

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 review and revise, on or before October 31, 2024, supervision guidelines regarding appropriate sanctions and incentives;
- ▶ requires the Utah Sentencing Commission to establish sentencing guidelines to address habitual offenders;
- ▶ requires the Department of Corrections to create a program to provide incentives for maintaining eligible employment for certain offenders on probation or parole;
- ▶ modifies the crime of unlawful sexual activity with a minor to address a defendant who is 18 years old and enrolled in high school at the time the sexual activity occurred;
- ▶ modifies the crime of unlawful adolescent sexual activity to include an actor who is 18 years old and enrolled in high school at the time the sexual activity occurred;
- ▶ addresses the sentencing of an individual who has been previously convicted of



- 26 felony offenses;
- 27 ▶ addresses pretrial detention of certain individuals who have committed a felony
- 28 offense;
- 29 ▶ modifies the requirements for a magistrate or judge when ordering pretrial release;
- 30 ▶ addresses the means by which the Board of Pardons and Parole notifies a victim of
- 31 any hearing or decision;
- 32 ▶ allows a victim to submit a written statement for a hearing by the Board of Pardons
- 33 and Parole;
- 34 ▶ addresses consideration of a victim's written statement by the Board of Pardons and
- 35 Parole;
- 36 ▶ addresses the information that a court and a prosecuting attorney forwards to the
- 37 Board of Pardons and Parole;
- 38 ▶ modifies the duties of a law enforcement officer with regard to a victim;
- 39 ▶ amends the requirements for a drug court program; and
- 40 ▶ makes technical and conforming changes.

41 **Money Appropriated in this Bill:**

42 None

43 **Other Special Clauses:**

44 This bill provides coordination clauses.

45 **Utah Code Sections Affected:**

46 AMENDS:

47 **63I-1-263**, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155,
48 212, 218, 249, 270, 448, 489, and 534

49 **63M-7-303**, as last amended by Laws of Utah 2023, Chapters 266, 330 and 534 and last
50 amended by Coordination Clause, Laws of Utah 2023, Chapter 330

51 **63M-7-404**, as last amended by Laws of Utah 2023, Chapter 111

52 **64-13-21**, as last amended by Laws of Utah 2022, Chapter 187

53 **76-5-401**, as last amended by Laws of Utah 2023, Chapter 123

54 **76-5-401.3**, as last amended by Laws of Utah 2023, Chapters 123, 161

55 **77-18-102**, as last amended by Laws of Utah 2023, Chapter 330

56 **77-18-103**, as last amended by Laws of Utah 2023, Chapter 155

57 [77-20-205](#), as last amended by Laws of Utah 2023, Chapters 408, 447
 58 [77-27-9.5](#), as last amended by Laws of Utah 1998, Chapter 355
 59 [77-27-9.7](#), as last amended by Laws of Utah 1994, Chapter 13
 60 [77-27-13](#), as last amended by Laws of Utah 1998, Chapter 171
 61 [77-36-2.1](#), as last amended by Laws of Utah 2023, Chapters 138, 447
 62 [78A-5-201](#), as last amended by Laws of Utah 2023, Chapter 330

Utah Code Sections Affected By Coordination Clause:

64 [63M-7-404](#), as last amended by Laws of Utah 2023, Chapter 111
 65 [63M-7-404.3](#), Utah Code Annotated 1953
 66 [76-5-401.3](#), as last amended by Laws of Utah 2023, Chapters 123, 161

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

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

70 **63I-1-263. Repeal dates: Titles 63A to 63N.**

- 71 (1) Subsection [63A-5b-405\(5\)](#), relating to prioritizing and allocating capital
 72 improvement funding, is repealed July 1, 2024.
- 73 (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1,
 74 2023.
- 75 (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review
 76 Committee, are repealed July 1, 2023.
- 77 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
 78 1, 2028.
- 79 (5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1,
 80 2025.
- 81 (6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1,
 82 2024.
- 83 (7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is
 84 repealed July 1, 2023.
- 85 (8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed
 86 December 31, 2026.
- 87 (9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is

88 repealed July 1, 2026.

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

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

91 (12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December
92 31, 2024.

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

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

97 (15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1,
98 2028.

99 (16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
100 2024.

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

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

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

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

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

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

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

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

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

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

117 "(2) The commission shall:

118 (a) provide ongoing oversight of the implementation, functions, and evaluation of the

119 Drug-Related Offenses Reform Act; and

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

122 (22) The Crime Victim Reparations and Assistance Board, created in Section
123 [63M-7-504](#), is repealed July 1, 2027.

124 (23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July 1,
125 2026.

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

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

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

130 (27) Section [63N-2-512](#), related to the Hotel Impact Mitigation Fund, is repealed July
131 1, 2028.

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

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

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

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

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

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

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

143 (b) Subsections [63N-2-511\(3\)\(a\)](#) and (5), the language that states "tourism board" is
144 repealed and replaced with "Utah Office of Tourism";

145 (c) Subsection [63N-7-101\(1\)](#), which defines "board," is repealed;

146 (d) Subsection [63N-7-102\(3\)\(c\)](#), which requires the Utah Office of Tourism to receive
147 approval from the Board of Tourism Development, is repealed; and

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

149 (32) Subsection [63N-8-103\(3\)\(c\)](#), which allows the Governor's Office of Economic

150 Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed
151 on July 1, 2024.

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

153 **63M-7-303. Duties of council.**

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

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

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

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

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

163 (e) coordinate recommendations made by any committee created under Section
164 [63M-7-302](#);

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

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

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

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

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

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

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

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

180 (iii) identify and promote the implementation of specific policies and programs to deal

181 fairly and efficiently with the individual; and

182 (iv) promote judicial education;

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

184 including:

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

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

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

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

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

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

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

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

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

199 (3) The council shall report:

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

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

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

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

207 **63M-7-404. Purpose -- Duties.**

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

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

211 (i) respond to public comment;

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

243 the public and ensuring efficient use of state funds.

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

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

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

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

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

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

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

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

258 (iii) the probationer's criminal history.

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

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

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

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

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

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

267 (iii) the individual's criminal history.

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

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

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

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

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

280 (i) three consecutive days; and

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

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

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

286 (b) positive conduct that exceeds those terms.

287 (8) On or before October 31, 2024, the commission shall review and revise the
288 supervision tools in the guidelines to:

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

291 (i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter
292 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence
293 described in Section [41-6a-502](#);

294 (ii) possessing a dangerous weapon; or

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

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

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

299 (ii) maintains eligible employment as defined in Section [64-13g-101](#).

300 [~~8~~] (9) (a) The commission shall establish guidelines, including sanctions and
301 incentives, to appropriately respond to negative and positive behavior of juveniles who are:

302 (i) nonjudicially adjusted;

303 (ii) placed on diversion;

304 (iii) placed on probation;

- 305 (iv) placed on community supervision;
- 306 (v) placed in an out-of-home placement; or
- 307 (vi) placed in a secure care facility.
- 308 (b) In establishing guidelines under this Subsection [~~(8)~~] (9), the commission shall
- 309 consider:
- 310 (i) the seriousness of the negative and positive behavior;
- 311 (ii) the juvenile's conduct post-adjudication; and
- 312 (iii) the delinquency history of the juvenile.
- 313 (c) The guidelines shall include:
- 314 (i) responses that are swift and certain;
- 315 (ii) a continuum of community-based options for juveniles living at home;
- 316 (iii) responses that target the individual's criminogenic risk and needs; and
- 317 (iv) incentives for compliance, including earned discharge credits.
- 318 [~~(9)~~] (10) The commission shall establish and maintain supervision length guidelines in
- 319 accordance with this section.
- 320 [~~(10)~~] (11) (a) The commission shall create sentencing guidelines and supervision
- 321 length guidelines for the following financial and property offenses for which a pecuniary loss
- 322 to a victim may exceed \$50,000:
- 323 (i) securities fraud, Sections 61-1-1 and 61-1-21;
- 324 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
- 325 adviser representative, Sections 61-1-3 and 61-1-21;
- 326 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
- 327 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
- 328 Assault and Related Offenses;
- 329 (v) arson, Section 76-6-102;
- 330 (vi) burglary, Section 76-6-202;
- 331 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
- 332 (viii) forgery, Section 76-6-501;
- 333 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
- 334 (x) insurance fraud, Section 76-6-521;
- 335 (xi) computer crimes, Section 76-6-703;

- 336 (xii) mortgage fraud, Section [76-6-1203](#);
- 337 (xiii) pattern of unlawful activity, Sections [76-10-1603](#) and [76-10-1603.5](#);
- 338 (xiv) communications fraud, Section [76-10-1801](#);
- 339 (xv) money laundering, Section [76-10-1904](#); and
- 340 (xvi) other offenses in the discretion of the commission.

341 (b) The guidelines described in Subsection [~~(10)(a)~~] (11)(a) shall include a sentencing
342 matrix with proportionate escalating sanctions based on the amount of a victim's loss.

343 (c) On or before August 1, 2022, the commission shall publish for public comment the
344 guidelines described in Subsection [~~(10)(a)~~] (11)(a).

345 [~~(H)~~] (12) (a) Before January 1, 2023, the commission shall study the offenses of
346 sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections
347 [76-5b-201](#) and [76-5b-201.1](#).

348 (b) The commission shall update sentencing and release guidelines and juvenile
349 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
350 [~~(H)(a)~~] (12)(a), including the application of aggravating and mitigating factors specific to the
351 offense.

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

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

356 **64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking**
357 **-- POST certified parole or probation officers and peace officers -- Duties -- Supervision**
358 **fee.**

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

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

367 (c) The department shall establish standards for:

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

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

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

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

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

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

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

386 (b) positive conduct that exceeds those terms.

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

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

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

397 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance

398 with the conditions of the parole or probation agreement;

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

401 (c) supervising any offender during transportation; or

402 (d) collecting DNA specimens when the specimens are required under Section
403 [53-10-404](#).

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

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

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

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

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

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

424 (b) (i) For offenders placed on probation under Section [77-18-105](#) or parole under
425 Section [76-3-202](#) on or after July 1, 2026, the department shall establish a program, consistent
426 with the sentencing and supervision length guidelines described in Section [63M-7-404](#), to
427 provide incentives for an offender that maintains eligible employment, as defined in Section
428 [64-13g-101](#).

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

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

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

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

438 (C) the eligibility criteria for termination of supervision, as established in the
439 sentencing and supervision length guidelines described in Section [63M-7-404](#), have not been
440 met.

441 (iv) This Subsection (7)(b) does not prohibit the department, or another supervision
442 services provider, from requesting termination of supervision based on the eligibility criteria in
443 the sentencing and supervision length guidelines described in Section [63M-7-404](#).

444 (c) The department shall:

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

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

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

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

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

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

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

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

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

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

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

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

470 **76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age**
471 **raised by defendant -- Limitations.**

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

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

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

478 (i) has sexual intercourse with the minor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

510 **76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

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

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

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

517 (a) the actor:

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

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

520 (b) the actor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 (6) Except for an offense that is transferred to a district court by the juvenile court in
556 accordance with Section 80-6-504, the district court may enter any sentence or combination of
557 sentences that would have been available in juvenile court but for the delayed reporting or
558 delayed filing of the information in the district court.

559 (7) An offense under this section is not subject to registration under Subsection
560 77-41-102(18).

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

562 **77-18-102. Definitions.**

563 As used in this chapter:

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

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

567 (3) "Civil accounts receivable" means the same as that term is defined in Section
568 77-32b-102.

569 (4) "Civil judgment of restitution" means the same as that term is defined in Section
570 77-32b-102.

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

572 (6) "Criminal accounts receivable" means the same as that term is defined in Section
573 77-32b-102.

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

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

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

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

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

579 (b) each case described in Subsection (10)(a) within five years before the day on which
580 the defendant is convicted of the felony offense before the court.

581 [~~(10)~~] (11) "Payment schedule" means the same as that term is defined in Section
582 77-32b-102.

583 [~~(11)~~] (12) "Restitution" means the same as that term is defined in Section 77-38b-102.

584 ~~[(12)]~~ (13) "Screening" means, except as provided in Section 77-18-104, a tool or
585 questionnaire that is designed to determine whether an individual needs further assessment or
586 any additional resource or referral for treatment.

587 ~~[(13)]~~ (14) "Substance use disorder treatment" means treatment obtained through a
588 substance use disorder program that is licensed by the Office of Licensing within the
589 Department of Health and Human Services.

590 Section 8. Section 77-18-103 is amended to read:

591 **77-18-103. Presentence investigation report -- Classification of presentence**
592 **investigation report -- Evidence or other information at sentencing.**

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

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

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

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

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

607 ~~[(2)]~~ (3) If a presentence investigation report is required under Subsection (2) or the
608 standards established by the department described in Section 77-18-109, the presentence
609 investigation report under Subsection (1) shall include:

610 (a) any impact statement provided by a victim as described in Subsection
611 77-38b-203(3)(c);

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

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

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

616 (e) the number of days since the commission of the offense that the defendant has spent
617 in the custody of the jail and the number of days, if any, the defendant was released to a
618 supervised release program or an alternative incarceration program under Section 17-22-5.5.

619 ~~[(3)]~~ (4) The department or law enforcement agency shall provide the presentence
620 investigation report to the defendant's attorney, or the defendant if the defendant is not
621 represented by counsel, the prosecuting attorney, and the court for review within three working
622 days before the day on which the defendant is sentenced.

623 ~~[(4)]~~ (5) (a) (i) If there is an alleged inaccuracy in the presentence investigation report
624 that is not resolved by the parties and the department or law enforcement agency before
625 sentencing:

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

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

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

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

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

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

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

642 ~~[(5)]~~ (6) The contents of the presentence investigation report are protected and not
643 available except by court order for purposes of sentencing as provided by rule of the Judicial
644 Council or for use by the department or law enforcement agency.

645 ~~[(6)]~~ (7) (a) A presentence investigation report is classified as protected in accordance

646 with Title 63G, Chapter 2, Government Records Access and Management Act.

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

649 ~~[(7)]~~ (8) Except for disclosure at the time of sentencing in accordance with this section,
650 the department or law enforcement agency may disclose a presentence investigation only when:

651 (a) ordered by the court in accordance with Subsection 63G-2-202(7);

652 (b) requested by a law enforcement agency or other agency approved by the department
653 for purposes of supervision, confinement, and treatment of a defendant;

654 (c) requested by the board;

655 (d) requested by the subject of the presentence investigation report or the subject's
656 authorized representative;

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

660 (i) statements or materials provided by the victim;

661 (ii) the circumstances of the offense, including statements by the defendant; or

662 (iii) the impact of the offense on the victim or the victim's household; or

663 (f) requested by a sex offender treatment provider:

664 (i) who is certified to provide treatment under the certification program established in
665 Subsection 64-13-25(2);

666 (ii) who is providing, at the time of the request, sex offender treatment to the offender
667 who is the subject of the presentence investigation report; and

668 (iii) who provides written assurance to the department that the report:

669 (A) is necessary for the treatment of the defendant;

670 (B) will be used solely for the treatment of the defendant; and

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

672 ~~[(8)]~~ (9) (a) At the time of sentence, the court shall receive any testimony, evidence, or
673 information that the defendant or the prosecuting attorney desires to present concerning the
674 appropriate sentence.

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

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

678 **77-20-205. Pretrial release by a magistrate or judge.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

714 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
715 pretrial detention as described in Section 77-20-206;

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

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

718 (c) If a magistrate or judge delays the issuance of a pretrial status order under
719 Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
720 the issuance of a pretrial status order.

721 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order
722 shall:

723 (i) release the individual on the individual's own recognizance during the time the
724 individual awaits trial or other resolution of criminal charges;

725 (ii) designate a condition, or a combination of conditions, to be imposed upon the
726 individual's release during the time the individual awaits trial or other resolution of criminal
727 charges; or

728 (iii) order the individual to be detained during the time that individual awaits trial or
729 other resolution of criminal charges.

730 (b) In making a determination about pretrial release in a pretrial status order, the
731 magistrate or judge may not give any deference to a magistrate's decision in a temporary
732 pretrial status order.

733 (4) In making a determination about pretrial release, a magistrate or judge shall
734 impose:

735 (a) only conditions of release that are reasonably available [and necessary to reasonably
736 ensure]; and

737 (b) conditions of release that reasonably ensure:

738 [(a)] (i) the individual's appearance in court when required;

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

770 to any location or occupation where children are located, including any residence where
771 children are on the premises, activities where children are involved, locations where children
772 congregate, or where a reasonable person would know that children congregate;

773 (q) comply with requirements for house arrest;

774 (r) return to custody for a specified period of time following release for employment,
775 schooling, or other limited purposes;

776 (s) remain in custody of one or more designated individuals who agree to:

777 (i) supervise and report on the behavior and activities of the individual; and

778 (ii) encourage compliance with all court orders and attendance at all required court
779 proceedings;

780 (t) comply with a financial condition; or

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

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

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

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

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

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

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

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

- 801 (c) If a magistrate or judge orders a financial condition as a condition of release, the
802 judge or magistrate shall set the financial condition at a single amount per case.
- 803 (8) In making a determination about pretrial release, the magistrate or judge may:
- 804 (a) rely upon information contained in:
- 805 (i) the indictment or information;
- 806 (ii) any sworn or probable cause statement or other information provided by law
807 enforcement;
- 808 (iii) a pretrial risk assessment;
- 809 (iv) an affidavit of indigency described in Section [78B-22-201.5](#);
- 810 (v) witness statements or testimony;
- 811 (vi) the results of a lethality assessment completed in accordance with Section
812 [77-36-2.1](#); or
- 813 (vii) any other reliable record or source, including proffered evidence; and
- 814 (b) consider:
- 815 (i) the nature and circumstances of the offense, or offenses, that the individual was
816 arrested for, or charged with, including:
- 817 (A) whether the offense is a violent offense; and
- 818 (B) the vulnerability of a witness or alleged victim;
- 819 (ii) the nature and circumstances of the individual, including the individual's:
- 820 (A) character;
- 821 (B) physical and mental health;
- 822 (C) family and community ties;
- 823 (D) employment status or history;
- 824 (E) financial resources;
- 825 (F) past criminal conduct;
- 826 (G) history of drug or alcohol abuse; and
- 827 (H) history of timely appearances at required court proceedings;
- 828 (iii) the potential danger to another individual, or individuals, posed by the release of
829 the individual;
- 830 (iv) whether the individual was on probation, parole, or release pending an upcoming
831 court proceeding at the time the individual allegedly committed the offense or offenses;

- 832 (v) the availability of:
833 (A) other individuals who agree to assist the individual in attending court when
834 required; or
835 (B) supervision of the individual in the individual's community;
836 (vi) the eligibility and willingness of the individual to participate in various treatment
837 programs, including drug treatment; or
838 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
839 law if released.

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

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

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

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

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

849 **77-27-9.5. Victim may attend hearings.**

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

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

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

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

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

862 (b) The notice shall include:

- 863 (i) the date, time, and location of the hearing;
- 864 (ii) a clear statement of the reason for the hearing, including all offenses involved;
- 865 (iii) the statutes and rules applicable to the victim's participation in the hearing;
- 866 (iv) the address and telephone number of an office or person the victim may contact for
- 867 further explanation of the procedure regarding victim participation in the hearing; and
- 868 (v) specific information about how, when, and where the victim may obtain the results
- 869 of the hearing.

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

871 other electronic means available to the board.

872 (d) If the victim requests that a notification occur using a specific method offered by

873 the board, the board shall make reasonable efforts to accommodate that request.

874 ~~[(e)]~~ (e) If the victim is ~~[dead]~~ deceased, or the board is otherwise unable to contact the

875 victim, the board shall make reasonable efforts to notify the victim's immediate family of the

876 hearing.

877 ~~[(f)]~~ (f) The victim may communicate with the board for consideration of continuance

878 of the hearing if travel or other significant conflict prohibits ~~[their]~~ the victim's attendance at

879 the hearing.

880 (4) The victim, or family members if the victim is deceased or unable to attend due to

881 physical incapacity, may:

882 (a) attend the hearing to observe;

883 (b) make a statement to the board, or ~~[its appointed examiner either]~~ the board's

884 appointed examiner, in person or through a representative appointed by the victim or ~~[his]~~ the

885 victim's family; and

886 (c) remain present for the hearing if ~~[he]~~ the victim appoints another to make a

887 statement on ~~[his]~~ the victim's behalf.

888 (5) The statement may be presented:

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

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

891 (6) The victim may be accompanied by a member of his family or another individual,

892 present to provide emotional support to the victim.

893 (7) The victim may, upon request, testify outside the presence of the defendant but a

894 separate hearing may not be held for this purpose.

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

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

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

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

903 **77-27-9.7. Victim right to notification of release -- Notice by board.**

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

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

911 (b) The board may provide the notification to the victim as described in Subsection
912 **77-27-9.5(3)(c)**.

913 (2) The board may include the notification under Subsection (1) with the notification
914 sent under Subsection **77-27-9.5(3)**

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

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

918 **77-27-13. Board of Pardons and Parole -- Duties of the judiciary, the Department**
919 **of Corrections, and law enforcement -- Removal of material from files.**

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

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

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

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

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

933 (i) make a ~~[post-sentence]~~ postsentence report ~~[and shall]; and~~

934 (ii) provide a copy of [it] the postsentence report to the board as soon as possible.

935 (c) The department shall provide the board, upon request, any additional investigations
936 or information needed by the board to reach a decision or conduct a hearing.

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

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

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

953 (5) (a) If an indeterminate sentence is imposed in a case, the court shall forward, within
954 30 days after the day on which the sentence was imposed, to the board:

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

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

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

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

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

963 (C) any mitigating or aggravating circumstances connected with the offense for which
964 the offender has been convicted.

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

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

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

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

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

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

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

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

981 ~~[(6)]~~ (8) The chief executive officer of any penal or correctional institution shall permit
982 offenders to send mail to the board without censorship.

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

984 **77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality**
985 **assessments.**

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

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

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

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

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

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

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

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

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

1000 (v) is or was in a consensual sexual relationship with the other party; or

1001 (vi) is or was in a dating relationship with the other party.

1002 ~~[(c)]~~ (d) "Nongovernment organization victim advocate" means the same as that term is
1003 defined in Section 77-38-403.

1004 ~~[(d)]~~ (e) "Primary purpose domestic violence organization" means a contract provider
1005 of domestic violence services as described in Section 80-2-301.

1006 (2) A law enforcement officer who responds to an allegation of domestic violence
1007 shall:

1008 (a) use all reasonable means to protect the victim and prevent further violence,
1009 including:

1010 (i) taking the action that, in the officer's discretion, is reasonably necessary to provide
1011 for the safety of the victim and any family or household member;

1012 (ii) confiscating the weapon or weapons involved in the alleged domestic violence;

1013 (iii) making arrangements for the victim and any child to obtain emergency housing or
1014 shelter;

1015 (iv) providing protection while the victim removes essential personal effects;

1016 (v) arrange, facilitate, or provide for the victim and any child to obtain medical
1017 treatment; ~~[and]~~

1018 (vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the
1019 rights of victims and of the remedies and services available to victims of domestic violence, in
1020 accordance with Subsection (3); and

1021 (vii) providing the pamphlet created by the department under Section 53-5c-201 to the
1022 victim if the allegation of domestic violence:

1023 (A) includes a threat of violence as described in Section 76-5-107;

1024 (B) results, or would result, in the owner cohabitant becoming a restricted person under
1025 Section 76-10-503; or

1026 (C) is accompanied by a completed lethality assessment that demonstrates the
1027 cohabitant is at high risk of being further victimized; and

1028 (b) if the allegation of domestic violence is against an intimate partner, complete the
1029 lethality assessment protocols described in this section.

1030 (3) (a) A law enforcement officer shall give written notice to the victim in simple
1031 language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7,
1032 Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective
1033 Orders.

1034 (b) The written notice shall include:

1035 (i) a statement that the forms needed in order to obtain an order for protection are
1036 available from the court clerk's office in the judicial district where the victim resides or is
1037 temporarily domiciled;

1038 (ii) a list of shelters, services, and resources available in the appropriate community,
1039 together with telephone numbers, to assist the victim in accessing any needed assistance; and

1040 (iii) the information required to be provided to both parties in accordance with
1041 Subsections 78B-7-802(8) and (9) .

1042 (4) If a weapon is confiscated under this section, the law enforcement agency shall
1043 return the weapon to the individual from whom the weapon is confiscated if a domestic
1044 violence protective order is not issued or once the domestic violence protective order is
1045 terminated.

1046 (5) A law enforcement officer shall complete a lethality assessment form by asking the
1047 victim:

1048 (a) if the aggressor has ever used a weapon against the victim or threatened the victim

- 1049 with a weapon;
- 1050 (b) if the aggressor has ever threatened to kill the victim or the victim's children;
- 1051 (c) if the victim believes the aggressor will try to kill the victim;
- 1052 (d) if the aggressor has ever tried to choke the victim;
- 1053 (e) if the aggressor has a gun or could easily get a gun;
- 1054 (f) if the aggressor is violently or constantly jealous, or controls most of the daily
- 1055 activities of the victim;
- 1056 (g) if the victim left or separated from the aggressor after they were living together or
- 1057 married;
- 1058 (h) if the aggressor is unemployed;
- 1059 (i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;
- 1060 (j) if the victim has a child that the aggressor believes is not the aggressor's biological
- 1061 child;
- 1062 (k) if the aggressor follows or spies on the victim, or leaves threatening messages for
- 1063 the victim; and
- 1064 (l) if there is anything else that worries the victim about the victim's safety and, if so,
- 1065 what worries the victim.
- 1066 (6) A law enforcement officer shall comply with Subsection (7) if:
- 1067 (a) the victim answers affirmatively to any of the questions in Subsections (5)(a)
- 1068 through (d);
- 1069 (b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but
- 1070 affirmatively to at least four of the questions in Subsections (5)(e) through (k); or
- 1071 (c) as a result of the victim's response to the question in Subsection (5)(l), the law
- 1072 enforcement officer believes the victim is in a potentially lethal situation.
- 1073 (7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer
- 1074 shall:
- 1075 (a) advise the victim of the results of the assessment; [~~and~~]
- 1076 (b) refer the victim to a nongovernment organization victim advocate at a primary
- 1077 purpose domestic violence organization[-]; and
- 1078 (c) refer the victim to a criminal justice system victim advocate if the responding law
- 1079 enforcement agency has a criminal justice system victim advocate available.

1080 (8) If a victim does not or is unable to provide information to a law enforcement officer
1081 sufficient to allow the law enforcement officer to complete a lethality assessment form, or does
1082 not speak or is unable to speak with a nongovernment organization victim advocate, the law
1083 enforcement officer shall document this information on the lethality assessment form and
1084 submit the information to the Department of Public Safety under Subsection (9).

1085 (9) (a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit
1086 the results of a lethality assessment to the Department of Public Safety while on scene.

1087 (b) If a law enforcement officer is not reasonably able to submit the results of a
1088 lethality assessment while on scene, the law enforcement officer shall submit the results of the
1089 lethality assessment to the Department of Public Safety as soon as practicable.

1090 (c) (i) Before the reporting mechanism described in Subsection (10)(a) is developed, a
1091 law enforcement officer shall submit the results of a lethality assessment to the Department of
1092 Public Safety using means prescribed by the Department of Public Safety.

1093 (ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law
1094 enforcement officer shall submit the results of a lethality assessment to the Department of
1095 Public Safety using that reporting mechanism.

1096 (10) The Department of Public Safety shall:

1097 (a) as soon as practicable, develop and maintain a reporting mechanism by which a law
1098 enforcement officer will submit the results of a lethality assessment as required by Subsection
1099 (9);

1100 (b) provide prompt analytical support to a law enforcement officer who submits the
1101 results of a lethality assessment using the reporting mechanism described in Subsection (10)(a);
1102 and

1103 (c) create and maintain a database of lethality assessment data provided under this
1104 section.

1105 (11) (a) Subject to Subsection (11)(b), a law enforcement officer shall include the
1106 results of a lethality assessment and any related, relevant analysis provided by the Department
1107 of Public Safety under Subsection (10), with:

1108 (i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules
1109 of Criminal Procedure; and

1110 (ii) an incident report prepared in accordance with Section [77-36-2.2](#).

1111 (b) In a probable cause statement or incident report, a law enforcement officer may not
1112 include information about how or where a victim was referred under Subsection (7)(b).

1113 Section 14. Section **78A-5-201** is amended to read:

1114 **78A-5-201. Creation and expansion of existing drug court programs -- Definition**
1115 **of drug court program -- Criteria for participation in drug court programs -- Reporting**
1116 **requirements.**

1117 (1) There may be created a drug court program in any judicial district that
1118 demonstrates:

1119 (a) the need for a drug court program; and

1120 (b) the existence of a collaborative strategy between the court, prosecutors, defense
1121 counsel, corrections, and substance abuse treatment services to reduce substance abuse by
1122 offenders.

1123 (2) The collaborative strategy in each drug court program shall:

1124 (a) include monitoring and evaluation components to measure program effectiveness;

1125 and

1126 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

1127 (i) executive director of the Department of Health and Human Services;

1128 (ii) executive director of the Department of Corrections; and

1129 (iii) state court administrator.

1130 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:

1131 (i) 87% to the Department of Health and Human Services for testing, treatment, and
1132 case management; and

1133 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
1134 support costs.

1135 (b) This provision does not apply to federal block grant funds.

1136 (4) A drug court program shall include continuous judicial supervision using a
1137 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment
1138 services, juvenile court probation, and the Division of Child and Family Services as appropriate
1139 to promote public safety, protect participants' due process rights, and integrate substance abuse
1140 treatment with justice system case processing.

1141 (5) Screening criteria for participation in a drug court program shall include:

1142 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or
1143 drug-related offense;

1144 (b) an agreement to frequent alcohol and other drug testing;

1145 (c) participation in one or more substance abuse treatment programs; and

1146 (d) an agreement to submit to sanctions for noncompliance with drug court program
1147 requirements.

1148 (6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for
1149 participation in adult criminal drug courts.

1150 (b) ~~[Acceptance]~~ The eligibility requirements described in Subsection (6)(a):

1151 (i) shall require that the acceptance of an offender into a drug court [shall be based] is
1152 based on a risk and needs assessment[, without regard to the nature of the offense.] and
1153 targeted at individuals who are high risk and high needs; and

1154 (ii) may not limit participation in a drug court only to individuals convicted of an
1155 offense described in Section 58-37-8.

1156 (c) A plea to, conviction of, or adjudication for a felony offense is not required for
1157 participation in a drug court program.

1158 Section 15. **Effective date.**

1159 This bill takes effect on May 1, 2024.

1160 Section 16. **Coordinating S.B. 213 with H.B. 16.**

1161 If S.B. 213, Criminal Justice Modifications, and H.B. 16, Sexual Offenses

1162 Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Section
1163 76-5-401.3 be amended to read:

1164 **"76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

1165 (1) (a) As used in this section, "adolescent" means an individual [~~in the transitional~~
1166 ~~phase of human physical and psychological growth and development between childhood and~~
1167 ~~adulthood]~~ who is 12 years old or older[;] but younger than 18 years old.

1168 (b) Terms defined in Section 76-1-101.5 apply to this section.

1169 (2) Under circumstances not amounting to an offense listed in Subsection ~~[(4)](5)~~, an
1170 actor commits unlawful sexual activity if [~~the actor~~]:

1171 [~~(a) is an adolescent; and~~

1172 [~~(b) has sexual activity with another adolescent.]~~

1173 (a) (i) the actor is 12 years old or older but younger than 18 years old;
1174 (ii) the actor engages in sexual activity with an adolescent;
1175 (iii) the actor is not the biological sibling of the adolescent; and
1176 (iv) both the actor and the adolescent mutually agree to the sexual activity; or
1177 (b) (i) the actor engages in sexual activity with an adolescent who is 13 years old;
1178 (ii) the actor is 18 years old and enrolled in high school at the time that the sexual
1179 activity occurred;
1180 (iii) the actor is not the biological sibling of the adolescent; and
1181 (iv) both the actor and the adolescent mutually agree to the sexual activity.
1182 (3) (a) A violation of Subsection (2) (a) is a:
1183 ~~[(a)]~~ (i) third degree felony if an actor who is 17 years old engages in unlawful
1184 adolescent sexual activity with an adolescent who is ~~[12-or]~~ 13 years old;
1185 ~~[(b)]~~ (ii) third degree felony if an actor who is 16 years old engages in unlawful
1186 adolescent sexual activity with an adolescent who is 12 years old;
1187 ~~[(c)]~~ (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful
1188 adolescent sexual activity with an adolescent who is 13 years old;
1189 ~~[(d)]~~ (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in
1190 unlawful adolescent sexual activity with an adolescent who is 12 years old;
1191 ~~[(e)]~~ (v) class B misdemeanor if an actor who is 17 years old engages in unlawful
1192 adolescent sexual activity with an adolescent who is 14 years old;
1193 ~~[(f)]~~ (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful
1194 adolescent sexual activity with an adolescent who is 13 years old;
1195 ~~[(g)]~~ (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in
1196 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and
1197 ~~[(h)]~~ (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful
1198 adolescent sexual activity with an adolescent who is 13 years old.
1199 (b) A violation of Subsection (2)(b) is a third degree felony.
1200 (4) The actor and the adolescent do not mutually agree to the sexual activity under
1201 Subsection (2) if:
1202 (a) the adolescent expresses lack of agreement to the sexual activity through words or
1203 conduct;

1204 (b) the actor overcomes the adolescent's will through:
 1205 (i) threats to the adolescent or any other individual;
 1206 (ii) force;
 1207 (iii) coercion; or
 1208 (iv) enticement;
 1209 (c) the actor is able to overcome the adolescent through concealment or by the element
 1210 of surprise;

1211 (d) the actor knows, or reasonably should know, that the adolescent has a mental
 1212 disease or defect, which renders the adolescent unable to:

1213 (i) appraise the nature of the act;
 1214 (ii) resist the act;
 1215 (iii) understand the possible consequences to the adolescent's health or safety; or
 1216 (iv) appraise the nature of the relationship between the actor and the adolescent;

1217 (e) the actor knows that the adolescent participates in the sexual activity because the
 1218 adolescent erroneously believes that the actor is someone else; or

1219 (f) the actor intentionally impaired the power of the adolescent to appraise or control
 1220 the adolescent's conduct by administering any substance without the adolescent's knowledge.

1221 ~~[(4)]~~ (5) The offenses referred to in Subsection (2) are:

- 1222 (a) rape~~[-in violation of]~~ under Section [76-5-402](#);
- 1223 ~~[(b) rape of a child, in violation of Section [76-5-402.1](#);~~
- 1224 ~~[(c)]~~ (b) object rape~~[-in violation of]~~ under Section [76-5-402.2](#);
- 1225 ~~[(d) object rape of a child, in violation of Section [76-5-402.3](#);~~
- 1226 ~~[(e)]~~ (c) forcible sodomy~~[-in violation of]~~ under Section [76-5-403](#);
- 1227 ~~[(f) sodomy on a child, in violation of Section [76-5-403.1](#);~~
- 1228 ~~[(g) sexual abuse of a child, in violation of Section [76-5-404](#);~~
- 1229 ~~[(h)]~~ (d) aggravated sexual assault~~[-in violation of]~~ under Section [76-5-405](#);
- 1230 ~~[(i)]~~ (e) incest~~[-in violation of]~~ under Section [76-7-102](#); or

1231 ~~[(j)]~~ (f) an attempt to commit ~~[any]~~ an offense listed in Subsections ~~[(4)(a) through~~
 1232 ~~(4)(i)]~~ (5)(a) through (e).

1233 ~~[(5)]~~ (6) An offense under this section is not eligible for a nonjudicial adjustment under
 1234 Section [80-6-303.5](#) or a referral to a youth court under Section [80-6-902](#).

1235 [~~(6)~~] (7) Except for an offense that is transferred to a district court by the juvenile court
1236 in accordance with Section 80-6-504, the district court may enter any sentence or combination
1237 of sentences that would have been available in juvenile court but for the delayed reporting or
1238 delayed filing of the information in the district court.

1239 [~~(7)~~] (8) An offense under this section is not subject to registration under Subsection
1240 77-41-102(18).".

1241 Section 17. **Coordinating S.B. 213 with H.B. 395 and S.B. 200 if all pass and**
1242 **become law.**

1243 If S.B. 213, Criminal Justice Modifications, H.B. 395, DUI Offense Amendments, and
1244 S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, all pass and
1245 become law:

1246 (1) the Legislature intends that, on May 1, 2024:

1247 (a) Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1248 **"63M-7-404.3. Adult sentencing and supervision length guidelines.**

1249 (1) The sentencing commission shall establish and maintain adult sentencing and
1250 supervision length guidelines regarding:

1251 (a) the sentencing and release of offenders in order to:

1252 (i) respond to public comment;

1253 (ii) relate sentencing practices and correctional resources;

1254 (iii) increase equity in sentencing;

1255 (iv) better define responsibility in sentencing; and

1256 (v) enhance the discretion of the sentencing court while preserving the role of the
1257 Board of Pardons and Parole;

1258 (b) the length of supervision of offenders on probation or parole in order to:

1259 (i) respond to public comment;

1260 (ii) increase equity in criminal supervision lengths;

1261 (iii) relate the length of supervision to an offender's progress;

1262 (iv) take into account an offender's risk of offending again;

1263 (v) relate the length of supervision to the amount of time an offender has remained
1264 under supervision in the community; and

1265 (vi) enhance the discretion of the sentencing court while preserving the role of the

1266 Board of Pardons and Parole; and

1267 (c) appropriate, evidence-based probation and parole supervision policies and services
1268 that assist offenders in successfully completing supervision and reduce incarceration rates from
1269 community supervision programs while ensuring public safety, including:

1270 (i) treatment and intervention completion determinations based on individualized case
1271 action plans;

1272 (ii) measured and consistent processes for addressing violations of conditions of
1273 supervision;

1274 (iii) processes that include using positive reinforcement to recognize an offender's
1275 progress in supervision;

1276 (iv) engaging with social services agencies and other stakeholders who provide
1277 services that meet the needs of an offender; and

1278 (v) identifying community violations that may not warrant revocation of probation or
1279 parole.

1280 (2) On or before October 31, 2024, the sentencing commission shall review and revise
1281 the supervision tools in the adult sentencing and supervision length guidelines to:

1282 (a) recommend appropriate sanctions for an individual who violates probation or parole
1283 by:

1284 (i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter
1285 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence
1286 described in Section [41-6a-502](#);

1287 (ii) possessing a dangerous weapon; or

1288 (iii) willfully refusing to participate in treatment ordered by the court or the Board of
1289 Pardons and Parole; and

1290 (b) recommend appropriate incentives for an individual on probation or parole that:

1291 (i) completes all conditions of probation or parole; or

1292 (ii) maintains eligible employment as defined in Section [64-13g-101](#).

1293 (3) The sentencing commission shall establish guidelines in the adult sentencing and
1294 supervision length guidelines that recommend an enhanced sentence that a court or the Board
1295 of Pardons and Parole should consider when determining the period in which a habitual
1296 offender, as defined in Section [77-18-102](#), will be incarcerated.

- 1297 (4) The sentencing commission shall modify:
1298 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1299 purposes of protecting the public and ensuring efficient use of state funds; and
1300 (b) the criminal history score in the adult sentencing and supervision length guidelines
1301 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1302 accurate determination of an individual's risk of offending again."; and
1303 (b) all occurrences of the language "sentencing and supervision length guidelines in
1304 Section 63M-7-404" in Subsection 64-13-21(7)(b) in S.B. 213 be replaced with "adult
1305 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1"; and
1306 (2) the Legislature intends that, on July 1, 2024, Section 63M-7-404.3 enacted in S.B.
1307 200 be amended to read:
1308 **"63M-7-404.3. Adult sentencing and supervision length guidelines.**
1309 (1) The sentencing commission shall establish and maintain adult sentencing and
1310 supervision length guidelines regarding:
1311 (a) the sentencing and release of offenders in order to:
1312 (i) respond to public comment;
1313 (ii) relate sentencing practices and correctional resources;
1314 (iii) increase equity in sentencing;
1315 (iv) better define responsibility in sentencing; and
1316 (v) enhance the discretion of the sentencing court while preserving the role of the
1317 Board of Pardons and Parole;
1318 (b) the length of supervision of offenders on probation or parole in order to:
1319 (i) respond to public comment;
1320 (ii) increase equity in criminal supervision lengths;
1321 (iii) relate the length of supervision to an offender's progress;
1322 (iv) take into account an offender's risk of offending again;
1323 (v) relate the length of supervision to the amount of time an offender has remained
1324 under supervision in the community; and
1325 (vi) enhance the discretion of the sentencing court while preserving the role of the
1326 Board of Pardons and Parole; and
1327 (c) appropriate, evidence-based probation and parole supervision policies and services

1328 that assist offenders in successfully completing supervision and reduce incarceration rates from
1329 community supervision programs while ensuring public safety, including:

1330 (i) treatment and intervention completion determinations based on individualized case
1331 action plans;

1332 (ii) measured and consistent processes for addressing violations of conditions of
1333 supervision;

1334 (iii) processes that include using positive reinforcement to recognize an offender's
1335 progress in supervision;

1336 (iv) engaging with social services agencies and other stakeholders who provide
1337 services that meet the needs of an offender; and

1338 (v) identifying community violations that may not warrant revocation of probation or
1339 parole.

1340 (2) On or before October 31, 2024, the sentencing commission shall review and revise
1341 the supervision tools in the adult sentencing and supervision length guidelines to:

1342 (a) recommend appropriate sanctions for an individual who violates probation or parole
1343 by:

1344 (i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter
1345 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence
1346 described in Section [41-6a-502](#);

1347 (ii) possessing a dangerous weapon; or

1348 (iii) willfully refusing to participate in treatment ordered by the court or the Board of
1349 Pardons and Parole; and

1350 (b) recommend appropriate incentives for an individual on probation or parole that:

1351 (i) completes all conditions of probation or parole; or

1352 (ii) maintains eligible employment as defined in Section [64-13g-101](#).

1353 (3) The sentencing commission shall establish guidelines in the adult sentencing and
1354 supervision length guidelines that recommend an enhanced sentence that a court or the Board
1355 of Pardons and Parole should consider when determining the period in which a habitual
1356 offender, as defined in Section [77-18-102](#), will be incarcerated.

1357 (4) (a) Before July 1, 2024, the sentencing commission shall create guidelines in the
1358 adult sentencing and supervision length guidelines for the following offenses:

- 1359 (i) an interlock restricted driver operating a vehicle without an ignition interlock
1360 system, Section 41-6a-518.2;
1361 (ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and
1362 (iii) negligently operating a vehicle resulting in death, Section 76-5-207.
1363 (b) The guidelines under Subsection (4)(a) shall consider the following:
1364 (i) the current sentencing requirements for driving under the influence of alcohol,
1365 drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not
1366 result;
1367 (ii) the degree of injury and the number of victims suffering injury or death as a result
1368 of the offense;
1369 (iii) the offender's number of previous convictions for driving under the influence
1370 related offenses as defined in Subsection 41-6a-501(2)(a);
1371 (iv) the offender's number of convictions for an interlock restricted driver operating a
1372 vehicle without an ignition interlock system as described in Section 41-6a-518.2; and
1373 (v) whether the offender had a blood or breath alcohol level of .16 or higher, had a
1374 blood or breath alcohol level of .05 or higher in addition to any measurable controlled
1375 substance, or had a combination of two or more controlled substances in the individual's body
1376 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
1377 Research and Medical Cannabis, or prescribed.
1378 (5) The sentencing commission shall modify:
1379 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1380 purposes of protecting the public and ensuring efficient use of state funds; and
1381 (b) the criminal history score in the adult sentencing and supervision length guidelines
1382 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1383 accurate determination of an individual's risk of offending again."

1384 **Section 18. Coordinating S.B. 213 with H.B. 395 if S.B. 200 does not pass and**
1385 **become law.**

1386 If S.B. 213, Criminal Justice Modifications, and H.B. 395, DUI Offense Amendments,
1387 both pass and become law, and S.B. 200, State Commission on Criminal and Juvenile Justice
1388 Amendments, does not pass and become law, the Legislature intends that, on July 1, 2024,
1389 Section 63M-7-404 be amended to read:

1390 "63M-7-404. Purpose -- Duties.

1391 (1) The purpose of the commission is to develop guidelines and propose
1392 recommendations to the Legislature, the governor, and the Judicial Council regarding:

1393 (a) the sentencing and release of juvenile and adult offenders in order to:

1394 (i) respond to public comment;

1395 (ii) relate sentencing practices and correctional resources;

1396 (iii) increase equity in criminal sentencing;

1397 (iv) better define responsibility in criminal sentencing; and

1398 (v) enhance the discretion of sentencing judges while preserving the role of the Board
1399 of Pardons and Parole and the Youth Parole Authority;

1400 (b) the length of supervision of adult offenders on probation or parole in order to:

1401 (i) increase equity in criminal supervision lengths;

1402 (ii) respond to public comment;

1403 (iii) relate the length of supervision to an offender's progress;

1404 (iv) take into account an offender's risk of offending again;

1405 (v) relate the length of supervision to the amount of time an offender has remained
1406 under supervision in the community; and

1407 (vi) enhance the discretion of the sentencing judges while preserving the role of the
1408 Board of Pardons and Parole; and

1409 (c) appropriate, evidence-based probation and parole supervision policies and services
1410 that assist individuals in successfully completing supervision and reduce incarceration rates
1411 from community supervision programs while ensuring public safety, including:

1412 (i) treatment and intervention completion determinations based on individualized case
1413 action plans;

1414 (ii) measured and consistent processes for addressing violations of conditions of
1415 supervision;

1416 (iii) processes that include using positive reinforcement to recognize an individual's
1417 progress in supervision;

1418 (iv) engaging with social services agencies and other stakeholders who provide
1419 services that meet offender needs; and

1420 (v) identifying community violations that may not warrant revocation of probation or

1421 parole.

1422 (2) (a) The commission shall modify the sentencing guidelines and supervision length
1423 guidelines for adult offenders to implement the recommendations of the State Commission on
1424 Criminal and Juvenile Justice for reducing recidivism.

1425 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting
1426 the public and ensuring efficient use of state funds.

1427 (3) (a) The commission shall modify the criminal history score in the sentencing
1428 guidelines for adult offenders to implement the recommendations of the State Commission on
1429 Criminal and Juvenile Justice for reducing recidivism.

1430 (b) The modifications to the criminal history score under Subsection (3)(a) shall
1431 include factors in an offender's criminal history that are relevant to the accurate determination
1432 of an individual's risk of offending again.

1433 (4) (a) The commission shall establish sentencing guidelines for periods of
1434 incarceration for individuals who are on probation and:

- 1435 (i) who have violated one or more conditions of probation; and
- 1436 (ii) whose probation has been revoked by the court.

1437 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that
1438 a court consider:

- 1439 (i) the seriousness of any violation of the condition of probation;
- 1440 (ii) the probationer's conduct while on probation; and
- 1441 (iii) the probationer's criminal history.

1442 (5) (a) The commission shall establish sentencing guidelines for periods of
1443 incarceration for individuals who are on parole and:

- 1444 (i) who have violated a condition of parole; and
- 1445 (ii) whose parole has been revoked by the Board of Pardons and Parole.

1446 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
1447 the Board of Pardons and Parole consider:

- 1448 (i) the seriousness of any violation of the condition of parole;
- 1449 (ii) the individual's conduct while on parole; and
- 1450 (iii) the individual's criminal history.

1451 (6) The commission shall establish graduated and evidence-based processes to

1452 facilitate the prompt and effective response to an individual's progress in or violation of the
1453 terms of probation or parole by the adult probation and parole section of the Department of
1454 Corrections, or other supervision services provider, to implement the recommendations of the
1455 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,
1456 including:

1457 (a) responses to be used when an individual violates a condition of probation or parole;

1458 (b) responses to recognize positive behavior and progress related to an individual's case
1459 action plan;

1460 (c) when a violation of a condition of probation or parole should be reported to the
1461 court or the Board of Pardons and Parole; and

1462 (d) a range of sanctions that may not exceed a period of incarceration of more than:

1463 (i) three consecutive days; and

1464 (ii) a total of five days in a period of 30 days.

1465 (7) The commission shall establish graduated incentives to facilitate a prompt and
1466 effective response by the adult probation and parole section of the Department of Corrections
1467 to an offender's:

1468 (a) compliance with the terms of probation or parole; and

1469 (b) positive conduct that exceeds those terms.

1470 (8) On or before October 31, 2024, the commission shall review and revise the
1471 supervision tools in the guidelines to:

1472 (a) recommend appropriate sanctions for an individual who violates probation or parole
1473 by:

1474 (i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter
1475 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence
1476 described in Section [41-6a-502](#);

1477 (ii) possessing a dangerous weapon; or

1478 (iii) willfully refusing to participate in treatment ordered by the court or the Board of
1479 Pardons and Parole; and

1480 (b) recommend appropriate incentives for an individual on probation or parole that:

1481 (i) completes all conditions of probation or parole; or

1482 (ii) maintains eligible employment as defined in Section [64-13g-101](#).

1483 ~~[(8)]~~ (9) (a) The commission shall establish guidelines, including sanctions and
1484 incentives, to appropriately respond to negative and positive behavior of juveniles who are:

- 1485 (i) nonjudicially adjusted;
1486 (ii) placed on diversion;
1487 (iii) placed on probation;
1488 (iv) placed on community supervision;
1489 (v) placed in an out-of-home placement; or
1490 (vi) placed in a secure care facility.

1491 (b) In establishing guidelines under this Subsection ~~[(8)]~~ (9), the commission shall
1492 consider:

- 1493 (i) the seriousness of the negative and positive behavior;
1494 (ii) the juvenile's conduct post-adjudication; and
1495 (iii) the delinquency history of the juvenile.

1496 (c) The guidelines shall include:

- 1497 (i) responses that are swift and certain;
1498 (ii) a continuum of community-based options for juveniles living at home;
1499 (iii) responses that target the individual's criminogenic risk and needs; and
1500 (iv) incentives for compliance, including earned discharge credits.

1501 ~~[(9)]~~ (10) The commission shall establish and maintain supervision length guidelines in
1502 accordance with this section.

1503 ~~[(10)]~~ (11) (a) The commission shall create sentencing guidelines and supervision
1504 length guidelines for the following financial and property offenses for which a pecuniary loss
1505 to a victim may exceed \$50,000:

- 1506 (i) securities fraud, Sections 61-1-1 and 61-1-21;
1507 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
1508 adviser representative, Sections 61-1-3 and 61-1-21;
1509 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
1510 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
1511 Assault and Related Offenses;
1512 (v) arson, Section 76-6-102;
1513 (vi) burglary, Section 76-6-202;

- 1514 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
- 1515 (viii) forgery, Section [76-6-501](#);
- 1516 (ix) unlawful dealing of property by a fiduciary, Section [76-6-513](#);
- 1517 (x) insurance fraud, Section [76-6-521](#);
- 1518 (xi) computer crimes, Section [76-6-703](#);
- 1519 (xii) mortgage fraud, Section [76-6-1203](#);
- 1520 (xiii) pattern of unlawful activity, Sections [76-10-1603](#) and [76-10-1603.5](#);
- 1521 (xiv) communications fraud, Section [76-10-1801](#);
- 1522 (xv) money laundering, Section [76-10-1904](#); and
- 1523 (xvi) other offenses in the discretion of the commission.

1524 (b) The guidelines described in Subsection [~~(10)~~(a)] (11)(a) shall include a sentencing
1525 matrix with proportionate escalating sanctions based on the amount of a victim's loss.

1526 (c) On or before August 1, 2022, the commission shall publish for public comment the
1527 guidelines described in Subsection [~~(10)~~(a)] (11)(a).

1528 [~~(H)~~] (12) (a) Before January 1, 2023, the commission shall study the offenses of
1529 sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections
1530 [76-5b-201](#) and [76-5b-201.1](#).

1531 (b) The commission shall update sentencing and release guidelines and juvenile
1532 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
1533 [~~(H)~~(a)] (12)(a), including the application of aggravating and mitigating factors specific to the
1534 offense.

1535 (13) The commission shall establish guidelines that recommend an enhanced sentence
1536 that a court or the Board of Pardons and Parole should consider when determining the period in
1537 which a habitual offender, as defined in Section [77-18-102](#), will be incarcerated.

1538 (14) (a) Before July 1, 2024, the sentencing commission shall create guidelines in the
1539 adult sentencing and supervision length guidelines for the following offenses:

1540 (i) an interlock restricted driver operating a vehicle without an ignition interlock
1541 system, Section [41-6a-518.2](#);

1542 (ii) negligently operating a vehicle resulting in death, Section [76-5-207](#); and

1543 (iii) negligently operating a vehicle resulting in death, Section [76-5-207](#).

1544 (b) The guidelines under Subsection (14)(a) shall consider the following:

1545 (i) the current sentencing requirements for driving under the influence of alcohol,
1546 drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not
1547 result;

1548 (ii) the degree of injury and the number of victims suffering injury or death as a result
1549 of the offense;

1550 (iii) the offender's number of previous convictions for driving under the influence
1551 related offenses as defined in Subsection 41-6a-501(2)(a);

1552 (iv) the offender's number of convictions for an interlock restricted driver operating a
1553 vehicle without an ignition interlock system as described in Section 41-6a-518.2; and

1554 (v) whether the offender had a blood or breath alcohol level of .16 or higher, had a
1555 blood or breath alcohol level of .05 or higher in addition to any measurable controlled
1556 substance, or had a combination of two or more controlled substances in the individual's body
1557 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
1558 Research and Medical Cannabis, or prescribed."

1559 Section 19. **Coordinating S.B. 213 with S.B. 200 if H.B. 395 does not pass and**
1560 **become law.**

1561 If S.B. 213, Criminal Justice Modifications, and S.B. 200, State Commission on
1562 Criminal and Juvenile Justice Amendments, both pass and become law, and H.B. 395, DUI
1563 Offense Amendments, does not pass and become law, the Legislature intends that, on May 1,
1564 2024;

1565 (1) Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1566 "63M-7-404.3. Adult sentencing and supervision length guidelines.

1567 (1) The sentencing commission shall establish and maintain adult sentencing and
1568 supervision length guidelines regarding:

1569 (a) the sentencing and release of offenders in order to:

1570 (i) respond to public comment;

1571 (ii) relate sentencing practices and correctional resources;

1572 (iii) increase equity in sentencing;

1573 (iv) better define responsibility in sentencing; and

1574 (v) enhance the discretion of the sentencing court while preserving the role of the
1575 Board of Pardons and Parole;

- 1576 (b) the length of supervision of offenders on probation or parole in order to:
1577 (i) respond to public comment;
1578 (ii) increase equity in criminal supervision lengths;
1579 (iii) relate the length of supervision to an offender's progress;
1580 (iv) take into account an offender's risk of offending again;
1581 (v) relate the length of supervision to the amount of time an offender has remained
1582 under supervision in the community; and
1583 (vi) enhance the discretion of the sentencing court while preserving the role of the
1584 Board of Pardons and Parole; and
1585 (c) appropriate, evidence-based probation and parole supervision policies and services
1586 that assist offenders in successfully completing supervision and reduce incarceration rates from
1587 community supervision programs while ensuring public safety, including:
1588 (i) treatment and intervention completion determinations based on individualized case
1589 action plans;
1590 (ii) measured and consistent processes for addressing violations of conditions of
1591 supervision;
1592 (iii) processes that include using positive reinforcement to recognize an offender's
1593 progress in supervision;
1594 (iv) engaging with social services agencies and other stakeholders who provide
1595 services that meet the needs of an offender; and
1596 (v) identifying community violations that may not warrant revocation of probation or
1597 parole.
1598 (2) On or before October 31, 2024, the sentencing commission shall review and revise
1599 the supervision tools in the adult sentencing and supervision length guidelines to:
1600 (a) recommend appropriate sanctions for an individual who violates probation or parole
1601 by:
1602 (i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter
1603 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence
1604 described in Section [41-6a-502](#);
1605 (ii) possessing a dangerous weapon; or
1606 (iii) willfully refusing to participate in treatment ordered by the court or the Board of

1607 Pardons and Parole; and

1608 (b) recommend appropriate incentives for an individual on probation or parole that:

1609 (i) completes all conditions of probation or parole; or

1610 (ii) maintains eligible employment as defined in Section [64-13g-101](#).

1611 (3) The sentencing commission shall establish guidelines in the adult sentencing and
1612 supervision length guidelines that recommend an enhanced sentence that a court or the Board
1613 of Pardons and Parole should consider when determining the period in which a habitual
1614 offender, as defined in Section [77-18-102](#), will be incarcerated.

1615 (4) The sentencing commission shall modify:

1616 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1617 purposes of protecting the public and ensuring efficient use of state funds; and

1618 (b) the criminal history score in the adult sentencing and supervision length guidelines
1619 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1620 accurate determination of an individual's risk of offending again."; and

1621 (2) all occurrences of the language "sentencing and supervision length guidelines in
1622 Section [63M-7-404](#)" in Subsection [64-13-21](#)(7)(b) in S.B. 213 be replaced with "adult
1623 sentencing and supervision length guidelines, as defined in Section [63M-7-401.1](#)."