shelter;

2952 (iv) providing protection while the victim removes essential personal effects;

2953 (v) arrange, facilitate, or provide for the victim and any child to obtain medical
2954 treatment; [and]

2955 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the
2956 rights of victims and of the remedies and services available to victims of domestic violence, in
2957 accordance with Subsection (3); and

2958 (vii) providing the pamphlet created by the department under Section 53-5c-201 to the
2959 victim if the allegation of domestic violence:

2960 (A) includes a threat of violence as described in Section 76-5-107;

2961 (B) results, or would result, in the owner cohabitant becoming a restricted person under
2962 Section 76-10-503; or

2963 (C) is accompanied by a completed lethality assessment that demonstrates the
2964 cohabitant is at high risk of being further victimized; and

2965 (b) if the allegation of domestic violence is against an intimate partner, complete the
2966 lethality assessment protocols described in this section.

2967 (3) (a) A law enforcement officer shall give written notice to the victim in simple
2968 language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7,
2969 Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective
2970 Orders.

2971 (b) The written notice shall include:

2972 (i) a statement that the forms needed in order to obtain an order for protection are

2973 available from the court clerk's office in the judicial district where the victim resides or is
2974 temporarily domiciled;

2975 (ii) a list of shelters, services, and resources available in the appropriate community,
2976 together with telephone numbers, to assist the victim in accessing any needed assistance; and

2977 (iii) the information required to be provided to both parties in accordance with
2978 Subsections 78B-7-802(8) and (9) .

2979 (4) If a weapon is confiscated under this section, the law enforcement agency shall
2980 return the weapon to the individual from whom the weapon is confiscated if a domestic
2981 violence protective order is not issued or once the domestic violence protective order is
2982 terminated.

2983 (5) A law enforcement officer shall complete a lethality assessment form by asking the
2984 victim:

2985 (a) if the aggressor has ever used a weapon against the victim or threatened the victim
2986 with a weapon;

2987 (b) if the aggressor has ever threatened to kill the victim or the victim's children;

2988 (c) if the victim believes the aggressor will try to kill the victim;

2989 (d) if the aggressor has ever tried to choke the victim;

2990 (e) if the aggressor has a gun or could easily get a gun;

2991 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
2992 activities of the victim;

2993 (g) if the victim left or separated from the aggressor after they were living together or
2994 married;

2995 (h) if the aggressor is unemployed;

2996 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

2997 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
2998 child;

2999 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for
3000 the victim; and

3001 (l) if there is anything else that worries the victim about the victim's safety and, if so,
3002 what worries the victim.

3003 (6) A law enforcement officer shall comply with Subsection (7) if:

3004 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a)
3005 through (d);

3006 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but
3007 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

3008 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
3009 enforcement officer believes the victim is in a potentially lethal situation.

3010 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer
3011 shall:

3012 (a) advise the victim of the results of the assessment; [~~and~~]

3013 (b) refer the victim to a nongovernment organization victim advocate at a primary
3014 purpose domestic violence organization[-]; and

3015 (c) refer the victim to a criminal justice system victim advocate if the responding law
3016 enforcement agency has a criminal justice system victim advocate available.

3017 (8) If a victim does not or is unable to provide information to a law enforcement officer
3018 sufficient to allow the law enforcement officer to complete a lethality assessment form, or does
3019 not speak or is unable to speak with a nongovernment organization victim advocate, the law
3020 enforcement officer shall document this information on the lethality assessment form and
3021 submit the information to the Department of Public Safety under Subsection (9).

3022 (9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit
3023 the results of a lethality assessment to the Department of Public Safety while on scene.

3024 (b) If a law enforcement officer is not reasonably able to submit the results of a
3025 lethality assessment while on scene, the law enforcement officer shall submit the results of the
3026 lethality assessment to the Department of Public Safety as soon as practicable.

3027 (c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a
3028 law enforcement officer shall submit the results of a lethality assessment to the Department of
3029 Public Safety using means prescribed by the Department of Public Safety.

3030 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law
3031 enforcement officer shall submit the results of a lethality assessment to the Department of
3032 Public Safety using that reporting mechanism.

3033 (10) The Department of Public Safety shall:

3034 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law

3035 enforcement officer will submit the results of a lethality assessment as required by Subsection
3036 (9);

3037 (b) provide prompt analytical support to a law enforcement officer who submits the
3038 results of a lethality assessment using the reporting mechanism described in Subsection (10)(a);
3039 and

3040 (c) create and maintain a database of lethality assessment data provided under this
3041 section.

3042 (11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the
3043 results of a lethality assessment and any related, relevant analysis provided by the Department
3044 of Public Safety under Subsection (10), with:

3045 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
3046 of Criminal Procedure; and

3047 (ii) an incident report prepared in accordance with Section 77-36-2.2.

3048 (b) In a probable cause statement or incident report, a law enforcement officer may not
3049 include information about how or where a victim was referred under Subsection (7)(b).

3050 Section 41. Section 78A-5-201 is amended to read:

3051 **78A-5-201. Creation and expansion of existing drug court programs -- Definition**
3052 **of drug court program -- Criteria for participation in drug court programs -- Reporting**
3053 **requirements.**

3054 (1) There may be created a drug court program in any judicial district that
3055 demonstrates:

3056 (a) the need for a drug court program; and

3057 (b) the existence of a collaborative strategy between the court, prosecutors, defense
3058 counsel, corrections, and substance abuse treatment services to reduce substance abuse by
3059 offenders.

3060 (2) The collaborative strategy in each drug court program shall:

3061 (a) include monitoring and evaluation components to measure program effectiveness;
3062 and

3063 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

3064 (i) executive director of the Department of Health and Human Services;

3065 (ii) executive director of the Department of Corrections; and

3066 (iii) state court administrator.

3067 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:

3068 (i) 87% to the Department of Health and Human Services for testing, treatment, and
3069 case management; and

3070 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
3071 support costs.

3072 (b) This provision does not apply to federal block grant funds.

3073 (4) A drug court program shall include continuous judicial supervision using a
3074 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment
3075 services, juvenile court probation, and the Division of Child and Family Services as appropriate
3076 to promote public safety, protect participants' due process rights, and integrate substance abuse
3077 treatment with justice system case processing.

3078 (5) Screening criteria for participation in a drug court program shall include:

3079 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or
3080 drug-related offense;

3081 (b) an agreement to frequent alcohol and other drug testing;

3082 (c) participation in one or more substance abuse treatment programs; and

3083 (d) an agreement to submit to sanctions for noncompliance with drug court program
3084 requirements.

3085 (6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for
3086 participation in adult criminal drug courts.

3087 (b) ~~[Acceptance]~~ The eligibility requirements described in Subsection (6)(a):

3088 (i) shall require that the acceptance of an offender into a drug court [shall be based] is
3089 based on a risk and needs assessment and targeted at individuals who are high risk and high
3090 needs, without regard to the nature of the offense[-]; and

3091 (ii) may not limit participation in a drug court only to individuals convicted of an
3092 offense described in Section 58-37-8.

3093 (c) A plea to, conviction of, or adjudication for a felony offense is not required for
3094 participation in a drug court program.

3095 Section 42. Section **78B-9-102** is amended to read:

3096 **78B-9-102. Replacement of prior remedies.**

3097 (1) (a) This chapter establishes the sole remedy for any person who challenges a
 3098 conviction or sentence for a criminal offense and who has exhausted all other legal remedies,
 3099 including a direct appeal except as provided in Subsection (2). This chapter replaces all prior
 3100 remedies for review, including extraordinary or common law writs. Proceedings under this
 3101 chapter are civil and are governed by the rules of civil procedure. Procedural provisions for
 3102 filing and commencement of a petition are found in Rule 65C, Utah Rules of Civil Procedure.

3103 (b) A court may not enter an order to withdraw, modify, vacate or otherwise set aside a
 3104 plea unless it is in conformity with this chapter or Section [77-13-6](#).

3105 (2) This chapter does not apply to:

3106 (a) ~~[habeas corpus petitions that do]~~ a habeas corpus petition that does not challenge a
 3107 conviction or sentence for a criminal offense;

3108 (b) ~~[motions]~~ a motion to correct a sentence ~~[pursuant to Rule 22(e);]~~ in accordance
 3109 with Rule 22(c) of the Utah Rules of Criminal Procedure; [or]

3110 (c) ~~[actions]~~ an action taken by the Board of Pardons and Parole~~[-]; or~~

3111 (d) a petition to modify a sentence as described in Section [76-3-411](#).

3112 Section 43. Section **80-6-307** is amended to read:

3113 **80-6-307. Dispositional report required in minors' cases -- Exceptions.**

3114 (1) A juvenile probation officer, or other agency designated by the juvenile court, shall
 3115 make a dispositional report in writing in all minors' cases in which a petition has been filed,
 3116 except in cases involving violations of traffic laws or ordinances, violations of wildlife laws
 3117 and boating laws, and other minor cases.

3118 (2) When preparing a dispositional report and recommendation in a minor's case, the
 3119 juvenile probation officer, or other agency designated by the juvenile court, shall consider the
 3120 juvenile disposition guidelines ~~[developed in accordance with Section [63M-7-404](#)]~~, as defined
 3121 in Section [63M-7-404.1](#), and any other factors relevant to the disposition designated in the
 3122 juvenile disposition guidelines .

3123 (3) Where the allegations of a petition filed under Section [80-6-305](#) are denied, the
 3124 investigation may not be made until the juvenile court has made an adjudication.

3125 Section 44. Section **80-6-607** is amended to read:

3126 **80-6-607. Case planning and appropriate responses.**

3127 (1) For a minor adjudicated and placed on probation under Section [80-6-702](#) or

3128 committed to the division under Section 80-6-703, a case plan shall be created and:
3129 (a) developed in collaboration with the minor and the minor's family;
3130 (b) individualized to the minor;
3131 (c) informed by the results of a validated risk and needs assessment under Section
3132 80-6-606; and
3133 (d) tailored to the minor's offense and history.
3134 (2) (a) The Administrative Office of the Courts and the division shall develop a
3135 statewide system of appropriate responses to guide responses to the behaviors of minors:
3136 (i) undergoing nonjudicial adjustments;
3137 (ii) whose case is under the jurisdiction of the juvenile court; and
3138 (iii) in the custody of the division.
3139 (b) The system of responses shall include both sanctions and incentives that:
3140 (i) are swift and certain;
3141 (ii) include a continuum of community based responses for minors living at home;
3142 (iii) target a minor's criminogenic risks and needs, as determined by the results of a
3143 validated risk and needs assessment under Section 80-6-606, and the severity of the violation;
3144 and
3145 (iv) authorize earned discharge credits as one incentive for compliance.
3146 (c) After considering the ~~[juvenile disposition guidelines established by the Sentencing~~
3147 ~~Commission, in accordance with Section 63M-7-404]~~ juvenile disposition guidelines, as
3148 defined in Section 63M-7-404.1, the system of appropriate responses under Subsections (2)(a)
3149 and (b) shall be developed.
3150 (3) (a) A response to compliant or noncompliant behavior under Subsection (2) shall be
3151 documented in the minor's case plan.
3152 (b) Documentation under Subsection (3)(a) shall include:
3153 (i) positive behaviors and incentives offered;
3154 (ii) violations and corresponding sanctions; and
3155 (iii) whether the minor has a subsequent violation after a sanction.
3156 (4) Before referring a minor to a juvenile court for judicial review, or to the authority if
3157 the minor is under the jurisdiction of the authority, in response to a contempt filing under
3158 Section 78A-6-353 or an order to show cause, a pattern of appropriate responses shall be

3159 documented in the minor's case plan in accordance with Subsections (3)(a) and (b) .

3160 (5) Notwithstanding Subsection (4), if a minor violates a protective order or an ex parte
3161 protective order listed in Section [78B-7-803](#), the violation may be filed directly with the
3162 juvenile court.

3163 Section 45. **Repealer.**

3164 This bill repeals:

3165 Section [63M-7-403](#), **Vacancies.**

3166 Section [63M-7-404](#), **Purpose -- Duties.**

3167 Section 46. **Effective date.**

3168 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

3169 (2) The actions affecting Section [58-37-8](#) (Effective 07/01/24) take effect on July 1,
3170 2024.