

Senator Kirk A. Cullimore proposes the following substitute bill:

CRIMINAL JUSTICE MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Utah Sentencing Commission to establish supervision guidelines regarding responses to progress in, and violations of, probation and parole;
- ▶ requires the Utah Sentencing Commission to establish sentencing guidelines to address habitual offenders;
- ▶ 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;
- ▶ 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 occurred;
- ▶ modifies the crime of unlawful adolescent sexual activity to include an actor who is



- 26 18 years old and enrolled in high school at the time the sexual activity occurred;
- 27 ▶ addresses the sentencing of an individual who has been previously convicted of
- 28 felony offenses;
- 29 ▶ modifies the continuing jurisdiction of the sentencing court;
- 30 ▶ addresses pretrial detention of certain individuals who have committed a felony
- 31 offense;
- 32 ▶ modifies the requirements for a magistrate or judge when ordering pretrial release;
- 33 ▶ addresses the means by which the Board of Pardons and Parole notifies a victim of
- 34 any hearing or decision;
- 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 coordination clauses.

48 **Utah Code Sections Affected:**

49 AMENDS:

50 **63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155,
51 212, 218, 249, 270, 448, 489, and 534

52 **63M-7-303**, as last amended by Laws of Utah 2023, Chapters 266, 330 and 534 and last
53 amended by Coordination Clause, Laws of Utah 2023, Chapter 330

54 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

55 **64-13-21**, as last amended by Laws of Utah 2022, Chapter 187

56 **76-5-401**, as last amended by Laws of Utah 2023, Chapter 123

- 57 [76-5-401.3](#), as last amended by Laws of Utah 2023, Chapters 123, 161
- 58 [77-18-102](#), as last amended by Laws of Utah 2023, Chapter 330
- 59 [77-18-103](#), as last amended by Laws of Utah 2023, Chapter 155
- 60 [77-18-118](#), as last amended by Laws of Utah 2022, Chapter 359
- 61 [77-20-205](#), as last amended by Laws of Utah 2023, Chapters 408, 447
- 62 [77-27-9.5](#), as last amended by Laws of Utah 1998, Chapter 355
- 63 [77-27-9.7](#), as last amended by Laws of Utah 1994, Chapter 13
- 64 [77-27-13](#), as last amended by Laws of Utah 1998, Chapter 171
- 65 [77-36-2.1](#), as last amended by Laws of Utah 2023, Chapters 138, 447
- 66 [78A-5-201](#), as last amended by Laws of Utah 2023, Chapter 330
- 67 [78B-9-102](#), as last amended by Laws of Utah 2017, Chapter 450

68 ENACTS:

- 69 [76-3-411](#), Utah Code Annotated 1953

70 **Utah Code Sections Affected By Coordination Clause:**

- 71 [63M-7-404](#), as last amended by Laws of Utah 2023, Chapter 111
- 72 [76-5-401.3](#), as last amended by Laws of Utah 2023, Chapters 123, 161



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

75 Section 1. Section **63I-1-263** is amended to read:

76 **63I-1-263. Repeal dates: Titles 63A to 63N.**

- 77 (1) Subsection [63A-5b-405\(5\)](#), relating to prioritizing and allocating capital
- 78 improvement funding, is repealed July 1, 2024.
- 79 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,
- 80 2023.
- 81 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review
- 82 Committee, are repealed July 1, 2023.
- 83 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
- 84 1, 2028.
- 85 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
- 86 2025.
- 87 (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,

88 2024.

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

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

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

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

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

97 (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December
98 31, 2024.

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

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

103 (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
104 2028.

105 (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
106 2024.

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

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

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

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

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

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

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

119 "commission";

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

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

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

123 "(2) The commission shall:

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

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

128 (22) The Crime Victim Reparations and Assistance Board, created in Section
129 [63M-7-504](#), is repealed July 1, 2027.

130 (23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1,
131 2026.

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

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

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

136 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
137 1, 2028.

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

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

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

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

145 (b) Subsection [63N-4-805](#)(5)(b), referring to the Rural Employment Expansion
146 Program, is repealed.

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

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

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

150 repealed and replaced with "Utah Office of Tourism";

151 (c) Subsection 63N-7-101(1), which defines "board," is repealed;

152 (d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive
153 approval from the Board of Tourism Development, is repealed; and

154 (e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

155 (32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic
156 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed
157 on July 1, 2024.

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

159 **63M-7-303. Duties of council.**

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

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

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

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

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

169 (e) coordinate recommendations made by any committee created under Section
170 63M-7-302;

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

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

175 (h) comply with Section 32B-2-306;

176 (i) oversee coordination for the funding, implementation, and evaluation of suicide
177 prevention efforts described in Section 26B-5-611;

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

180 (k) regarding the interaction between an individual with a mental illness or an

181 intellectual disability and the civil commitment system, criminal justice system, or juvenile
182 justice system:

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

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

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

188 (iv) promote judicial education;

189 (1) study the long-term need for adult patient staffed beds at the state hospital,
190 including:

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

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

193 (iii) the projected total number of staffed beds needed in the adult general psychiatric
194 unit of the state hospital over the next three, five, and 10 years based on:

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

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

197 (C) any other factors the council finds relevant to projecting the total number of staffed
198 beds; and

199 (iv) the cost associated with the projected total number of staffed beds described in
200 Subsection (1)(l)(iii); and

201 (m) each year report on whether the pay of the state hospital's employees is adequate
202 based on market conditions.

203 (2) The council shall meet quarterly or more frequently as determined necessary by the
204 chair.

205 (3) The council shall report:

206 (a) with the assistance and staff support from the state hospital, regarding the items
207 described in Subsections (1)(l) and (m), including any recommendations, to the Health and
208 Human Services Interim Committee before October 1 of each year; and

209 (b) any other recommendations annually to the commission, the governor, the
210 Legislature, and the Judicial Council.

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

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

213 **63M-7-404. Purpose -- Duties.**

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

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

217 (i) respond to public comment;

218 (ii) relate sentencing practices and correctional resources;

219 (iii) increase equity in criminal sentencing;

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

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

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

224 (i) increase equity in criminal supervision lengths;

225 (ii) respond to public comment;

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

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

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

230 (vi) enhance the discretion of the sentencing judges while preserving the role of the
231 Board of Pardons and Parole; and

232 (c) appropriate, evidence-based probation and parole supervision policies and services
233 that assist individuals in successfully completing supervision and reduce incarceration rates
234 from community supervision programs while ensuring public safety, including:

235 (i) treatment and intervention completion determinations based on individualized case
236 action plans;

237 (ii) measured and consistent processes for addressing violations of conditions of
238 supervision;

239 (iii) processes that include using positive reinforcement to recognize an individual's
240 progress in supervision;

241 (iv) engaging with social services agencies and other stakeholders who provide
242 services that meet offender needs; and

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

245 (2) (a) The commission shall modify the sentencing guidelines and supervision length
246 guidelines for adult offenders to implement the recommendations of the State Commission on
247 Criminal and Juvenile Justice for reducing recidivism.

248 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting
249 the public and ensuring efficient use of state funds.

250 (3) (a) The commission shall modify the criminal history score in the sentencing
251 guidelines for adult offenders to implement the recommendations of the State Commission on
252 Criminal and Juvenile Justice for reducing recidivism.

253 (b) The modifications to the criminal history score under Subsection (3)(a) shall
254 include factors in an offender's criminal history that are relevant to the accurate determination
255 of an individual's risk of offending again.

256 (4) (a) The commission shall establish sentencing guidelines for periods of
257 incarceration for individuals who are on probation and:

258 (i) who have violated one or more conditions of probation; and

259 (ii) whose probation has been revoked by the court.

260 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that
261 a court consider:

262 (i) the seriousness of any violation of the condition of probation;

263 (ii) the probationer's conduct while on probation; and

264 (iii) the probationer's criminal history.

265 (5) (a) The commission shall establish sentencing guidelines for periods of
266 incarceration for individuals who are on parole and:

267 (i) who have violated a condition of parole; and

268 (ii) whose parole has been revoked by the Board of Pardons and Parole.

269 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
270 the Board of Pardons and Parole consider:

271 (i) the seriousness of any violation of the condition of parole;

272 (ii) the individual's conduct while on parole; and

273 (iii) the individual's criminal history.

274 (6) The commission shall establish graduated and evidence-based processes to
275 facilitate the prompt and effective response to an individual's progress in or violation of the
276 terms of probation or parole by the adult probation and parole section of the Department of
277 Corrections, or other supervision services provider, to implement the recommendations of the
278 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,
279 including:

280 (a) responses to be used when an individual violates a condition of probation or parole;

281 (b) responses to recognize positive behavior and progress related to an individual's case
282 action plan;

283 (c) when a violation of a condition of probation or parole should be reported to the
284 court or the Board of Pardons and Parole; and

285 (d) a range of sanctions that may not exceed a period of incarceration of more than:

286 (i) three consecutive days; and

287 (ii) a total of five days in a period of 30 days.

288 (7) The commission shall establish graduated incentives to facilitate a prompt and
289 effective response by the adult probation and parole section of the Department of Corrections
290 to an offender's:

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

292 (b) positive conduct that exceeds those terms.

293 (8) (a) Subject to Subsection (8)(b), the commission shall establish guidelines that
294 categorize a violation of a condition of parole or probation as low, medium, and high based on
295 the nature of the violation.

296 (b) The guidelines under Subsection (8)(a) shall categorize the following supervision
297 violations as a high violation:

298 (i) the commission of a felony offense, a misdemeanor offense described in Title 76,
299 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the
300 influence described in Section [41-6a-502](#);

301 (ii) the possession of a dangerous weapon; or

302 (iii) the refusal to comply with the requirements for treatment imposed by the court or
303 the Board of Pardons and Parole.

304 (c) The guidelines under Subsection (8)(a) shall include the following responses for a

305 violation of a condition of parole or probation described in Subsection (6)(a) that is a high
306 violation:

307 (i) a hearing before the court or the Board of Pardons and Parole; or

308 (ii) except as provided in Subsections 77-18-108(4)(b) and 77-27-11(6)(c), a period of
309 incarceration that does not exceed a period of more than:

310 (A) three consecutive days; and

311 (B) a total of five days in a period of 30 days.

312 (9) (a) Subject to Subsection (9)(b), the commission shall establish guidelines that
313 categorize positive behavior and progress for offenders on parole or probation as low, medium,
314 and high based on the nature of the accomplishment.

315 (b) The guidelines under Subsection (9)(a) shall categorize the completion of all
316 conditions of parole or probation as a high accomplishment.

317 (c) The guidelines under Subsection (9)(a) shall include the following responses for
318 positive behavior and progress for offenders on parole or probation described in Subsections
319 (6)(b) and (7)(b) that is a high accomplishment:

320 (i) early termination from probation or parole;

321 (ii) a reduction of the offense for which the offender was convicted, as described in
322 Section 76-3-402; or

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

324 [(8)] (10) (a) The commission shall establish guidelines, including sanctions and
325 incentives, to appropriately respond to negative and positive behavior of juveniles who are:

326 (i) nonjudicially adjusted;

327 (ii) placed on diversion;

328 (iii) placed on probation;

329 (iv) placed on community supervision;

330 (v) placed in an out-of-home placement; or

331 (vi) placed in a secure care facility.

332 (b) In establishing guidelines under this Subsection [(8)] (10), the commission shall
333 consider:

334 (i) the seriousness of the negative and positive behavior;

335 (ii) the juvenile's conduct post-adjudication; and

336 (iii) the delinquency history of the juvenile.
337 (c) The guidelines shall include:
338 (i) responses that are swift and certain;
339 (ii) a continuum of community-based options for juveniles living at home;
340 (iii) responses that target the individual's criminogenic risk and needs; and
341 (iv) incentives for compliance, including earned discharge credits.
342 [~~9~~] (11) The commission shall establish and maintain supervision length guidelines in
343 accordance with this section.
344 [~~10~~] (12) (a) The commission shall create sentencing guidelines and supervision
345 length guidelines for the following financial and property offenses for which a pecuniary loss
346 to a victim may exceed \$50,000:
347 (i) securities fraud, Sections 61-1-1 and 61-1-21;
348 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
349 adviser representative, Sections 61-1-3 and 61-1-21;
350 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
351 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
352 Assault and Related Offenses;
353 (v) arson, Section 76-6-102;
354 (vi) burglary, Section 76-6-202;
355 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
356 (viii) forgery, Section 76-6-501;
357 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
358 (x) insurance fraud, Section 76-6-521;
359 (xi) computer crimes, Section 76-6-703;
360 (xii) mortgage fraud, Section 76-6-1203;
361 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
362 (xiv) communications fraud, Section 76-10-1801;
363 (xv) money laundering, Section 76-10-1904; and
364 (xvi) other offenses in the discretion of the commission.
365 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix
366 with proportionate escalating sanctions based on the amount of a victim's loss.

367 (c) On or before August 1, 2022, the commission shall publish for public comment the
368 guidelines described in Subsection ~~[(10)(a)]~~ (12)(a).

369 ~~[(11)]~~ (13) (a) Before January 1, 2023, the commission shall study the offenses of
370 sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections
371 [76-5b-201](#) and [76-5b-201.1](#).

372 (b) The commission shall update sentencing and release guidelines and juvenile
373 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
374 ~~[(11)(a)]~~ (13)(a), including the application of aggravating and mitigating factors specific to the
375 offense.

376 (14) The commission shall establish guidelines that recommend an enhanced sentence
377 that a court or the Board of Pardons and Parole should consider when determining the period
378 in which a habitual offender, as defined in Section [77-18-102](#), will be incarcerated.

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

380 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
381 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
382 **fee.**

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

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

391 (c) The department shall establish standards for:

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

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

397 (2) The department shall apply the graduated and evidence-based responses established

398 by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an
399 individual's violation of the terms of probation or parole, including:

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

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

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

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

410 (b) positive conduct that exceeds those terms.

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

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

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

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

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

425 (c) supervising any offender during transportation; or

426 (d) collecting DNA specimens when the specimens are required under Section
427 [53-10-404](#).

428 (6) (a) (i) A monthly supervision fee of \$30 shall be collected from each offender on

429 probation or parole.

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

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

436 (ii) In determining whether the imposition of the supervision fee would constitute a
437 substantial hardship, the department shall consider the financial resources of the offender and
438 the burden that the fee would impose, with regard to the offender's other obligations.

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

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

448 (b) (i) For offenders placed on probation under Section 77-18-105 or parole under
449 Section 76-3-202 on or after October 1, 2024, the department shall establish a program on and
450 after July 1, 2026, allowing an offender to earn a reduction credit of 15 days from the offender's
451 period of probation or parole for each month that the offender:

452 (A) maintains stable and verifiable employment; and

453 (B) complies with the terms of the offender's probation or parole agreement.

454 (ii) The department is not required to grant an offender a reduction credit under
455 Subsection (7)(b)(i) if the department finds that:

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

457 (B) applying the reduction credit would prevent an offender from completing risk
458 reduction programming or treatment.

459 (c) The department shall:

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

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

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

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

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

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

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

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

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

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

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

484 Section 5. Section **76-3-411** is enacted to read:

485 **76-3-411. Modifying a sentence -- Factors for modification.**

486 (1) As used in this section:

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

489 (b) "Rehabilitation program" means the same as that term is defined in Section
490 [76-3-402](#).

491 (2) On and after July 1, 2025, a prosecuting attorney may bring a petition in the
492 sentencing court seeking to modify the sentence of an offender.

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

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

498 (a) the sentencing court shall consider:

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

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

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

503 (b) the sentencing court may consider:

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

506 (ii) the offender's criminal history;

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

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

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

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

513 (vii) any other circumstances that are reasonably related to the offender or the offense.

514 (5) The prosecuting attorney has the burden to provide evidence sufficient to
515 demonstrate that an offender's sentence should be modified in the interest of justice.

516 (6) A sentencing court may not modify a sentence under this section unless:

517 (a) the offender is notified of the motion to modify;

518 (b) the prosecuting attorney has made reasonable efforts to notify any victim of the
519 offense;

520 (c) a hearing is held if a hearing is requested by the prosecuting attorney or the
521 offender; and

522 (d) any victim has been given an opportunity to submit a written or oral statement to
523 the court.

524 (7) A court may not modify a sentence under this section for:

525 (a) an individual who is on parole; or

526 (b) an offense described in Section [76-3-406](#).

527 (8) This section does not require a sentencing court to modify an offender's sentence.

528 Section 6. Section **76-5-401** is amended to read:

529 **76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
530 **raised by defendant -- Limitations.**

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

534 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

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

537 (i) has sexual intercourse with the minor;

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

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

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

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

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

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

552 (B) the defendant is 18 years old and enrolled in high school at the time the sexual

553 activity occurred.

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

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

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

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

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

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

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

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

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

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

568 Section 7. Section 76-5-401.3 is amended to read:

569 **76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

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

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

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

576 (a) the actor:

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

578 [~~(b)~~] (ii) has sexual activity with [another] the adolescent[;]; or

579 (b) the actor:

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

581 (ii) is 18 years old and is enrolled in high school at the time the sexual activity

582 occurred.

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

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

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

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

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

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

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

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

598 ~~[(h)]~~ (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful
599 adolescent sexual activity with an adolescent who is 13 years old.

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

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

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

603 (b) rape of a child, in violation of Section 76-5-402.1;

604 (c) object rape, in violation of Section 76-5-402.2;

605 (d) object rape of a child, in violation of Section 76-5-402.3;

606 (e) forcible sodomy, in violation of Section 76-5-403;

607 (f) sodomy on a child, in violation of Section 76-5-403.1;

608 (g) sexual abuse of a child, in violation of Section 76-5-404;

609 (h) aggravated sexual assault, in violation of Section 76-5-405;

610 (i) incest, in violation of Section 76-7-102; or

611 (j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

612 (5) An offense under this section is not eligible for a nonjudicial adjustment under
613 Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

614 (6) Except for an offense that is transferred to a district court by the juvenile court in

615 accordance with Section 80-6-504, the district court may enter any sentence or combination of
616 sentences that would have been available in juvenile court but for the delayed reporting or
617 delayed filing of the information in the district court.

618 (7) An offense under this section is not subject to registration under Subsection
619 77-41-102(18).

620 Section 8. Section 77-18-102 is amended to read:

621 **77-18-102. Definitions.**

622 As used in this chapter:

623 (1) "Assessment" means, except as provided in Section 77-18-104, the same as the
624 term "risk and needs assessment" in Section 77-1-3.

625 (2) "Board" means the Board of Pardons and Parole.

626 (3) "Civil accounts receivable" means the same as that term is defined in Section
627 77-32b-102.

628 (4) "Civil judgment of restitution" means the same as that term is defined in Section
629 77-32b-102.

630 (5) "Convicted" means the same as that term is defined in Section 76-3-201.

631 (6) "Criminal accounts receivable" means the same as that term is defined in Section
632 77-32b-102.

633 (7) "Default" means the same as that term is defined in Section 77-32b-102.

634 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

635 (9) "Department" means the Department of Corrections created in Section 64-13-2.

636 (10) "Habitual offender" means an individual who has been convicted in:

637 (a) at least six cases for one or more felony offenses in each case; and

638 (b) each case described in Subsection (10)(a) within five years before the day on which

639 the defendant is convicted of the felony offense before the court.

640 ~~[(10)]~~ (11) "Payment schedule" means the same as that term is defined in Section
641 77-32b-102.

642 ~~[(11)]~~ (12) "Restitution" means the same as that term is defined in Section 77-38b-102.

643 ~~[(12)]~~ (13) "Screening" means, except as provided in Section 77-18-104, a tool or
644 questionnaire that is designed to determine whether an individual needs further assessment or
645 any additional resource or referral for treatment.

646 ~~[(13)]~~ (14) "Substance use disorder treatment" means treatment obtained through a
647 substance use disorder program that is licensed by the Office of Licensing within the
648 Department of Health and Human Services.

649 Section 9. Section **77-18-103** is amended to read:

650 **77-18-103. Presentence investigation report -- Classification of presentence**
651 **investigation report -- Evidence or other information at sentencing.**

652 (1) Before the imposition of a sentence, the court may:

653 (a) upon agreement of the defendant, continue the date for the imposition of the
654 sentence for a reasonable period of time for the purpose of obtaining a presentence
655 investigation report from the department or a law enforcement agency, or information from any
656 other source about the defendant; and

657 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
658 department or a law enforcement agency prepare a presentence investigation report for the
659 defendant.

660 (2) (a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense
661 and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the
662 defendant is a habitual offender.

663 (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence
664 for the conviction without ordering and obtaining a presentence investigation report, unless the
665 court finds good cause to proceed with sentencing without the presentence investigation report.

666 ~~[(2)]~~ (3) If a presentence investigation report is required under Subsection (2) or the
667 standards established by the department described in Section **77-18-109**, the presentence
668 investigation report under Subsection (1) shall include:

669 (a) any impact statement provided by a victim as described in Subsection

670 **77-38b-203(3)(c)**;

671 (b) information on restitution as described in Subsections **77-38b-203(3)(a)** and (b);

672 (c) findings from any screening and any assessment of the defendant conducted under
673 Section **77-18-104**;

674 (d) recommendations for treatment for the defendant; and

675 (e) the number of days since the commission of the offense that the defendant has spent
676 in the custody of the jail and the number of days, if any, the defendant was released to a

677 supervised release program or an alternative incarceration program under Section 17-22-5.5.

678 ~~[(3)]~~ (4) The department or law enforcement agency shall provide the presentence
679 investigation report to the defendant's attorney, or the defendant if the defendant is not
680 represented by counsel, the prosecuting attorney, and the court for review within three working
681 days before the day on which the defendant is sentenced.

682 ~~[(4)]~~ (5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report
683 that is not resolved by the parties and the department or law enforcement agency before
684 sentencing:

685 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing;
686 and

687 (B) the court may grant an additional 10 working days after the day on which the
688 alleged inaccuracy is brought to the court's attention to allow the parties and the department to
689 resolve the alleged inaccuracy in the presentence investigation report.

690 (ii) If the court does not grant additional time under Subsection ~~[(4)(a)(i)(B)]~~
691 ~~(5)(a)(i)(B)~~, or the alleged inaccuracy cannot be resolved after 10 working days, and if the court
692 finds that there is an inaccuracy in the presentence investigation report, the court shall:

693 (A) enter a written finding as to the relevance and accuracy of the challenged portion of
694 the presentence investigation report; and

695 (B) provide the written finding to the ~~[Division of Adult Probation and Parole]~~
696 department or the law enforcement agency.

697 (b) The ~~[Division of Adult Probation and Parole]~~ department shall attach the written
698 finding to the presentence investigation report as an addendum.

699 (c) If a party fails to challenge the accuracy of the presentence investigation report at
700 the time of sentencing, the matter shall be considered waived.

701 ~~[(5)]~~ (6) The contents of the presentence investigation report are protected and not
702 available except by court order for purposes of sentencing as provided by rule of the Judicial
703 Council or for use by the department or law enforcement agency.

704 ~~[(6)]~~ (7) (a) A presentence investigation report is classified as protected in accordance
705 with Title 63G, Chapter 2, Government Records Access and Management Act.

706 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee
707 may not order the disclosure of a presentence investigation report.

708 [~~(7)~~] (8) Except for disclosure at the time of sentencing in accordance with this section,
709 the department or law enforcement agency may disclose a presentence investigation only when:

- 710 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
711 (b) requested by a law enforcement agency or other agency approved by the department
712 for purposes of supervision, confinement, and treatment of a defendant;
713 (c) requested by the board;
714 (d) requested by the subject of the presentence investigation report or the subject's
715 authorized representative;

716 (e) requested by the victim of the offense discussed in the presentence investigation
717 report, or the victim's authorized representative, if the disclosure is only information relating
718 to:

- 719 (i) statements or materials provided by the victim;
720 (ii) the circumstances of the offense, including statements by the defendant; or
721 (iii) the impact of the offense on the victim or the victim's household; or
722 (f) requested by a sex offender treatment provider:
723 (i) who is certified to provide treatment under the certification program established in
724 Subsection 64-13-25(2);
725 (ii) who is providing, at the time of the request, sex offender treatment to the offender
726 who is the subject of the presentence investigation report; and
727 (iii) who provides written assurance to the department that the report:
728 (A) is necessary for the treatment of the defendant;
729 (B) will be used solely for the treatment of the defendant; and
730 (C) will not be disclosed to an individual or entity other than the defendant.

731 [~~(8)~~] (9) (a) At the time of sentence, the court shall receive any testimony, evidence, or
732 information that the defendant or the prosecuting attorney desires to present concerning the
733 appropriate sentence.

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

736 Section 10. Section **77-18-118** is amended to read:

737 **77-18-118. Continuing jurisdiction of a sentencing court.**

738 (1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

- 739 (a) if the defendant is on probation as described in Subsection 77-18-105(3)(c);
- 740 (b) if the defendant is on probation and the probation period has terminated under
- 741 Subsection 77-18-105(7), to require the defendant to continue to make payments towards a
- 742 criminal accounts receivable until the defendant's sentence expires;
- 743 (c) within the time periods described in Subsection 77-38b-205(5), to enter or modify
- 744 an order for a criminal accounts receivable in accordance with Section 77-32b-103;
- 745 (d) within the time periods described in Subsection 77-38b-205(5), to enter or modify
- 746 an order for restitution in accordance with Section 77-38b-205;
- 747 (e) until a defendant's sentence is terminated, to correct an error for a criminal accounts
- 748 receivable in accordance with Subsection 77-32b-105(1)(a);
- 749 (f) until a defendant's sentence is terminated, to modify a payment schedule for a
- 750 criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);
- 751 (g) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within
- 752 90 days from the day on which the defendant's sentence is terminated, to determine whether to
- 753 remit, in whole or in part, the defendant's criminal accounts receivable; [~~and~~]
- 754 (h) to enter an order for a civil accounts receivable and a civil judgment of restitution
- 755 in accordance with Section 77-18-114[-]; and
- 756 (i) to modify a sentence upon a petition by a prosecuting attorney as described in
- 757 Section 76-3-411.
- 758 (2) This section does not prevent a court from exercising jurisdiction over:
- 759 (a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3,
- 760 Contempt; or
- 761 (b) enforcement of a civil accounts receivable or a civil judgment of restitution.
- 762 Section 11. Section 77-20-205 is amended to read:
- 763 **77-20-205. Pretrial release by a magistrate or judge.**
- 764 (1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable
- 765 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure,
- 766 the magistrate shall issue a temporary pretrial status order that:
- 767 (i) releases the individual on the individual's own recognizance during the time the
- 768 individual awaits trial or other resolution of criminal charges;
- 769 (ii) designates a condition, or a combination of conditions, to be imposed upon the

770 individual's release during the time the individual awaits trial or other resolution of criminal
771 charges; or

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

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

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

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

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

784 (i) there is probable cause to support the individual's arrest for the felony offense;

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

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

787 (B) the individual was released and awaiting trial on a previous charge for a felony
788 offense; and

789 (iii) based on information reasonably available to the magistrate, the individual has at
790 least nine cases where the individual has been charged or convicted, or entered a plea of guilty,
791 within five years from the day on which the individual was arrested for the felony offense
792 described in Subsection (1)(c)(i).

793 (d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an
794 individual who does not meet the requirements described in Subsection (1)(c).

795 (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
796 pretrial status order at an individual's first appearance before the court.

797 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
798 individual's first appearance before the court:

799 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
800 pretrial detention as described in Section [77-20-206](#);

801 (ii) if a party requests a delay; or

802 (iii) if there is good cause to delay the issuance.

803 (c) If a magistrate or judge delays the issuance of a pretrial status order under

804 Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until

805 the issuance of a pretrial status order.

806 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order

807 shall:

808 (i) release the individual on the individual's own recognizance during the time the

809 individual awaits trial or other resolution of criminal charges;

810 (ii) designate a condition, or a combination of conditions, to be imposed upon the

811 individual's release during the time the individual awaits trial or other resolution of criminal

812 charges; or

813 (iii) order the individual to be detained during the time that individual awaits trial or

814 other resolution of criminal charges.

815 (b) In making a determination about pretrial release in a pretrial status order, the

816 magistrate or judge may not give any deference to a magistrate's decision in a temporary

817 pretrial status order.

818 (4) In making a determination about pretrial release, a magistrate or judge shall

819 impose:

820 (a) only conditions of release that are reasonably available [~~and necessary to reasonably~~

821 ~~ensure~~]; and

822 (b) conditions of release that ensure:

823 ~~(a)~~ (i) the individual's appearance in court when required;

824 ~~(b)~~ (ii) the safety of any witnesses or victims of the offense allegedly committed by

825 the individual;

826 ~~(c)~~ (iii) the safety and welfare of the public; and

827 ~~(d)~~ (iv) that the individual will not obstruct, or attempt to obstruct, the criminal

828 justice process.

829 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a

830 condition, or combination of conditions, for pretrial release that requires an individual to:

831 (a) not commit a federal, state, or local offense during the period of pretrial release;

- 832 (b) avoid contact with a victim of the alleged offense;
- 833 (c) avoid contact with a witness who:
 - 834 (i) may testify concerning the alleged offense; and
 - 835 (ii) is named in the pretrial status order;
- 836 (d) not consume alcohol or any narcotic drug or other controlled substance unless
837 prescribed by a licensed medical practitioner;
- 838 (e) submit to drug or alcohol testing;
- 839 (f) complete a substance abuse evaluation and comply with any recommended
840 treatment or release program;
- 841 (g) submit to electronic monitoring or location device tracking;
- 842 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
843 psychiatric treatment;
 - 844 (i) maintain employment or actively seek employment if unemployed;
 - 845 (j) maintain or commence an education program;
 - 846 (k) comply with limitations on where the individual is allowed to be located or the
847 times that the individual shall be, or may not be, at a specified location;
 - 848 (l) comply with specified restrictions on personal associations, place of residence, or
849 travel;
 - 850 (m) report to a law enforcement agency, pretrial services program, or other designated
851 agency at a specified frequency or on specified dates;
 - 852 (n) comply with a specified curfew;
 - 853 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
 - 854 (p) if the individual is charged with an offense against a child, limit or prohibit access
855 to any location or occupation where children are located, including any residence where
856 children are on the premises, activities where children are involved, locations where children
857 congregate, or where a reasonable person would know that children congregate;
 - 858 (q) comply with requirements for house arrest;
 - 859 (r) return to custody for a specified period of time following release for employment,
860 schooling, or other limited purposes;
 - 861 (s) remain in custody of one or more designated individuals who agree to:
 - 862 (i) supervise and report on the behavior and activities of the individual; and

863 (ii) encourage compliance with all court orders and attendance at all required court
864 proceedings;

865 (t) comply with a financial condition; or

866 (u) comply with any other condition that is reasonably available and necessary to
867 ensure compliance with Subsection (4).

868 (6) (a) If a county or municipality has established a pretrial services program, the
869 magistrate or judge shall consider the services that the county or municipality has identified as
870 available in determining what conditions of release to impose.

871 (b) The magistrate or judge may not order conditions of release that would require the
872 county or municipality to provide services that are not currently available from the county or
873 municipality.

874 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions
875 of release not identified by the county or municipality so long as the condition does not require
876 assistance or resources from the county or municipality.

877 (7) (a) If the magistrate or judge determines that a financial condition, other than an
878 unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall
879 consider the individual's ability to pay when determining the amount of the financial condition.

880 (b) If the magistrate or judge determines that a financial condition is necessary to
881 impose as a condition of release, and a county jail official fixed a financial condition for the
882 individual under Section 77-20-204, the magistrate or judge may not give any deference to:

883 (i) the county jail official's action to fix a financial condition; or

884 (ii) the amount of the financial condition that the individual was required to pay for
885 pretrial release.

886 (c) If a magistrate or judge orders a financial condition as a condition of release, the
887 judge or magistrate shall set the financial condition at a single amount per case.

888 (8) In making a determination about pretrial release, the magistrate or judge may:

889 (a) rely upon information contained in:

890 (i) the indictment or information;

891 (ii) any sworn or probable cause statement or other information provided by law
892 enforcement;

893 (iii) a pretrial risk assessment;

- 894 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 895 (v) witness statements or testimony;
- 896 (vi) the results of a lethality assessment completed in accordance with Section
- 897 77-36-2.1; or
- 898 (vii) any other reliable record or source, including proffered evidence; and
- 899 (b) consider:
 - 900 (i) the nature and circumstances of the offense, or offenses, that the individual was
 - 901 arrested for, or charged with, including:
 - 902 (A) whether the offense is a violent offense; and
 - 903 (B) the vulnerability of a witness or alleged victim;
 - 904 (ii) the nature and circumstances of the individual, including the individual's:
 - 905 (A) character;
 - 906 (B) physical and mental health;
 - 907 (C) family and community ties;
 - 908 (D) employment status or history;
 - 909 (E) financial resources;
 - 910 (F) past criminal conduct;
 - 911 (G) history of drug or alcohol abuse; and
 - 912 (H) history of timely appearances at required court proceedings;
 - 913 (iii) the potential danger to another individual, or individuals, posed by the release of
 - 914 the individual;
 - 915 (iv) whether the individual was on probation, parole, or release pending an upcoming
 - 916 court proceeding at the time the individual allegedly committed the offense or offenses;
 - 917 (v) the availability of:
 - 918 (A) other individuals who agree to assist the individual in attending court when
 - 919 required; or
 - 920 (B) supervision of the individual in the individual's community;
 - 921 (vi) the eligibility and willingness of the individual to participate in various treatment
 - 922 programs, including drug treatment; or
 - 923 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
 - 924 law if released.

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

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

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

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

933 Section 12. Section [77-27-9.5](#) is amended to read:

934 **[77-27-9.5. Victim may attend hearings.](#)**

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

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

940 (b) (i) The victim may not attend a redetermination or special attention hearing~~[;]~~ if the
941 offender is not present.

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

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

947 (b) The notice shall include:

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

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

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

951 (iv) the address and telephone number of an office or person the victim may contact for
952 further explanation of the procedure regarding victim participation in the hearing; and

953 (v) specific information about how, when, and where the victim may obtain the results
954 of the hearing.

955 (c) The board may notify a victim through the board's website or through the mail or

956 other electronic means available to the board.

957 (d) If the victim requests that a notification occur using a specific method offered by
958 the board, the board shall make reasonable efforts to accommodate that request.

959 ~~[(c)]~~ (e) If the victim is ~~[dead]~~ deceased, or the board is otherwise unable to contact the
960 victim, the board shall make reasonable efforts to notify the victim's immediate family of the
961 hearing.

962 ~~[(d)]~~ (f) The victim may communicate with the board for consideration of continuance
963 of the hearing if travel or other significant conflict prohibits ~~[their]~~ the victim's attendance at
964 the hearing.

965 (4) The victim, or family members if the victim is deceased or unable to attend due to
966 physical incapacity, may:

967 (a) attend the hearing to observe;

968 (b) make a statement to the board, or ~~[its appointed examiner either]~~ the board's
969 appointed examiner, in person or through a representative appointed by the victim or ~~[his]~~ the
970 victim's family; and

971 (c) remain present for the hearing if ~~[he]~~ the victim appoints another to make a
972 statement on ~~[his]~~ the victim's behalf.

973 (5) The statement may be presented:

974 (a) as a written statement, which may also be read aloud, if the presenter desires; or

975 (b) as an oral statement presented by the person selected under Subsection (4).

976 (6) The victim may be accompanied by a member of his family or another individual,
977 present to provide emotional support to the victim.

978 (7) The victim may, upon request, testify outside the presence of the defendant but a
979 separate hearing may not be held for this purpose.

980 (8) (a) If a victim does not attend a hearing, the victim may provide a written statement
981 that complies with board rules.

982 (b) If the victim does not offer a verbal or written statement at the time of the hearing,
983 the board shall consider any statement from the victim that was previously provided to the
984 board.

985 (c) The board may not afford a written statement provided by a victim less weight than
986 a verbal statement solely because the statement is written.

987 Section 13. Section ~~77-27-9.7~~ is amended to read:

988 **77-27-9.7. Victim right to notification of release -- Notice by board.**

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

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

996 (b) The board may provide the notification to the victim as described in Subsection
997 77-27-9.5(3)(c).

998 (2) The board may include the notification under Subsection (1) with the notification
999 sent under Subsection 77-27-9.5(3)

1000 (3) The board shall coordinate with the Department of Corrections to ensure notice
1001 under this section is provided to [~~victims~~] a victim.

1002 Section 14. Section ~~77-27-13~~ is amended to read:

1003 **77-27-13. Board of Pardons and Parole -- Duties of the judiciary, the Department**
1004 **of Corrections, and law enforcement -- Removal of material from files.**

1005 (1) The chief executive officer and employees of each penal or correctional institution
1006 shall cooperate fully with the board, permit board members free access to offenders, and
1007 furnish the board with pertinent information regarding an offender's physical, mental, and
1008 social history and his institutional record of behavior, discipline, work, efforts of
1009 self-improvement, and attitude toward society.

1010 (2) (a) The [~~Department of Corrections shall~~] department shall:

1011 (i) furnish any pertinent information [~~it has~~], within the department's possession, to the
1012 board; and [~~shall~~]

1013 (ii) provide a copy of the [~~pre-sentence report~~] presentence report, any available
1014 information within the department's possession concerning the impact a crime may have had
1015 upon the victim or the victim's family, and any other investigative reports to the board.

1016 (b) In all cases where a [~~pre-sentence~~] presentence report has not been completed, the
1017 department shall:

1018 (i) make a [~~post-sentence~~] postsentence report [~~and shall~~]; and
1019 (ii) provide a copy of [it] the postsentence report to the board as soon as possible.
1020 (c) The department shall provide the board, upon request, any additional investigations
1021 or information needed by the board to reach a decision or conduct a hearing.

1022 (3) The department shall make [~~its~~] the department's facilities available to the board to
1023 carry out [~~its~~] the board's functions.

1024 (4) Law enforcement officials responsible for the offender's arrest, conviction, and
1025 sentence shall furnish all pertinent data requested by the board.

1026 [~~(5)(a) In all cases where an indeterminate sentence is imposed, the judge imposing
1027 the sentence may within 30 days from the date of the sentence, mail to the chief executive of
1028 the board a statement in writing setting out the term for which, in his opinion, the offender
1029 sentenced should be imprisoned, and any information he may have regarding the character of
1030 the offender or any mitigating or aggravating circumstances connected with the offense for
1031 which the offender has been convicted. In addition, the prosecutor shall in all cases, within 30
1032 days from the date of sentence, forward in writing to the chief executive of the board a full and
1033 complete description of the crime, a written record of any plea bargain entered into, a statement
1034 of the mitigating or aggravating circumstances or both, all investigative reports, a victim
1035 impact statement referring to physical, mental, or economic loss suffered, and any other
1036 information the prosecutor believes will be relevant to the board. These statements shall be
1037 preserved in the files of the board.]~~

1038 (5) (a) If an indeterminate sentence is imposed in a case, the court shall forward, within
1039 30 days after the day on which the sentence was imposed, to the board:

1040 (i) a record of the judgment and commitment;

1041 (ii) if available and in the court's possession, a victim impact statement referring to any
1042 loss suffered by a victim; and

1043 (iii) any other record that the court believes will be relevant to the board, including a
1044 statement:

1045 (A) proposing the term for which, in the court's opinion, the offender should be
1046 imprisoned;

1047 (B) any information the court may have regarding the character of the offender; and

1048 (C) any mitigating or aggravating circumstances connected with the offense for which

1049 the offender has been convicted.

1050 (b) If the court amends an order for a judgment and commitment, the court shall
 1051 forward the amended order to the board within 30 days after the day on which the amended
 1052 order is entered.

1053 (6) If an indeterminate sentence is imposed in a case and the offender is committed to
 1054 prison, the prosecuting attorney shall forward, in writing and within 30 days after the day on
 1055 which the sentence was imposed, to the board:

1056 (a) a victim impact statement referring to any loss suffered by a victim; and

1057 (b) any other information the prosecuting attorney believes will be relevant to the
 1058 board, including a summary and recommendations related to the case.

1059 ~~[(b)]~~ (7) Notwithstanding Subsection ~~[(5)(a)]~~ (5) or (6), the board may remove from
 1060 [its] the board's files any:

1061 ~~[(i)]~~ (a) statement that [it] the board is not going to rely on in ~~[its decisionmaking]~~ the
 1062 board's decision-making process;

1063 ~~[(ii)]~~ (b) information found to be incorrect by a court, the ~~[Board of Pardons and~~
 1064 Parole] board, or an administrative agency; or

1065 ~~[(iii)]~~ (c) duplicative materials.

1066 ~~[(6)]~~ (8) The chief executive officer of any penal or correctional institution shall permit
 1067 offenders to send mail to the board without censorship.

1068 Section 15. Section **77-36-2.1** is amended to read:

1069 **77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality**
 1070 **assessments.**

1071 (1) ~~[For purposes of]~~ As used in this section:

1072 (a) "Criminal justice system victim advocate" means the same as that term is defined in
 1073 Section [77-38-403](#).

1074 ~~[(a)]~~ (b) (i) "Dating relationship" means a social relationship of a romantic or intimate
 1075 nature, or a relationship which has romance or intimacy as a goal by one or both parties,
 1076 regardless of whether the relationship involves sexual intimacy.

1077 (ii) "Dating relationship" does not include casual fraternization in a business,
 1078 educational, or social context.

1079 ~~[(b)]~~ (c) "Intimate partner" means an emancipated individual under Section [15-2-1](#) or

1080 an individual who is 16 years old or older who:

1081 (i) is or was a spouse of the other party;

1082 (ii) is or was living as if a spouse of the other party;

1083 (iii) has or had one or more children in common with the other party;

1084 (iv) is the biological parent of the other party's unborn child;

1085 (v) is or was in a consensual sexual relationship with the other party; or

1086 (vi) is or was in a dating relationship with the other party.

1087 [~~(c)~~] (d) "Nongovernment organization victim advocate" means the same as that term is

1088 defined in Section 77-38-403.

1089 [~~(d)~~] (e) "Primary purpose domestic violence organization" means a contract provider

1090 of domestic violence services as described in Section 80-2-301.

1091 (2) A law enforcement officer who responds to an allegation of domestic violence

1092 shall:

1093 (a) use all reasonable means to protect the victim and prevent further violence,

1094 including:

1095 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide

1096 for the safety of the victim and any family or household member;

1097 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;

1098 (iii) making arrangements for the victim and any child to obtain emergency housing or

1099 shelter;

1100 (iv) providing protection while the victim removes essential personal effects;

1101 (v) arrange, facilitate, or provide for the victim and any child to obtain medical

1102 treatment; [~~and~~]

1103 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the

1104 rights of victims and of the remedies and services available to victims of domestic violence, in

1105 accordance with Subsection (3); and

1106 (vii) providing the pamphlet created by the department under Section 53-5c-201 to the

1107 victim if the allegation of domestic violence:

1108 (A) includes a threat of violence as described in Section 76-5-107;

1109 (B) results, or would result, in the owner cohabitant becoming a restricted person under

1110 Section 76-10-503; or

- 1111 (C) is accompanied by a completed lethality assessment that demonstrates the
1112 cohabitant is at high risk of being further victimized; and
- 1113 (b) if the allegation of domestic violence is against an intimate partner, complete the
1114 lethality assessment protocols described in this section.
- 1115 (3) (a) A law enforcement officer shall give written notice to the victim in simple
1116 language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7,
1117 Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective
1118 Orders.
- 1119 (b) The written notice shall include:
- 1120 (i) a statement that the forms needed in order to obtain an order for protection are
1121 available from the court clerk's office in the judicial district where the victim resides or is
1122 temporarily domiciled;
- 1123 (ii) a list of shelters, services, and resources available in the appropriate community,
1124 together with telephone numbers, to assist the victim in accessing any needed assistance; and
- 1125 (iii) the information required to be provided to both parties in accordance with
1126 Subsections [78B-7-802](#)(8) and (9) .
- 1127 (4) If a weapon is confiscated under this section, the law enforcement agency shall
1128 return the weapon to the individual from whom the weapon is confiscated if a domestic
1129 violence protective order is not issued or once the domestic violence protective order is
1130 terminated.
- 1131 (5) A law enforcement officer shall complete a lethality assessment form by asking the
1132 victim:
- 1133 (a) if the aggressor has ever used a weapon against the victim or threatened the victim
1134 with a weapon;
- 1135 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 1136 (c) if the victim believes the aggressor will try to kill the victim;
- 1137 (d) if the aggressor has ever tried to choke the victim;
- 1138 (e) if the aggressor has a gun or could easily get a gun;
- 1139 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
1140 activities of the victim;
- 1141 (g) if the victim left or separated from the aggressor after they were living together or

1142 married;

1143 (h) if the aggressor is unemployed;

1144 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

1145 (j) if the victim has a child that the aggressor believes is not the aggressor's biological

1146 child;

1147 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for

1148 the victim; and

1149 (l) if there is anything else that worries the victim about the victim's safety and, if so,

1150 what worries the victim.

1151 (6) A law enforcement officer shall comply with Subsection (7) if:

1152 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a)

1153 through (d);

1154 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but

1155 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

1156 (c) as a result of the victim's response to the question in Subsection (5)(l), the law

1157 enforcement officer believes the victim is in a potentially lethal situation.

1158 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer

1159 shall:

1160 (a) advise the victim of the results of the assessment; [~~and~~]

1161 (b) refer the victim to a nongovernment organization victim advocate at a primary

1162 purpose domestic violence organization[-]; and

1163 (c) refer the victim to a criminal justice system victim advocate if the responding law

1164 enforcement agency has a criminal justice system victim advocate available.

1165 (8) If a victim does not or is unable to provide information to a law enforcement officer

1166 sufficient to allow the law enforcement officer to complete a lethality assessment form, or does

1167 not speak or is unable to speak with a nongovernment organization victim advocate, the law

1168 enforcement officer shall document this information on the lethality assessment form and

1169 submit the information to the Department of Public Safety under Subsection (9).

1170 (9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit

1171 the results of a lethality assessment to the Department of Public Safety while on scene.

1172 (b) If a law enforcement officer is not reasonably able to submit the results of a

1173 lethality assessment while on scene, the law enforcement officer shall submit the results of the
1174 lethality assessment to the Department of Public Safety as soon as practicable.

1175 (c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a
1176 law enforcement officer shall submit the results of a lethality assessment to the Department of
1177 Public Safety using means prescribed by the Department of Public Safety.

1178 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law
1179 enforcement officer shall submit the results of a lethality assessment to the Department of
1180 Public Safety using that reporting mechanism.

1181 (10) The Department of Public Safety shall:

1182 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law
1183 enforcement officer will submit the results of a lethality assessment as required by Subsection
1184 (9);

1185 (b) provide prompt analytical support to a law enforcement officer who submits the
1186 results of a lethality assessment using the reporting mechanism described in Subsection (10)(a);
1187 and

1188 (c) create and maintain a database of lethality assessment data provided under this
1189 section.

1190 (11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the
1191 results of a lethality assessment and any related, relevant analysis provided by the Department
1192 of Public Safety under Subsection (10), with:

1193 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
1194 of Criminal Procedure; and

1195 (ii) an incident report prepared in accordance with Section [77-36-2.2](#).

1196 (b) In a probable cause statement or incident report, a law enforcement officer may not
1197 include information about how or where a victim was referred under Subsection (7)(b).

1198 Section 16. Section **78A-5-201** is amended to read:

1199 **78A-5-201. Creation and expansion of existing drug court programs -- Definition**
1200 **of drug court program -- Criteria for participation in drug court programs -- Reporting**
1201 **requirements.**

1202 (1) There may be created a drug court program in any judicial district that
1203 demonstrates:

- 1204 (a) the need for a drug court program; and
- 1205 (b) the existence of a collaborative strategy between the court, prosecutors, defense
- 1206 counsel, corrections, and substance abuse treatment services to reduce substance abuse by
- 1207 offenders.
- 1208 (2) The collaborative strategy in each drug court program shall:
- 1209 (a) include monitoring and evaluation components to measure program effectiveness;
- 1210 and
- 1211 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:
- 1212 (i) executive director of the Department of Health and Human Services;
- 1213 (ii) executive director of the Department of Corrections; and
- 1214 (iii) state court administrator.
- 1215 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:
- 1216 (i) 87% to the Department of Health and Human Services for testing, treatment, and
- 1217 case management; and
- 1218 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
- 1219 support costs.
- 1220 (b) This provision does not apply to federal block grant funds.
- 1221 (4) A drug court program shall include continuous judicial supervision using a
- 1222 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment
- 1223 services, juvenile court probation, and the Division of Child and Family Services as appropriate
- 1224 to promote public safety, protect participants' due process rights, and integrate substance abuse
- 1225 treatment with justice system case processing.
- 1226 (5) Screening criteria for participation in a drug court program shall include:
- 1227 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or
- 1228 drug-related offense;
- 1229 (b) an agreement to frequent alcohol and other drug testing;
- 1230 (c) participation in one or more substance abuse treatment programs; and
- 1231 (d) an agreement to submit to sanctions for noncompliance with drug court program
- 1232 requirements.
- 1233 (6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for
- 1234 participation in adult criminal drug courts.

1235 (b) ~~[Acceptance]~~ The eligibility requirements described in Subsection (6)(a):
1236 (i) shall require that the acceptance of an offender into a drug court [shall be based] is
1237 based on a risk and needs assessment[~~-, without regard to the nature of the offense.~~] and
1238 targeted at individuals who are high risk and high needs; and
1239 (ii) may not limit participation in a drug court only to individuals convicted of an
1240 offense described in Section [58-37-8](#).

1241 (c) A plea to, conviction of, or adjudication for a felony offense is not required for
1242 participation in a drug court program.

1243 Section 17. Section **78B-9-102** is amended to read:

1244 **78B-9-102. Replacement of prior remedies.**

1245 (1) (a) This chapter establishes the sole remedy for any person who challenges a
1246 conviction or sentence for a criminal offense and who has exhausted all other legal remedies,
1247 including a direct appeal except as provided in Subsection (2). This chapter replaces all prior
1248 remedies for review, including extraordinary or common law writs. Proceedings under this
1249 chapter are civil and are governed by the rules of civil procedure. Procedural provisions for
1250 filing and commencement of a petition are found in Rule 65C, Utah Rules of Civil Procedure.

1251 (b) A court may not enter an order to withdraw, modify, vacate or otherwise set aside a
1252 plea unless it is in conformity with this chapter or Section [77-13-6](#).

1253 (2) This chapter does not apply to:

1254 (a) ~~[habeas corpus petitions that do]~~ a habeas corpus petition that does not challenge a
1255 conviction or sentence for a criminal offense;

1256 (b) ~~[motions]~~ a motion to correct a sentence [pursuant to Rule ~~22(e)~~]; in accordance
1257 with Rule 22(c) of the Utah Rules of Criminal Procedure; [or]

1258 (c) ~~[actions]~~ an action taken by the Board of Pardons and Parole[-]; or

1259 (d) a petition to modify a sentence as described in Section [76-3-411](#).

1260 Section 18. **Effective date.**

1261 This bill takes effect on May 1, 2024.

1262 Section 19. **Coordinating S.B. 213 with H.B. 16.**

1263 If S.B. 213, Criminal Justice Modifications, and H.B. 16, Sexual Offenses

1264 Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Section
1265 [76-5-401.3](#) be amended to read:

1266 "76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

1267 (1) (a) As used in this section, "adolescent" means an individual [~~in the transitional~~
1268 ~~phase of human physical and psychological growth and development between childhood and~~
1269 ~~adulthood~~] who is 12 years old or older[~~;~~] but younger than 18 years old.

1270 (b) Terms defined in Section ~~76-1-101.5~~ apply to this section.

1271 (2) Under circumstances not amounting to an offense listed in Subsection [~~(4)~~](5), an
1272 actor commits unlawful sexual activity if [~~the actor~~]:

1273 [~~(a) is an adolescent; and~~]

1274 [~~(b) has sexual activity with another adolescent.~~]

1275 (a) (i) the actor is 12 years old or older but younger than 18 years old;

1276 (ii) the actor engages in sexual activity with an adolescent;

1277 (iii) the actor is not the biological sibling of the adolescent; and

1278 (iv) both the actor and the adolescent mutually agree to the sexual activity; or

1279 (b) (i) the actor engages in sexual activity with an adolescent who is 13 years old;

1280 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual
1281 activity occurred;

1282 (iii) the actor is not the biological sibling of the adolescent; and

1283 (iv) both the actor and the adolescent mutually agree to the sexual activity.

1284 (3) (a) A violation of Subsection (2) (a) is a:

1285 [~~(a)~~] (i) third degree felony if an actor who is 17 years old engages in unlawful
1286 adolescent sexual activity with an adolescent who is [~~12 or~~] 13 years old;

1287 [~~(b)~~] (ii) third degree felony if an actor who is 16 years old engages in unlawful
1288 adolescent sexual activity with an adolescent who is 12 years old;

1289 [~~(c)~~] (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful
1290 adolescent sexual activity with an adolescent who is 13 years old;

1291 [~~(d)~~] (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in
1292 unlawful adolescent sexual activity with an adolescent who is 12 years old;

1293 [~~(e)~~] (v) class B misdemeanor if an actor who is 17 years old engages in unlawful
1294 adolescent sexual activity with an adolescent who is 14 years old;

1295 [~~(f)~~] (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful
1296 adolescent sexual activity with an adolescent who is 13 years old;

1297 ~~[(g)]~~ (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in
 1298 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and
 1299 ~~[(h)]~~ (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful
 1300 adolescent sexual activity with an adolescent who is 13 years old.

1301 (b) A violation of Subsection (2)(b) is a third degree felony.

1302 (4) The actor and the adolescent do not mutually agree to the sexual activity under
 1303 Subsection (2) if:

1304 (a) the adolescent expresses lack of agreement to the sexual activity through words or
 1305 conduct;

1306 (b) the actor overcomes the adolescent's will through:

1307 (i) threats to the adolescent or any other individual;
 1308 (ii) force;
 1309 (iii) coercion; or
 1310 (iv) enticement;

1311 (c) the actor is able to overcome the adolescent through concealment or by the element
 1312 of surprise;

1313 (d) the actor knows, or reasonably should know, that the adolescent has a mental
 1314 disease or defect, which renders the adolescent unable to:

1315 (i) appraise the nature of the act;
 1316 (ii) resist the act;
 1317 (iii) understand the possible consequences to the adolescent's health or safety; or
 1318 (iv) appraise the nature of the relationship between the actor and the adolescent;

1319 (e) the actor knows that the adolescent participates in the sexual activity because the
 1320 adolescent erroneously believes that the actor is someone else; or

1321 (f) the actor intentionally impaired the power of the adolescent to appraise or control
 1322 the adolescent's conduct by administering any substance without the adolescent's knowledge.

1323 ~~[(4)]~~ (5) The offenses referred to in Subsection (2) are:

1324 ~~(a) rape[, in violation of]~~ under Section [76-5-402](#);

1325 ~~[(b) rape of a child, in violation of Section [76-5-402.1](#);~~

1326 ~~[(c)]~~ (b) object rape[, in violation of] under Section [76-5-402.2](#);

1327 ~~[(d) object rape of a child, in violation of Section [76-5-402.3](#);~~

1328 ~~[(e)]~~ (c) forcible sodomy~~[, in violation of]~~ under Section 76-5-403;
 1329 ~~[(f) sodomy on a child, in violation of Section 76-5-403.1;]~~
 1330 ~~[(g) sexual abuse of a child, in violation of Section 76-5-404;]~~
 1331 ~~[(h)]~~ (d) aggravated sexual assault~~[, in violation of]~~ under Section 76-5-405;
 1332 ~~[(i)]~~ (e) incest~~[, in violation of]~~ under Section 76-7-102; or
 1333 ~~[(j)]~~ (f) an attempt to commit ~~[any]~~ an offense listed in Subsections ~~[(4)(a) through~~
 1334 ~~(4)(i)]~~ (5)(a) through (e).

1335 ~~[(5)]~~ (6) An offense under this section is not eligible for a nonjudicial adjustment under
 1336 Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

1337 ~~[(6)]~~ (7) Except for an offense that is transferred to a district court by the juvenile court
 1338 in accordance with Section 80-6-504, the district court may enter any sentence or combination
 1339 of sentences that would have been available in juvenile court but for the delayed reporting or
 1340 delayed filing of the information in the district court.

1341 ~~[(7)]~~ (8) An offense under this section is not subject to registration under Subsection
 1342 77-41-102(18).".

1343 Section 20. **Coordinating S.B. 213 with H.B. 395 and S.B. 200 if all pass and**
 1344 **become law.**

1345 If S.B. 213, Criminal Justice Modifications, H.B. 395, DUI Offense Amendments, and
 1346 S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, all pass and
 1347 become law, the Legislature intends that:

1348 (1) on May 1, 2024, Section 63M-7-404.3 enacted in S.B. 200 be amended to read:
 1349 "63M-7-404.3. Adult sentencing and supervision length guidelines.

1350 (1) The sentencing commission shall establish and maintain adult sentencing and
 1351 supervision length guidelines regarding:

1352 (a) the sentencing and release of offenders in order to:

1353 (i) respond to public comment;

1354 (ii) relate sentencing practices and correctional resources;

1355 (iii) increase equity in sentencing;

1356 (iv) better define responsibility in sentencing; and

1357 (v) enhance the discretion of the sentencing court while preserving the role of the

1358 Board of Pardons and Parole;

- 1359 (b) the length of supervision of offenders on probation or parole in order to:
1360 (i) respond to public comment;
1361 (ii) increase equity in criminal supervision lengths;
1362 (iii) relate the length of supervision to an offender's progress;
1363 (iv) take into account an offender's risk of offending again;
1364 (v) relate the length of supervision to the amount of time an offender has remained
1365 under supervision in the community; and
1366 (vi) enhance the discretion of the sentencing court while preserving the role of the
1367 Board of Pardons and Parole; and
1368 (c) appropriate, evidence-based probation and parole supervision policies and services
1369 that assist offenders in successfully completing supervision and reduce incarceration rates from
1370 community supervision programs while ensuring public safety, including:
1371 (i) treatment and intervention completion determinations based on individualized case
1372 action plans;
1373 (ii) measured and consistent processes for addressing violations of conditions of
1374 supervision;
1375 (iii) processes that include using positive reinforcement to recognize an offender's
1376 progress in supervision;
1377 (iv) engaging with social services agencies and other stakeholders who provide
1378 services that meet the needs of an offender; and
1379 (v) identifying community violations that may not warrant revocation of probation or
1380 parole.
1381 (2) The sentencing commission shall include guidelines on supervision in the adult
1382 sentencing and supervision guidelines with graduated and evidence-based processes to
1383 facilitate the prompt and effective response to an offender's progress in, or violation of, the
1384 terms of probation or parole by the Department of Corrections, or another supervision services
1385 provider, to reduce recidivism and incarceration, including:
1386 (a) responses used when an offender violates a condition of probation or parole as
1387 described in Subsection (3);
1388 (b) responses to recognize positive behavior and progress related to an offender's case
1389 action plan as described in Subsection (4); and

1390 (c) when a violation of a condition of probation or parole should be reported to the
1391 court or the Board of Pardons and Parole.

1392 (3) (a) Subject to Subsection (3)(b), the sentencing commission shall include
1393 guidelines in the adult sentencing and supervision guidelines that categorize a violation of a
1394 condition of parole or probation as low, medium, and high based on the nature of the violation.

1395 (b) The guidelines under Subsection (3)(a) shall categorize the following supervision
1396 violations as a high violation:

1397 (i) the commission of a felony offense, a misdemeanor offense described in Title 76,
1398 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the
1399 influence described in Section [41-6a-502](#);

1400 (ii) the possession of a dangerous weapon; or

1401 (iii) the refusal to comply with the requirements for treatment imposed by the court or
1402 the Board of Pardons and Parole.

1403 (c) The guidelines under Subsection (3)(a) shall include the following responses to a
1404 violation of a condition of parole or probation as described in Subsection (2)(a) that is a high
1405 violation:

1406 (i) a hearing before the court or the Board of Pardons and Parole; or

1407 (ii) except as provided in Subsections [77-18-108\(4\)\(b\)](#) and [77-27-11\(6\)\(c\)](#), a period of
1408 incarceration that does not exceed a period of more than:

1409 (A) three consecutive days; and

1410 (B) a total of five days in a period of 30 days.

1411 (4) (a) Subject to Subsection (4)(b), the sentencing commission shall include
1412 guidelines in the adult sentencing and supervision guidelines that categorize positive behavior
1413 and progress for offenders on parole or probation as low, medium, and high based on the nature
1414 of the accomplishment.

1415 (b) The guidelines under Subsection (4)(a) shall categorize the completion of all
1416 conditions of parole or probation as a high accomplishment.

1417 (c) The guidelines under Subsection (4)(a) shall include the following responses for
1418 positive behavior and progress for offenders on parole or probation described in Subsections
1419 (2)(b) that is a high accomplishment:

1420 (i) early termination from probation or parole;

1421 (ii) a reduction of the offense for which the offender was convicted, as described in
1422 Section 76-3-402; or
1423 (iii) reduction in the fine for which the offender is required to pay for the offense.
1424 (5) The sentencing commission shall establish guidelines in the adult sentencing and
1425 supervision length guidelines that recommend an enhanced sentence that a court or the Board
1426 of Pardons and Parole should consider when determining the period in which a habitual
1427 offender, as defined in Section 77-18-102, will be incarcerated.
1428 (6) The sentencing commission shall modify:
1429 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1430 purposes of protecting the public and ensuring efficient use of state funds; and
1431 (b) the criminal history score in the adult sentencing and supervision length guidelines
1432 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1433 accurate determination of an individual's risk of offending again."; and
1434 (2) on July 1, 2024, Section 63M-7-404.3 enacted in S.B. 200 be amended to read:
1435 **"63M-7-404.3. Adult sentencing and supervision length guidelines.**
1436 (1) The sentencing commission shall establish and maintain adult sentencing and
1437 supervision length guidelines regarding:
1438 (a) the sentencing and release of offenders in order to:
1439 (i) respond to public comment;
1440 (ii) relate sentencing practices and correctional resources;
1441 (iii) increase equity in sentencing;
1442 (iv) better define responsibility in sentencing; and
1443 (v) enhance the discretion of the sentencing court while preserving the role of the
1444 Board of Pardons and Parole;
1445 (b) the length of supervision of offenders on probation or parole in order to:
1446 (i) respond to public comment;
1447 (ii) increase equity in criminal supervision lengths;
1448 (iii) relate the length of supervision to an offender's progress;
1449 (iv) take into account an offender's risk of offending again;
1450 (v) relate the length of supervision to the amount of time an offender has remained
1451 under supervision in the community; and

1452 (vi) enhance the discretion of the sentencing court while preserving the role of the
1453 Board of Pardons and Parole; and

1454 (c) appropriate, evidence-based probation and parole supervision policies and services
1455 that assist offenders in successfully completing supervision and reduce incarceration rates from
1456 community supervision programs while ensuring public safety, including:

1457 (i) treatment and intervention completion determinations based on individualized case
1458 action plans;

1459 (ii) measured and consistent processes for addressing violations of conditions of
1460 supervision;

1461 (iii) processes that include using positive reinforcement to recognize an offender's
1462 progress in supervision;

1463 (iv) engaging with social services agencies and other stakeholders who provide
1464 services that meet the needs of an offender; and

1465 (v) identifying community violations that may not warrant revocation of probation or
1466 parole.

1467 (2) The sentencing commission shall include guidelines on supervision in the adult
1468 sentencing and supervision guidelines with graduated and evidence-based processes to
1469 facilitate the prompt and effective response to an offender's progress in, or violation of, the
1470 terms of probation or parole by the Department of Corrections, or another supervision services
1471 provider, to reduce recidivism and incarceration, including:

1472 (a) responses used when an offender violates a condition of probation or parole as
1473 described in Subsection (3);

1474 (b) responses to recognize positive behavior and progress related to an offender's case
1475 action plan as described in Subsection (4); and

1476 (c) when a violation of a condition of probation or parole should be reported to the
1477 court or the Board of Pardons and Parole.

1478 (3) (a) Subject to Subsection (3)(b), the sentencing commission shall include
1479 guidelines in the adult sentencing and supervision guidelines that categorize a violation of a
1480 condition of parole or probation as low, medium, and high based on the nature of the violation.

1481 (b) The guidelines under Subsection (3)(a) shall categorize the following supervision
1482 violations as a high violation:

1483 (i) the commission of a felony offense, a misdemeanor offense described in Title 76,
1484 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the
1485 influence described in Section [41-6a-502](#);

1486 (ii) the possession of a dangerous weapon; or

1487 (iii) the refusal to comply with the requirements for treatment imposed by the court or
1488 the Board of Pardons and Parole.

1489 (c) The guidelines under Subsection (3)(a) shall include the following responses to a
1490 violation of a condition of parole or probation as described in Subsection (2)(a) that is a high
1491 violation:

1492 (i) a hearing before the court or the Board of Pardons and Parole; or

1493 (ii) except as provided in Subsections [77-18-108\(4\)\(b\)](#) and [77-27-11\(6\)\(c\)](#), a period of
1494 incarceration that does not exceed a period of more than:

1495 (A) three consecutive days; and

1496 (B) a total of five days in a period of 30 days.

1497 (4) (a) Subject to Subsection (4)(b), the sentencing commission shall include
1498 guidelines in the adult sentencing and supervision guidelines that categorize positive behavior
1499 and progress for offenders on parole or probation as low, medium, and high based on the nature
1500 of the accomplishment.

1501 (b) The guidelines under Subsection (4)(a) shall categorize the completion of all
1502 conditions of parole or probation as a high accomplishment.

1503 (c) The guidelines under Subsection (4)(a) shall include the following responses for
1504 positive behavior and progress for offenders on parole or probation described in Subsections
1505 (2)(b) that is a high accomplishment:

1506 (i) early termination from probation or parole;

1507 (ii) a reduction of the offense for which the offender was convicted, as described in
1508 Section [76-3-402](#); or

1509 (iii) reduction in the fine for which the offender is required to pay for the offense.

1510 (5) The sentencing commission shall establish guidelines in the adult sentencing and
1511 supervision length guidelines that recommend an enhanced sentence that a court or the Board
1512 of Pardons and Parole should consider when determining the period in which a habitual
1513 offender, as defined in Section [77-18-102](#), will be incarcerated.

1514 (6) (a) Before July 1, 2024, the sentencing commission shall create guidelines in the
1515 adult sentencing and supervision length guidelines for the following offenses:

1516 (i) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and

1517 (ii) negligently operating a vehicle resulting in death, Section 76-5-207.

1518 (b) The guidelines under Subsection (6)(a) shall consider the following:

1519 (i) the current sentencing requirements for driving under the influence of alcohol,
1520 drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not
1521 result;

1522 (ii) the degree of injury and the number of victims suffering injury or death as a result
1523 of the offense;

1524 (iii) the offender's number of previous convictions for driving under the influence
1525 related offenses as defined in Subsection 41-6a-501(2)(a); and

1526 (iv) whether the offender had a blood or breath alcohol level of .16 or higher, had a
1527 blood or breath alcohol level of .05 or higher in addition to any measurable controlled
1528 substance, or had a combination of two or more controlled substances in the individual's body
1529 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
1530 Research and Medical Cannabis, or prescribed.

1531 (7) The sentencing commission shall modify:

1532 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1533 purposes of protecting the public and ensuring efficient use of state funds; and

1534 (b) the criminal history score in the adult sentencing and supervision length guidelines
1535 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1536 accurate determination of an individual's risk of offending again."

1537 **Section 21. Coordinating S.B. 213 with H.B. 395 and S.B. 200 if all pass and**
1538 **become law.**

1539 If S.B. 213, Criminal Justice Modifications, and H.B. 395, DUI Offense Amendments,
1540 both pass and become law, and S.B. 200, State Commission on Criminal and Juvenile Justice
1541 Amendments, does not pass and become law, the Legislature intends that, on July 1, 2024,
1542 Section 63M-7-404 be amended to read:

1543 "63M-7-404. Purpose -- Duties.

1544 (1) The purpose of the commission is to develop guidelines and propose

- 1545 recommendations to the Legislature, the governor, and the Judicial Council regarding:
- 1546 (a) the sentencing and release of juvenile and adult offenders in order to:
- 1547 (i) respond to public comment;
- 1548 (ii) relate sentencing practices and correctional resources;
- 1549 (iii) increase equity in criminal sentencing;
- 1550 (iv) better define responsibility in criminal sentencing; and
- 1551 (v) enhance the discretion of sentencing judges while preserving the role of the Board
- 1552 of Pardons and Parole and the Youth Parole Authority;
- 1553 (b) the length of supervision of adult offenders on probation or parole in order to:
- 1554 (i) increase equity in criminal supervision lengths;
- 1555 (ii) respond to public comment;
- 1556 (iii) relate the length of supervision to an offender's progress;
- 1557 (iv) take into account an offender's risk of offending again;
- 1558 (v) relate the length of supervision to the amount of time an offender has remained
- 1559 under supervision in the community; and
- 1560 (vi) enhance the discretion of the sentencing judges while preserving the role of the
- 1561 Board of Pardons and Parole; and
- 1562 (c) appropriate, evidence-based probation and parole supervision policies and services
- 1563 that assist individuals in successfully completing supervision and reduce incarceration rates
- 1564 from community supervision programs while ensuring public safety, including:
- 1565 (i) treatment and intervention completion determinations based on individualized case
- 1566 action plans;
- 1567 (ii) measured and consistent processes for addressing violations of conditions of
- 1568 supervision;
- 1569 (iii) processes that include using positive reinforcement to recognize an individual's
- 1570 progress in supervision;
- 1571 (iv) engaging with social services agencies and other stakeholders who provide
- 1572 services that meet offender needs; and
- 1573 (v) identifying community violations that may not warrant revocation of probation or
- 1574 parole.
- 1575 (2) (a) The commission shall modify the sentencing guidelines and supervision length

1576 guidelines for adult offenders to implement the recommendations of the State Commission on
1577 Criminal and Juvenile Justice for reducing recidivism.

1578 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting
1579 the public and ensuring efficient use of state funds.

1580 (3) (a) The commission shall modify the criminal history score in the sentencing
1581 guidelines for adult offenders to implement the recommendations of the State Commission on
1582 Criminal and Juvenile Justice for reducing recidivism.

1583 (b) The modifications to the criminal history score under Subsection (3)(a) shall
1584 include factors in an offender's criminal history that are relevant to the accurate determination
1585 of an individual's risk of offending again.

1586 (4) (a) The commission shall establish sentencing guidelines for periods of
1587 incarceration for individuals who are on probation and:

1588 (i) who have violated one or more conditions of probation; and
1589 (ii) whose probation has been revoked by the court.

1590 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that
1591 a court consider:

1592 (i) the seriousness of any violation of the condition of probation;
1593 (ii) the probationer's conduct while on probation; and
1594 (iii) the probationer's criminal history.

1595 (5) (a) The commission shall establish sentencing guidelines for periods of
1596 incarceration for individuals who are on parole and:

1597 (i) who have violated a condition of parole; and
1598 (ii) whose parole has been revoked by the Board of Pardons and Parole.

1599 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
1600 the Board of Pardons and Parole consider:

1601 (i) the seriousness of any violation of the condition of parole;
1602 (ii) the individual's conduct while on parole; and
1603 (iii) the individual's criminal history.

1604 (6) The commission shall establish graduated and evidence-based processes to
1605 facilitate the prompt and effective response to an individual's progress in or violation of the
1606 terms of probation or parole by the adult probation and parole section of the Department of

1607 Corrections, or other supervision services provider, to implement the recommendations of the
1608 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,
1609 including:

1610 (a) responses to be used when an individual violates a condition of probation or parole;

1611 (b) responses to recognize positive behavior and progress related to an individual's case
1612 action plan;

1613 (c) when a violation of a condition of probation or parole should be reported to the
1614 court or the Board of Pardons and Parole; and

1615 (d) a range of sanctions that may not exceed a period of incarceration of more than:

1616 (i) three consecutive days; and

1617 (ii) a total of five days in a period of 30 days.

1618 (7) The commission shall establish graduated incentives to facilitate a prompt and
1619 effective response by the adult probation and parole section of the Department of Corrections
1620 to an offender's:

1621 (a) compliance with the terms of probation or parole; and

1622 (b) positive conduct that exceeds those terms.

1623 (8) (a) Subject to Subsection (8)(b), the commission shall establish guidelines that
1624 categorize a violation of a condition of parole or probation as low, medium, and high based on
1625 the nature of the violation.

1626 (b) The guidelines under Subsection (8)(a) shall categorize the following supervision
1627 violations as a high violation:

1628 (i) the commission of a felony offense, a misdemeanor offense described in Title 76,
1629 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the
1630 influence described in Section [41-6a-502](#);

1631 (ii) the possession of a dangerous weapon; or

1632 (iii) the refusal to comply with the requirements for treatment imposed by the court or
1633 the Board of Pardons and Parole.

1634 (c) The guidelines under Subsection (8)(a) shall include the following responses for a
1635 violation of a condition of parole or probation described in Subsection (6)(a) that is a high
1636 violation:

1637 (i) a hearing before the court or the Board of Pardons and Parole; or

1638 (ii) except as provided in Subsections 77-18-108(4)(b) and 77-27-11(6)(c), a period of
1639 incarceration that does not exceed a period of more than:

1640 (A) three consecutive days; and

1641 (B) a total of five days in a period of 30 days.

1642 (9) (a) Subject to Subsection (9)(b), the commission shall establish guidelines that
1643 categorize positive behavior and progress for offenders on parole or probation as low, medium,
1644 and high based on the nature of the accomplishment.

1645 (b) The guidelines under Subsection (9)(a) shall categorize the completion of all
1646 conditions of parole or probation as a high accomplishment.

1647 (c) The guidelines under Subsection (9)(a) shall include the following responses for
1648 positive behavior and progress for offenders on parole or probation described in Subsections
1649 (6)(b) and (7)(b) that is a high accomplishment:

1650 (i) early termination from probation or parole;

1651 (ii) a reduction of the offense for which the offender was convicted, as described in
1652 Section 76-3-402; or

1653 (iii) reduction in the fine for which the offender is required to pay for the offense.

1654 ~~[(8)]~~ (10) (a) The commission shall establish guidelines, including sanctions and
1655 incentives, to appropriately respond to negative and positive behavior of juveniles who are:

1656 (i) nonjudicially adjusted;

1657 (ii) placed on diversion;

1658 (iii) placed on probation;

1659 (iv) placed on community supervision;

1660 (v) placed in an out-of-home placement; or

1661 (vi) placed in a secure care facility.

1662 (b) In establishing guidelines under this Subsection (8), the commission shall consider:

1663 (i) the seriousness of the negative and positive behavior;

1664 (ii) the juvenile's conduct post-adjudication; and

1665 (iii) the delinquency history of the juvenile.

1666 (c) The guidelines shall include:

1667 (i) responses that are swift and certain;

1668 (ii) a continuum of community-based options for juveniles living at home;

- 1669 (iii) responses that target the individual's criminogenic risk and needs; and
1670 (iv) incentives for compliance, including earned discharge credits.
- 1671 ~~[(9)]~~ (11) The commission shall establish and maintain supervision length guidelines in
1672 accordance with this section.
- 1673 ~~[(10)]~~ (12) (a) The commission shall create sentencing guidelines and supervision
1674 length guidelines for the following financial and property offenses for which a pecuniary loss
1675 to a victim may exceed \$50,000:
- 1676 (i) securities fraud, Sections 61-1-1 and 61-1-21;
 - 1677 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
1678 adviser representative, Sections 61-1-3 and 61-1-21;
 - 1679 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
 - 1680 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
1681 Assault and Related Offenses;
 - 1682 (v) arson, Section 76-6-102;
 - 1683 (vi) burglary, Section 76-6-202;
 - 1684 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
 - 1685 (viii) forgery, Section 76-6-501;
 - 1686 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
 - 1687 (x) insurance fraud, Section 76-6-521;
 - 1688 (xi) computer crimes, Section 76-6-703;
 - 1689 (xii) mortgage fraud, Section 76-6-1203;
 - 1690 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;
 - 1691 (xiv) communications fraud, Section 76-10-1801;
 - 1692 (xv) money laundering, Section 76-10-1904; and
 - 1693 (xvi) other offenses in the discretion of the commission.
- 1694 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix
1695 with proportionate escalating sanctions based on the amount of a victim's loss.
- 1696 (c) On or before August 1, 2022, the commission shall publish for public comment the
1697 guidelines described in Subsection ~~[(10)(a)]~~ (12)(a).
- 1698 ~~[(11)]~~ (13) (a) Before January 1, 2023, the commission shall study the offenses of
1699 sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections

1700 [76-5b-201](#) and [76-5b-201.1](#).

1701 (b) The commission shall update sentencing and release guidelines and juvenile
1702 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
1703 ~~[(11)(a)]~~ [\(13\)\(a\)](#), including the application of aggravating and mitigating factors specific to the
1704 offense.

1705 (14) The commission shall establish guidelines that recommend an enhanced sentence
1706 that a court or the Board of Pardons and Parole should consider when determining the period in
1707 which a habitual offender, as defined in Section [77-18-102](#), will be incarcerated.

1708 (15) (a) Before July 1, 2024, the sentencing commission shall create sentencing
1709 guidelines and supervision length guidelines for the following offenses:

1710 (i) negligently operating a vehicle resulting in injury, Section [76-5-102.1](#); and

1711 (ii) negligently operating a vehicle resulting in death, Section [76-5-207](#).

1712 (b) The guidelines under Subsection (15)(a) shall consider the following:

1713 (i) the current sentencing requirements for driving under the influence of alcohol,
1714 drugs, or a combination of both as identified in Section [41-6a-505](#) when injury or death do not
1715 result;

1716 (ii) the degree of injury and the number of victims suffering injury or death as a result
1717 of the offense;

1718 (iii) the offender's number of previous convictions for driving under the influence
1719 related offenses as defined in Subsection [41-6a-501\(2\)\(a\)](#); and

1720 (iv) whether the offender had a blood or breath alcohol level of .16 or higher, had a
1721 blood or breath alcohol level of .05 or higher in addition to any measurable controlled
1722 substance, or had a combination of two or more controlled substances in the individual's body
1723 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
1724 Research and Medical Cannabis, or prescribed."

1725 Section 22. **Coordinating S.B. 213 with S.B. 200 if H.B. 395 does not pass and**
1726 **become law.**

1727 If S.B. 213, Criminal Justice Modifications, and S.B. 200, State Commission on
1728 Criminal and Juvenile Justice Amendments, both pass and become law, and H.B. 395, DUI
1729 Offense Amendments, does not pass and become law, the Legislature intends that, on May 1,
1730 2024, Section [63M-7-404.3](#) enacted in S.B. 200 be amended to read:

1731 "63M-7-404.3. Adult sentencing and supervision length guidelines.

1732 (1) The sentencing commission shall establish and maintain adult sentencing and

1733 supervision length guidelines regarding:

1734 (a) the sentencing and release of offenders in order to:

1735 (i) respond to public comment;

1736 (ii) relate sentencing practices and correctional resources;

1737 (iii) increase equity in sentencing;

1738 (iv) better define responsibility in sentencing; and

1739 (v) enhance the discretion of the sentencing court while preserving the role of the

1740 Board of Pardons and Parole;

1741 (b) the length of supervision of offenders on probation or parole in order to:

1742 (i) respond to public comment;

1743 (ii) increase equity in criminal supervision lengths;

1744 (iii) relate the length of supervision to an offender's progress;

1745 (iv) take into account an offender's risk of offending again;

1746 (v) relate the length of supervision to the amount of time an offender has remained

1747 under supervision in the community; and

1748 (vi) enhance the discretion of the sentencing court while preserving the role of the

1749 Board of Pardons and Parole; and

1750 (c) appropriate, evidence-based probation and parole supervision policies and services

1751 that assist offenders in successfully completing supervision and reduce incarceration rates from

1752 community supervision programs while ensuring public safety, including:

1753 (i) treatment and intervention completion determinations based on individualized case

1754 action plans;

1755 (ii) measured and consistent processes for addressing violations of conditions of

1756 supervision;

1757 (iii) processes that include using positive reinforcement to recognize an offender's

1758 progress in supervision;

1759 (iv) engaging with social services agencies and other stakeholders who provide

1760 services that meet the needs of an offender; and

1761 (v) identifying community violations that may not warrant revocation of probation or

1762 parole.

1763 (2) The sentencing commission shall include guidelines on supervision in the adult
1764 sentencing and supervision guidelines with graduated and evidence-based processes to
1765 facilitate the prompt and effective response to an offender's progress in, or violation of, the
1766 terms of probation or parole by the Department of Corrections, or another supervision services
1767 provider, to reduce recidivism and incarceration, including:

1768 (a) responses used when an offender violates a condition of probation or parole as
1769 described in Subsection (3);

1770 (b) responses to recognize positive behavior and progress related to an offender's case
1771 action plan as described in Subsection (4); and

1772 (c) when a violation of a condition of probation or parole should be reported to the
1773 court or the Board of Pardons and Parole.

1774 (3) (a) Subject to Subsection (3)(b), the sentencing commission shall include
1775 guidelines in the adult sentencing and supervision guidelines that categorize a violation of a
1776 condition of parole or probation as low, medium, and high based on the nature of the violation.

1777 (b) The guidelines under Subsection (3)(a) shall categorize the following supervision
1778 violations as a high violation:

1779 (i) the commission of a felony offense, a misdemeanor offense described in Title 76,
1780 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the
1781 influence described in Section [41-6a-502](#);

1782 (ii) the possession of a dangerous weapon; or

1783 (iii) the refusal to comply with the requirements for treatment imposed by the court or
1784 the Board of Pardons and Parole.

1785 (c) The guidelines under Subsection (3)(a) shall include the following responses to a
1786 violation of a condition of parole or probation as described in Subsection (2)(a) that is a high
1787 violation:

1788 (i) a hearing before the court or the Board of Pardons and Parole; or

1789 (ii) except as provided in Subsections [77-18-108\(4\)\(b\)](#) and [77-27-11\(6\)\(c\)](#), a period of
1790 incarceration that does not exceed a period of more than:

1791 (A) three consecutive days; and

1792 (B) a total of five days in a period of 30 days.

1793 (4) (a) Subject to Subsection (4)(b), the sentencing commission shall include
1794 guidelines in the adult sentencing and supervision guidelines that categorize positive behavior
1795 and progress for offenders on parole or probation as low, medium, and high based on the nature
1796 of the accomplishment.

1797 (b) The guidelines under Subsection (4)(a) shall categorize the completion of all
1798 conditions of parole or probation as a high accomplishment.

1799 (c) The guidelines under Subsection (4)(a) shall include the following responses for
1800 positive behavior and progress for offenders on parole or probation described in Subsections
1801 (2)(b) that is a high accomplishment:

1802 (i) early termination from probation or parole;

1803 (ii) a reduction of the offense for which the offender was convicted, as described in
1804 Section [76-3-402](#); or

1805 (iii) reduction in the fine for which the offender is required to pay for the offense.

1806 (5) The sentencing commission shall establish guidelines in the adult sentencing and
1807 supervision length guidelines that recommend an enhanced sentence that a court or the Board
1808 of Pardons and Parole should consider when determining the period in which a habitual
1809 offender, as defined in Section [77-18-102](#), will be incarcerated.

1810 (6) The sentencing commission shall modify:

1811 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1812 purposes of protecting the public and ensuring efficient use of state funds; and

1813 (b) the criminal history score in the adult sentencing and supervision length guidelines
1814 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1815 accurate determination of an individual's risk of offending again."