Criminal Code Recodification and Cross References

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies criminal provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure, reorganizing criminal statutes into a new format, and clarifying existing law.

Highlighted Provisions:

This bill:

- reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 9, Offenses Against Public Order and Decency, and Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals;
- reorganizes Title 76, Chapters 9 and 10 into a new organization to better align with the contents of the statutes;
- reorganizes offenses to enact an embedded offense as a stand-alone statute or statutes, including offenses concerning:
  - emergency reporting, interference, and false reports;
  - prohibited use of a party line or public pay telephone;
  - commercial obstruction;
  - electronic communication harassment and disclosure of personal information;
  - cruelty to animals, dog fighting, and police service canines, including aligning exemptions and defenses based on the elements of each offense;
  - voyeurism;
  - abuse or desecration of a dead human body;
  - criminal street gang activities;
  - tobacco sales and related offenses;
  - gambling and related offenses;
  - bus hijacking and related offenses;

- money laundering and related offenses;
- the use of a laser pointer;
- unlawful littering and related offenses;
- unlawful possession, use, or control of a vehicle with a contraband compartment;
- unlawful tattooing or piercing of a minor;
- labeling of explosives and related offenses;
- weapons offenses and related statutes;
- corporate fraud and related offenses, including unlawful acts by a director, officer, or agent;
- nuisances;
- pornography and related offenses, including placing the definition of pornography in the relevant definition section;
- prostitution, sexual solicitation, and related offenses; and
- kickbacks and related offenses;

‣ for clarity, places contents of Title 76, Chapter 9, Part 5, Libel, into Title 45, Chapter 2, Libel;

‣ for clarity, places certain contents of Title 76, Chapter 10, Part 5, Weapons, into Title 53, Public Safety Code;

‣ for clarity, places certain law enforcement requirements concerning gang loitering from Title 76, Chapter 10, Part 9, Prohibition of Gang Activity, into Title 53, Chapter 25, Law Enforcement Requirements;

‣ for clarity, defines a minor as an individual younger than 21 years old for the offense concerning public intoxication;

‣ for clarity, provides a more detailed description of an actor for purposes of offenses involving providing a weapon to a minor;

‣ for clarity, technically revises language concerning vicious animal offense;

‣ for clarity, removes definition of image in offense concerning failure to report child sexual abuse material by a computer technician;

‣ adds penalty provisions to offenses concerning high explosives that had been inadvertently omitted;

‣ repeals certain statutes concerning the Utah Trade Commission, which entity no longer exists;

‣ for clarity, provides which prostitution-related offenses do not apply to a minor;

‣ makes technical corrections to certain statutes resulting from inadvertent omissions in the

2024 criminal code recodification, including:

- reinserting a provision guaranteeing Native American rights in the statute concerning establishment of a prohibited item policy in a correctional or mental health facility;
- reinserting the penalty to the offense of alteration of proposed legislative bill or resolution; and
- providing clarifying language regarding the identity of the actor in the offense concerning trafficking in warrants; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-903, as enacted by Laws of Utah 2024, Chapter 82

4-25-303, as renumbered and amended by Laws of Utah 2017, Chapter 345

4-41a-102, as last amended by Laws of Utah 2024, Chapters 217, 238 and 240

4-44-202, as enacted by Laws of Utah 2019, Chapter 81

9-7-215, as last amended by Laws of Utah 2023, Chapters 160, 231 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 160

9-8a-304, as renumbered and amended by Laws of Utah 2023, Chapter 160

9-8a-309, as renumbered and amended by Laws of Utah 2023, Chapter 160

9-9-403, as last amended by Laws of Utah 2023, Chapter 160

9-23-306, as renumbered and amended by Laws of Utah 2022, Chapter 362

10-8-41.5, as last amended by Laws of Utah 2019, Chapter 303

10-8-41.6, as last amended by Laws of Utah 2024, Chapter 470

10-8-47, as last amended by Laws of Utah 2020, Chapters 302, 347

10-18-103, as last amended by Laws of Utah 2013, Chapter 187

11-46-303, as enacted by Laws of Utah 2011, Chapter 130

13-39-202, as last amended by Laws of Utah 2019, Chapter 356

13-40-102, as repealed and reenacted by Laws of Utah 2010, Chapter 200

13-44-301, as last amended by Laws of Utah 2024, Chapter 158

13-45-401, as last amended by Laws of Utah 2024, Chapter 158

13-74-101, as enacted by Laws of Utah 2024, Chapter 203

16-6a-1414, as last amended by Laws of Utah 2024, Chapter 331
17-41-403, as last amended by Laws of Utah 2019, Chapters 81, 227
17-50-333, as last amended by Laws of Utah 2024, Chapter 470
19-2-114, as last amended by Laws of Utah 2024, Chapter 92
19-6-429, as enacted by Laws of Utah 1997, Chapter 172
23A-4-1106, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-13-303, as renumbered and amended by Laws of Utah 2023, Chapter 103
26B-2-120, as last amended by Laws of Utah 2024, Chapter 234
26B-4-501, as last amended by Laws of Utah 2024, Chapter 257
26B-7-205, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-501, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-505, as last amended by Laws of Utah 2024, Chapter 470
26B-7-508, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-511, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-514, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-516, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-517, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-521, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-8-208, as renumbered and amended by Laws of Utah 2023, Chapter 306
31A-21-501, as last amended by Laws of Utah 2022, Chapters 185, 430
32B-3-303, as last amended by Laws of Utah 2020, Chapter 291
32B-4-423, as enacted by Laws of Utah 2013, Chapter 169
32B-5-301, as last amended by Laws of Utah 2020, Chapters 219, 291
32B-7-202, as last amended by Laws of Utah 2024, Chapter 94
32B-9-204, as last amended by Laws of Utah 2020, Chapter 291
34-45-102, as enacted by Laws of Utah 2009, Chapter 379
34-45-107, as last amended by Laws of Utah 2016, Chapter 348
34-52-201, as last amended by Laws of Utah 2023, Chapters 115, 344 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 344
34A-5-114, as enacted by Laws of Utah 2024, Chapter 95
41-1a-1008, as last amended by Laws of Utah 2020, Chapter 354
41-3-413, as enacted by Laws of Utah 1993, Chapter 163
47-3-305, as last amended by Laws of Utah 2021, Chapter 246

51-9-203, as last amended by Laws of Utah 2023, Chapter 328
51-9-801, as last amended by Laws of Utah 2023, Chapter 319
53-2a-214, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-3-219, as last amended by Laws of Utah 2022, Chapter 259
53-3-220, as last amended by Laws of Utah 2024, Chapter 319
53-3-229, as last amended by Laws of Utah 2020, Chapters 302, 347
53-3-810, as last amended by Laws of Utah 2020, Chapters 302, 347
53-5-702, as last amended by Laws of Utah 2024, Chapter 22
53-5-704, as last amended by Laws of Utah 2024, Chapter 195
53-5-705, as last amended by Laws of Utah 2010, Chapter 62
53-5-710, as last amended by Laws of Utah 2021, Chapter 141
53-5-711, as last amended by Laws of Utah 2019, Chapter 39
53-5a-102, as last amended by Laws of Utah 2022, Chapter 428
53-5a-202, as last amended by Laws of Utah 2024, Chapter 438
53-5c-201, as last amended by Laws of Utah 2023, Chapters 138, 448
53-5c-301, as last amended by Laws of Utah 2024, Chapter 204
53-5c-302, as last amended by Laws of Utah 2024, Chapter 204
53-5d-102, as enacted by Laws of Utah 2016, Chapter 155
53-10-202, as last amended by Laws of Utah 2023, Chapter 328
53-10-208.1, as last amended by Laws of Utah 2023, Chapters 184, 328 and 397
53-10-403, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256
53-10-801, as last amended by Laws of Utah 2022, Chapter 255 and renumbered and amended by Laws of Utah 2022, Chapter 430
53-10-803, as renumbered and amended by Laws of Utah 2022, Chapter 430
53-13-116, as enacted by Laws of Utah 2021, Chapter 164
53-22-105, as enacted by Laws of Utah 2024, Chapter 21
53-22-107, as enacted by Laws of Utah 2024, Chapter 117
53-25-103, as enacted by Laws of Utah 2024, Chapter 332
53-25-202, as renumbered and amended by Laws of Utah 2024, Chapter 111
53-25-501, as enacted by Laws of Utah 2024, Chapter 111
53B-16-601, as enacted by Laws of Utah 2024, Chapter 49
53G-1-103, as last amended by Laws of Utah 2020, Chapter 161 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 161
53G-4-402, as last amended by Laws of Utah 2024, Chapters 67, 476

53G-6-204, as last amended by Laws of Utah 2024, Chapters 113, 386
53G-8-201, as last amended by Laws of Utah 2024, Chapter 75
53G-8-205, as last amended by Laws of Utah 2024, Chapter 75
53G-8-209, as last amended by Laws of Utah 2020, Chapters 161, 302 and 347
53G-8-211, as last amended by Laws of Utah 2024, Chapters 240, 301
53G-8-701.8, as enacted by Laws of Utah 2024, Chapter 21
53G-10-103, as last amended by Laws of Utah 2024, Chapter 318
57-22-5.1, as last amended by Laws of Utah 2023, Chapter 166
58-37-8, as last amended by Laws of Utah 2024, Chapter 105
58-63-307, as last amended by Laws of Utah 2008, Chapter 246
59-14-102, as last amended by Laws of Utah 2022, Chapter 199
59-14-507, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-14-807, as last amended by Laws of Utah 2024, Chapter 470
59-14-810, as enacted by Laws of Utah 2024, Chapter 470
59-27-105, as last amended by Laws of Utah 2013, Chapter 400
63G-6a-2505, as enacted by Laws of Utah 2024, Chapter 291
63G-7-301, as last amended by Laws of Utah 2024, Chapter 234
63G-12-102, as last amended by Laws of Utah 2023, Chapter 16
63G-12-106, as enacted by Laws of Utah 2011, Chapter 18
63G-31-302, as enacted by Laws of Utah 2024, Chapter 2
63G-31-304, as enacted by Laws of Utah 2024, Chapter 2
63I-1-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63I-2-276, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5
63M-7-502, as last amended by Laws of Utah 2024, Chapter 506
64-13-41, as last amended by Laws of Utah 2008, Chapter 382
67-5-22.7, as last amended by Laws of Utah 2011, Chapter 18
72-10-901, as renumbered and amended by Laws of Utah 2023, Chapter 216
73-2-27, as last amended by Laws of Utah 2023, Chapters 111, 179
73-29-102, as last amended by Laws of Utah 2023, Chapter 34
76-1-301, as last amended by Laws of Utah 2024, Chapter 96
76-2-304.5, as last amended by Laws of Utah 2024, Chapter 140
76-2-306, as last amended by Laws of Utah 2017, Chapter 322
76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96
76-3-203.3, as last amended by Laws of Utah 2024, Chapters 96, 381

76-3-203.5, as last amended by Laws of Utah 2024, Chapters 96, 179
76-3-203.12, as enacted by Laws of Utah 2017, Chapter 449
76-3-209, as last amended by Laws of Utah 2023, Chapters 123, 214
76-3-402, as last amended by Laws of Utah 2024, Chapter 234
76-3-407, as last amended by Laws of Utah 2023, Chapter 457
76-4-102, as last amended by Laws of Utah 2013, Chapter 93
76-4-202, as last amended by Laws of Utah 1996, Chapter 40
76-4-203, as last amended by Laws of Utah 2024, Chapter 301
76-5-102.8, as last amended by Laws of Utah 2022, Chapter 181
76-5-104, as last amended by Laws of Utah 2022, Chapter 181
76-5-106.5, as last amended by Laws of Utah 2024, Chapter 179
76-5-107, as last amended by Laws of Utah 2024, Chapter 126
76-5-107.1, as last amended by Laws of Utah 2024, Chapter 27
76-5-107.3, as last amended by Laws of Utah 2022, Chapter 181
76-5-109.3, as last amended by Laws of Utah 2024, Chapter 225
76-5-202, as last amended by Laws of Utah 2022, Chapter 181
76-5-203, as last amended by Laws of Utah 2024, Chapters 96, 187
76-5-302, as last amended by Laws of Utah 2022, Chapter 181
76-5-415, as last amended by Laws of Utah 2018, Chapter 415
76-5b-201, as last amended by Laws of Utah 2024, Chapter 142
76-5b-203, as last amended by Laws of Utah 2024, Chapter 127
76-5b-205, as last amended by Laws of Utah 2024, Chapters 127, 146
76-6-105, as last amended by Laws of Utah 2023, Chapter 111
76-6-206, as last amended by Laws of Utah 2024, Chapter 2
76-6-414, as enacted by Laws of Utah 2024, Chapter 230
76-6-703.3, as enacted by Laws of Utah 2023, Chapter 111
76-6-703.7, as enacted by Laws of Utah 2023, Chapter 111
76-6-705, as last amended by Laws of Utah 2023, Chapter 111
76-6-1202, as enacted by Laws of Utah 2008, Chapter 370
76-7-101, as last amended by Laws of Utah 2022, Chapter 181
76-8-107, as last amended by Laws of Utah 2024, Chapter 96
76-8-311.1, as last amended by Laws of Utah 2024, Chapter 96
76-8-311.2, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.3, as last amended by Laws of Utah 2024, Chapters 96, 99

76-8-311.4, as enacted by Laws of Utah 2024, Chapter 96
76-8-311.7, as enacted by Laws of Utah 2024, Chapter 96
76-8-411, as last amended by Laws of Utah 2024, Chapter 96
76-9-101, as last amended by Laws of Utah 2022, Chapter 181
76-9-102, as last amended by Laws of Utah 2020, Chapter 394
76-9-103, as enacted by Laws of Utah 1973, Chapter 196
76-9-104, as enacted by Laws of Utah 1973, Chapter 196
76-9-105, as last amended by Laws of Utah 2017, Chapter 462
76-9-106, as enacted by Laws of Utah 1992, Chapter 163
76-9-107, as enacted by Laws of Utah 2003, Chapter 186
76-9-108, as enacted by Laws of Utah 2007, Chapter 46
76-9-109, as enacted by Laws of Utah 2021, Chapter 174
76-9-601, as enacted by Laws of Utah 1973, Chapter 196
76-9-802, as last amended by Laws of Utah 2024, Chapter 96
76-9-803, as enacted by Laws of Utah 2008, Chapter 15
76-9-804, as last amended by Laws of Utah 2022, Chapter 181
77-2-9, as last amended by Laws of Utah 2021, Chapter 262
77-7a-104, as last amended by Laws of Utah 2020, Chapter 404
77-11a-402, as last amended by Laws of Utah 2024, Chapter 332
77-11b-102, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered and amended by Laws of Utah 2023, Chapter 448
77-11d-101, as last amended by Laws of Utah 2024, Chapter 332
77-11d-105, as last amended by Laws of Utah 2024, Chapters 332, 517
77-20-203, as last amended by Laws of Utah 2024, Chapter 16
77-20-204, as last amended by Laws of Utah 2024, Chapter 16
77-22-2.5, as last amended by Laws of Utah 2022, Chapter 185
77-23a-8, as last amended by Laws of Utah 2024, Chapters 96, 301
77-36-1, as last amended by Laws of Utah 2024, Chapter 366
77-36-2.1, as last amended by Laws of Utah 2024, Chapter 434
77-37-2, as last amended by Laws of Utah 2024, Chapter 164
77-38-3, as last amended by Laws of Utah 2024, Chapter 240
77-38-601, as last amended by Laws of Utah 2023, Chapters 16, 237
77-39-101, as last amended by Laws of Utah 2024, Chapter 35
77-40a-101, as last amended by Laws of Utah 2024, Chapter 180

77-40a-205, as enacted by Laws of Utah 2024, Chapter 180
77-40a-403, as last amended by Laws of Utah 2024, Chapter 180
77-41-102, as last amended by Laws of Utah 2024, Chapter 234
77-41-106, as last amended by Laws of Utah 2024, Chapter 234
77-41-112, as last amended by Laws of Utah 2024, Chapters 116, 234
77-41-113, as last amended by Laws of Utah 2024, Chapter 234
77-42-105, as last amended by Laws of Utah 2023, Chapter 111
78A-2-203, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-5a-103, as last amended by Laws of Utah 2024, Chapters 158, 366
78B-4-511, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-505, as last amended by Laws of Utah 2021, Chapter 260
78B-6-111, as last amended by Laws of Utah 2015, Chapter 194
78B-6-1101, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1103, as last amended by Laws of Utah 2011, Chapter 185
78B-6-1107, as last amended by Laws of Utah 2021, Chapter 207
78B-6-1701, as enacted by Laws of Utah 2010, Chapter 143
78B-6-2102, as last amended by Laws of Utah 2024, Chapter 168
78B-6-2105, as last amended by Laws of Utah 2024, Chapter 168
78B-6-2301, as last amended by Laws of Utah 2024, Chapter 438
78B-7-502, as last amended by Laws of Utah 2022, Chapter 430
78B-7-801, as last amended by Laws of Utah 2023, Chapter 114
78B-8-503, as last amended by Laws of Utah 2013, Chapter 187
78B-9-104, as last amended by Laws of Utah 2023, Chapters 111, 448
80-1-102, as last amended by Laws of Utah 2024, Chapter 256
80-2-301, as last amended by Laws of Utah 2024, Chapters 240, 307
80-4-302, as last amended by Laws of Utah 2023, Chapter 330
80-6-103, as last amended by Laws of Utah 2024, Chapter 532
80-6-104, as last amended by Laws of Utah 2024, Chapter 20
80-6-302, as last amended by Laws of Utah 2023, Chapter 161
80-6-303.5, as last amended by Laws of Utah 2024, Chapter 301
80-6-304, as last amended by Laws of Utah 2023, Chapter 161
80-6-305, as last amended by Laws of Utah 2023, Chapter 161
80-6-503, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-605, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-608, as last amended by Laws of Utah 2024, Chapter 256
80-6-707, as last amended by Laws of Utah 2022, Chapters 116, 334
80-6-712, as last amended by Laws of Utah 2024, Chapter 153
80-6-804, as last amended by Laws of Utah 2024, Chapter 153
80-6-1002, as last amended by Laws of Utah 2023, Chapter 115
80-6-1004.1, as enacted by Laws of Utah 2023, Chapter 115
80-6-1004.5, as last amended by Laws of Utah 2024, Chapter 301
81-9-202, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-204, as renumbered and amended by Laws of Utah 2024, Chapter 366
81-9-208, as renumbered and amended by Laws of Utah 2024, Chapter 366
ENACTS:
53-5a-102.1, Utah Code Annotated 1953
53-5a-301, Utah Code Annotated 1953
53-25-601, Utah Code Annotated 1953
59-14-501.5, Utah Code Annotated 1953
76-5-801, Utah Code Annotated 1953
76-5-803, Utah Code Annotated 1953
76-5c-201, Utah Code Annotated 1953
76-5c-203, Utah Code Annotated 1953
76-5c-206, Utah Code Annotated 1953
76-5c-212, Utah Code Annotated 1953
76-5c-213, Utah Code Annotated 1953
76-5c-307, Utah Code Annotated 1953
76-5d-201, Utah Code Annotated 1953
76-5d-204, Utah Code Annotated 1953
76-5d-205, Utah Code Annotated 1953
76-5d-210, Utah Code Annotated 1953
76-9-105.6, Utah Code Annotated 1953
76-9-114, Utah Code Annotated 1953
76-9-803.5, Utah Code Annotated 1953
76-9-803.6, Utah Code Annotated 1953
76-9-1108, Utah Code Annotated 1953
76-9-1115, Utah Code Annotated 1953
76-9-1118, Utah Code Annotated 1953

76-9-1201, Utah Code Annotated 1953
76-9-1302, Utah Code Annotated 1953
76-9-1403, Utah Code Annotated 1953
76-9-1404, Utah Code Annotated 1953
76-9-1503, Utah Code Annotated 1953
76-9-1507, Utah Code Annotated 1953
76-9-1603, Utah Code Annotated 1953
76-9-1701, Utah Code Annotated 1953
76-9-1703, Utah Code Annotated 1953
76-9-1704, Utah Code Annotated 1953
76-9-1801, Utah Code Annotated 1953
76-9-1803, Utah Code Annotated 1953
76-9-1804, Utah Code Annotated 1953
76-9-1805, Utah Code Annotated 1953
76-9-1806, Utah Code Annotated 1953
76-9-1901, Utah Code Annotated 1953
76-9-1903, Utah Code Annotated 1953
76-9-2001, Utah Code Annotated 1953
76-9-2003, Utah Code Annotated 1953
76-11-201, Utah Code Annotated 1953
76-11-301, Utah Code Annotated 1953
76-12-101, Utah Code Annotated 1953
76-12-201, Utah Code Annotated 1953
76-12-203, Utah Code Annotated 1953
76-12-204, Utah Code Annotated 1953
76-12-306, Utah Code Annotated 1953
76-12-308, Utah Code Annotated 1953
76-13-101, Utah Code Annotated 1953
76-13-201, Utah Code Annotated 1953
76-13-203, Utah Code Annotated 1953
76-13-204, Utah Code Annotated 1953
76-13-206, Utah Code Annotated 1953
76-13-210, Utah Code Annotated 1953
76-14-101, Utah Code Annotated 1953

76-15-101, Utah Code Annotated 1953
76-15-201, Utah Code Annotated 1953
76-15-207, Utah Code Annotated 1953
76-15-208, Utah Code Annotated 1953
76-15-211, Utah Code Annotated 1953
76-16-101, Utah Code Annotated 1953
76-16-210, Utah Code Annotated 1953
76-16-211, Utah Code Annotated 1953
76-16-212, Utah Code Annotated 1953
76-16-213, Utah Code Annotated 1953
76-16-214, Utah Code Annotated 1953
76-16-401, Utah Code Annotated 1953
76-17-101, Utah Code Annotated 1953
76-17-201, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

11-48-104, (Renumbered from 76-9-905, as enacted by Laws of Utah 2009, Chapter 86)
45-2-11, (Renumbered from 76-9-504, as enacted by Laws of Utah 1973, Chapter 196)
45-2-12, (Renumbered from 76-9-506, as enacted by Laws of Utah 1973, Chapter 196)
45-2-13, (Renumbered from 76-9-509, as enacted by Laws of Utah 1973, Chapter 196)
53-5a-102.3, (Renumbered from 76-10-511, as last amended by Laws of Utah 2009, Chapter 362)
53-5a-105, (Renumbered from 76-10-520, as last amended by Laws of Utah 1993, Chapter 234)
53-5a-106, (Renumbered from 76-10-522, as last amended by Laws of Utah 1993, Chapter 234)
53-5a-107, (Renumbered from 76-10-523.5, as last amended by Laws of Utah 2008, Chapter 3)
53-5a-108, (Renumbered from 76-10-523, as last amended by Laws of Utah 2021, Chapter 12)
53-5a-302, (Renumbered from 76-10-526, as last amended by Laws of Utah 2023, Chapters 330, 397)

53-5a-303, (Renumbered from 76-10-526.1, as enacted by Laws of Utah 2023, Chapter 398)
53-5a-304, (Renumbered from 76-10-527, as last amended by Laws of Utah 2009, Chapter 20)
53-5a-305, (Renumbered from 76-10-524, as last amended by Laws of Utah 2004, Chapter 360)
53-25-602, (Renumbered from 76-9-903, as enacted by Laws of Utah 2009, Chapter 86)
58-37-8.1, (Renumbered from 76-10-2204, as last amended by Laws of Utah 2023, Chapter 330)
58-37-8.2, (Renumbered from 76-10-2203, as enacted by Laws of Utah 2019, Chapter 97)
67-5-40, (Renumbered from 76-10-3114, as last amended by Laws of Utah 2019, Chapter 348)
76-5-115, (Renumbered from 76-10-2202, as enacted by Laws of Utah 2011, Chapter 204)
76-5-417, (Renumbered from 76-4-401, as last amended by Laws of Utah 2023, Chapter 457)
76-5-418, (Renumbered from 76-9-702.1, as last amended by Laws of Utah 2024, Chapter 234)
76-5-419, (Renumbered from 76-9-702, as last amended by Laws of Utah 2024, Chapter 234)
76-5-420, (Renumbered from 76-9-702.5, as last amended by Laws of Utah 2024, Chapter 205)
76-5-802, (Renumbered from 76-9-704, as last amended by Laws of Utah 2023, Chapters 160, 330)
76-5b-206, (Renumbered from 76-10-1204.5, as last amended by Laws of Utah 2023, Chapter 231)
76-5c-101, (Renumbered from 76-10-1201, as last amended by Laws of Utah 2013, Chapter 278)
76-5c-102, (Renumbered from 76-10-1203, as last amended by Laws of Utah 1977, Chapter 92)
76-5c-103, (Renumbered from 76-10-1210, as last amended by Laws of Utah 2007, Chapter 123)
76-5c-104, (Renumbered from 76-10-1209, as last amended by Laws of Utah 2010,

Chapter 43)

76-5c-105, (Renumbered from 76-10-1207, as enacted by Laws of Utah 1977, Chapter 92)

76-5c-106, (Renumbered from 76-10-1213, as last amended by Laws of Utah 2000, Chapter 53)

76-5c-107, (Renumbered from 76-10-1212, as last amended by Laws of Utah 2000, Chapter 53)

76-5c-108, (Renumbered from 76-10-1215, as last amended by Laws of Utah 1993, Chapter 38)

76-5c-109, (Renumbered from 76-10-1208, as last amended by Laws of Utah 2007, Chapter 123)

76-5c-110, (Renumbered from 76-10-1207.5, as enacted by Laws of Utah 1990, Chapter 138)

76-5c-111, (Renumbered from 76-10-1211, as last amended by Laws of Utah 1995, Chapter 20)

76-5c-202, (Renumbered from 76-10-1204, as last amended by Laws of Utah 2021, Chapter 260)

76-5c-204, (Renumbered from 76-10-1205, as last amended by Laws of Utah 2021, Chapter 260)

76-5c-205, (Renumbered from 76-10-1206, as last amended by Laws of Utah 2021, Chapter 260)

76-5c-207, (Renumbered from 76-10-1228, as last amended by Laws of Utah 2021, Chapter 260)

76-5c-208, (Renumbered from 76-10-1235, as enacted by Laws of Utah 2007, Chapter 79)

76-5c-209, (Renumbered from 76-10-1236, as enacted by Laws of Utah 2023, Chapter 118)

76-5c-210, (Renumbered from 76-10-1237, as enacted by Laws of Utah 2023, Chapter 118)

76-5c-211, (Renumbered from 76-10-1238, as enacted by Laws of Utah 2024, Chapter 166)

76-5c-214, (Renumbered from 76-10-1214, as last amended by Laws of Utah 2021, Chapter 260)

76-5c-301, (Renumbered from 76-10-1216, as enacted by Laws of Utah 1977,

Chapter 92)
76-5c-302, (Renumbered from 76-10-1217, as enacted by Laws of Utah 1977, Chapter 93)
76-5c-303, (Renumbered from 76-10-1219, as last amended by Laws of Utah 2010, Chapters 43, 324)
76-5c-304, (Renumbered from 76-10-1220, as last amended by Laws of Utah 2010, Chapter 43)
76-5c-305, (Renumbered from 76-10-1222, as enacted by Laws of Utah 1977, Chapter 93)
76-5c-306, (Renumbered from 76-10-1223, as enacted by Laws of Utah 1977, Chapter 93)
76-5c-401, (Renumbered from 76-10-1230, as last amended by Laws of Utah 2018, Chapter 164)
76-5c-402, (Renumbered from 76-10-1231, as last amended by Laws of Utah 2019, Chapter 180)
76-5c-403, (Renumbered from 76-10-1233, as last amended by Laws of Utah 2008, Chapter 297)
76-5d-101, (Renumbered from 76-10-1301, as last amended by Laws of Utah 2022, Chapter 124)
76-5d-102, (Renumbered from 76-10-1307, as enacted by Laws of Utah 1991, Chapter 107)
76-5d-103, (Renumbered from 76-10-1311, as last amended by Laws of Utah 2023, Chapters 184, 330)
76-5d-104, (Renumbered from 76-10-1312, as last amended by Laws of Utah 2023, Chapter 330)
76-5d-105, (Renumbered from 76-10-1314, as enacted by Laws of Utah 1993, Chapter 179)
76-5d-106, (Renumbered from 76-10-1315, as last amended by Laws of Utah 2022, Chapters 124, 181 and 335)
76-5d-202, (Renumbered from 76-10-1302, as last amended by Laws of Utah 2023, Chapter 111)
76-5d-203, (Renumbered from 76-10-1303, as last amended by Laws of Utah 2024, Chapter 140)
76-5d-206, (Renumbered from 76-10-1304, as last amended by Laws of Utah 2018,

Chapter 308)
76-5d-207, (Renumbered from 76-10-1305, as last amended by Laws of Utah 2018, Chapter 308)
76-5d-208, (Renumbered from 76-10-1306, as last amended by Laws of Utah 2022, Chapter 181)
76-5d-209, (Renumbered from 76-10-1313, as last amended by Laws of Utah 2022, Chapters 124, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 124)
76-5d-211, (Renumbered from 76-10-1309, as last amended by Laws of Utah 2011, Chapter 70)
76-6-207, (Renumbered from 76-10-2002, as enacted by Laws of Utah 1989, Chapter 179)
76-6-525, (Renumbered from 76-10-1801, as last amended by Laws of Utah 2010, Chapter 193)
76-9-105.5, (Renumbered from 76-9-202, as last amended by Laws of Utah 2024, Chapter 27)
76-9-110, (Renumbered from 76-9-701, as last amended by Laws of Utah 2021, Chapter 262)
76-9-111, (Renumbered from 76-9-702.3, as last amended by Laws of Utah 2016, Chapter 303)
76-9-112, (Renumbered from 76-9-705, as enacted by Laws of Utah 1997, Chapter 83)
76-9-113, (Renumbered from 76-10-2402, as last amended by Laws of Utah 2010, Chapter 334)
76-9-602, (Renumbered from 76-9-706, as last amended by Laws of Utah 2016, Chapter 303)
76-9-805, (Renumbered from 76-9-904, as enacted by Laws of Utah 2009, Chapter 86)
76-9-1101, (Renumbered from 76-10-101, as last amended by Laws of Utah 2024, Chapter 470)
76-9-1102, (Renumbered from 76-10-102, as last amended by Laws of Utah 1986, Chapter 66)
76-9-1103, (Renumbered from 76-10-103, as last amended by Laws of Utah 2020, Chapters 302, 347)
76-9-1104, (Renumbered from 76-10-104, as last amended by Laws of Utah 2020, Chapters 302, 347)
76-9-1105, (Renumbered from 76-10-104.1, as last amended by Laws of Utah 2020,

Chapters 302, 347)

76-9-1106, (Renumbered from 76-10-105, as last amended by Laws of Utah 2021, Chapter 262)

76-9-1107, (Renumbered from 76-10-105.1, as last amended by Laws of Utah 2021, Chapter 348)

76-9-1109, (Renumbered from 76-10-105.3, as enacted by Laws of Utah 1986, Chapter 188)

76-9-1110, (Renumbered from 76-10-107, as last amended by Laws of Utah 2002, Chapter 23)

76-9-1111, (Renumbered from 76-10-107.5, as enacted by Laws of Utah 2002, Chapter 23)

76-9-1112, (Renumbered from 76-10-111, as last amended by Laws of Utah 2020, Chapters 302, 347)

76-9-1113, (Renumbered from 76-10-112, as last amended by Laws of Utah 2020, Chapter 302)

76-9-1114, (Renumbered from 76-10-113, as last amended by Laws of Utah 2024, Chapter 470)

76-9-1116, (Renumbered from 76-10-114, as last amended by Laws of Utah 2021, First Special Session, Chapter 12)

76-9-1117, (Renumbered from 76-10-115, as last amended by Laws of Utah 2021, First Special Session, Chapter 12)

76-9-1119, (Renumbered from 76-10-116, as enacted by Laws of Utah 2020, Chapter 302)

76-9-1202, (Renumbered from 76-10-201, as last amended by Laws of Utah 2005, Chapter 215)

76-9-1203, (Renumbered from 76-10-202, as last amended by Laws of Utah 2005, Chapter 215)

76-9-1204, (Renumbered from 76-10-203, as last amended by Laws of Utah 2005, Chapter 215)

76-9-1205, (Renumbered from 76-10-204, as last amended by Laws of Utah 2023, Chapters 111, 179)

76-9-1206, (Renumbered from 76-10-2601, as enacted by Laws of Utah 2002, Chapter 166)

76-9-1301, (Renumbered from 76-10-801, as enacted by Laws of Utah 1973, Chapter

196)

76-9-1303, (Renumbered from 76-10-802, as enacted by Laws of Utah 1973, Chapter 196)

76-9-1304, (Renumbered from 76-10-805, as enacted by Laws of Utah 1973, Chapter 196)

76-9-1305, (Renumbered from 76-10-804, as enacted by Laws of Utah 1973, Chapter 196)

76-9-1306, (Renumbered from 76-10-806, as last amended by Laws of Utah 1993, Chapter 227)

76-9-1307, (Renumbered from 76-10-808, as last amended by Laws of Utah 2015, Chapter 258)

76-9-1308, (Renumbered from 76-10-807, as enacted by Laws of Utah 2010, Chapter 99)

76-9-1401, (Renumbered from 76-10-1101, as last amended by Laws of Utah 2020, Chapter 291)

76-9-1402, (Renumbered from 76-10-1102, as last amended by Laws of Utah 2020, Chapter 291)

76-9-1405, (Renumbered from 76-10-1104, as last amended by Laws of Utah 2020, Chapter 291)

76-9-1406, (Renumbered from 76-10-1103, as last amended by Laws of Utah 2019, Chapter 185)

76-9-1407, (Renumbered from 76-10-1105, as last amended by Laws of Utah 2020, Chapter 291)

76-9-1408, (Renumbered from 76-10-1110, as enacted by Laws of Utah 2020, Chapter 291)

76-9-1409, (Renumbered from 76-10-1104.5, as enacted by Laws of Utah 2001, Chapter 182)

76-9-1410, (Renumbered from 76-10-1109, as enacted by Laws of Utah 1973, Chapter 196)

76-9-1411, (Renumbered from 76-10-1112, as last amended by Laws of Utah 2023, Chapter 448)

76-9-1412, (Renumbered from 76-10-1113, as enacted by Laws of Utah 2020, Chapter 291)

76-9-1501, (Renumbered from 76-10-1503, as last amended by Laws of Utah 2007,

Chapter 329)

76-9-1502, (Renumbered from 76-10-1504, as last amended by Laws of Utah 2022, Chapter 181)

76-9-1504, (Renumbered from 76-10-1505, as last amended by Laws of Utah 1999, Chapter 97)

76-9-1505, (Renumbered from 76-10-1506, as last amended by Laws of Utah 2010, Chapter 276)

76-9-1506, (Renumbered from 76-10-1507, as last amended by Laws of Utah 2016, Chapter 399)

76-9-1508, (Renumbered from 76-10-1508, as enacted by Laws of Utah 1979, Chapter 72)

76-9-1509, (Renumbered from 76-10-1509, as enacted by Laws of Utah 1979, Chapter 72)

76-9-1510, (Renumbered from 76-10-1510, as last amended by Laws of Utah 2007, Chapter 229)

76-9-1601, (Renumbered from 76-10-1902, as last amended by Laws of Utah 2013, Chapter 73)

76-9-1602, (Renumbered from 76-10-1903, as last amended by Laws of Utah 2009, Chapter 74)

76-9-1604, (Renumbered from 76-10-1906, as last amended by Laws of Utah 2008, Chapter 268)

76-9-1702, (Renumbered from 76-10-2501, as last amended by Laws of Utah 2024, Chapter 461)

76-9-1802, (Renumbered from 76-10-2701, as enacted by Laws of Utah 2008, Chapter 22)

76-9-1807, (Renumbered from 76-10-2101, as last amended by Laws of Utah 2010, Chapter 324)

76-9-1902, (Renumbered from 76-10-2801, as enacted by Laws of Utah 2008, Chapter 298)

76-9-2002, (Renumbered from 76-10-2201, as last amended by Laws of Utah 2013, Chapter 329)

76-11-101, (Renumbered from 76-10-501, as last amended by Laws of Utah 2023, Chapters 161, 397 and 425)

76-11-102, (Renumbered from 76-10-502, as last amended by Laws of Utah 1990,

Chapter 328)

76-11-202, (Renumbered from 76-10-504, as last amended by Laws of Utah 2023, Chapter 34)

76-11-203, (Renumbered from 76-10-505, as last amended by Laws of Utah 2021, Chapter 12)

76-11-204, (Renumbered from 76-10-505.5, as last amended by Laws of Utah 2024, Chapters 21, 117 and 301)

76-11-205, (Renumbered from 76-10-506, as last amended by Laws of Utah 2019, Chapters 39, 201)

76-11-206, (Renumbered from 76-10-507, as last amended by Laws of Utah 2015, Chapter 406)

76-11-207, (Renumbered from 76-10-508, as last amended by Laws of Utah 2023, Chapter 34)

76-11-208, (Renumbered from 76-10-508.1, as last amended by Laws of Utah 2023, Chapter 34)

76-11-209, (Renumbered from 76-10-509.4, as last amended by Laws of Utah 2024, Chapter 301)

76-11-210, (Renumbered from 76-10-509.5, as last amended by Laws of Utah 2013, Chapter 301)

76-11-211, (Renumbered from 76-10-509.6, as last amended by Laws of Utah 2000, Chapter 303)

76-11-212, (Renumbered from 76-10-509.7, as last amended by Laws of Utah 2024, Chapter 301)

76-11-213, (Renumbered from 76-10-509.9, as enacted by Laws of Utah 1993, Second Special Session, Chapter 13)

76-11-214, (Renumbered from 76-10-528, as last amended by Laws of Utah 2023, Chapters 330, 386)

76-11-215, (Renumbered from 76-10-529, as last amended by Laws of Utah 2024, Chapter 332)

76-11-216, (Renumbered from 76-10-530, as last amended by Laws of Utah 2009, Chapter 388)

76-11-302, (Renumbered from 76-10-503, as last amended by Laws of Utah 2023, First Special Session, Chapter 2)

76-11-309, (Renumbered from 76-10-503.1, as last amended by Laws of Utah 2023,

Chapter 203)
76-11-310, (Renumbered from 76-10-532, as last amended by Laws of Utah 2023, Chapter 425)
76-12-202, (Renumbered from 76-9-201, as last amended by Laws of Utah 2024, Chapter 224)
76-12-205, (Renumbered from 76-6-703.1, as enacted by Laws of Utah 2023, Chapter 111)
76-12-206, (Renumbered from 76-9-203, as enacted by Laws of Utah 2021, Chapter 152)
76-12-207, (Renumbered from 76-10-1802, as enacted by Laws of Utah 2015, Chapter 151)
76-12-301, (Renumbered from 76-9-401, as enacted by Laws of Utah 1973, Chapter 196)
76-12-302, (Renumbered from 76-9-402, as last amended by Laws of Utah 2023, Chapter 510)
76-12-303, (Renumbered from 76-9-403, as enacted by Laws of Utah 1973, Chapter 196)
76-12-304, (Renumbered from 76-9-407, as enacted by Laws of Utah 1999, Chapter 146)
76-12-305, (Renumbered from 76-9-408, as enacted by Laws of Utah 2019, Chapter 372)
76-12-307, (Renumbered from 76-9-702.7, as last amended by Laws of Utah 2024, Chapter 2)
76-12-309, (Renumbered from 76-9-702.8, as enacted by Laws of Utah 2024, Chapter 2)
76-12-401, (Renumbered from 76-10-601, as enacted by Laws of Utah 1973, Chapter 196)
76-12-402, (Renumbered from 76-10-602, as enacted by Laws of Utah 1973, Chapter 196)
76-12-403, (Renumbered from 76-10-603, as last amended by Laws of Utah 1995, Chapter 20)
76-13-102, (Renumbered from 76-9-305, as last amended by Laws of Utah 1977, Chapter 87)
76-13-103, (Renumbered from 76-9-301.6, as last amended by Laws of Utah 2008,

Chapter 292)

76-13-104, (Renumbered from 76-9-301.7, as last amended by Laws of Utah 2008, Chapter 292)

76-13-202, (Renumbered from 76-9-301, as last amended by Laws of Utah 2023, Chapter 34)

76-13-205, (Renumbered from 76-9-301.1, as last amended by Laws of Utah 2010, Chapter 324)

76-13-207, (Renumbered from 76-9-301.3, as enacted by Laws of Utah 2015, Chapter 329)

76-13-208, (Renumbered from 76-9-301.5, as last amended by Laws of Utah 2008, Chapter 292)

76-13-209, (Renumbered from 76-9-306, as last amended by Laws of Utah 2018, Chapter 264)

76-13-211, (Renumbered from 76-9-307, as last amended by Laws of Utah 2023, Chapter 330)

76-13-212, (Renumbered from 76-9-304, as last amended by Laws of Utah 1977, Chapter 87)

76-13-213, (Renumbered from 76-9-301.8, as last amended by Laws of Utah 1999, Chapter 302)

76-13-214, (Renumbered from 76-9-308, as last amended by Laws of Utah 2023, Chapter 216)

76-13-215, (Renumbered from 76-9-301.9, as enacted by Laws of Utah 2024, Chapter 82)

76-14-201, (Renumbered from 76-9-1002, as enacted by Laws of Utah 2011, Chapter 21)

76-14-202, (Renumbered from 76-9-1003, as last amended by Laws of Utah 2022, Chapter 181)

76-14-203, (Renumbered from 76-9-1004, as enacted by Laws of Utah 2011, Chapter 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)

76-14-204, (Renumbered from 76-9-1005, as enacted by Laws of Utah 2011, Chapter 21)

76-14-205, (Renumbered from 76-9-1006, as enacted by Laws of Utah 2011, Chapter 21)

76-14-206, (Renumbered from 76-9-1007, as last amended by Laws of Utah 2018,

Third Special Session, Chapter 2)

76-14-207, (Renumbered from 76-9-1008, as last amended by Laws of Utah 2024, Chapter 96)

76-14-208, (Renumbered from 76-9-1009, as enacted by Laws of Utah 2011, Chapter 21)

76-14-209, (Renumbered from 76-10-2901, as last amended by Laws of Utah 2011, Chapters 18, 21 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 20)

76-15-202, (Renumbered from 76-10-308, as repealed and reenacted by Laws of Utah 1993, Chapter 75)

76-15-203, (Renumbered from 76-10-302, as enacted by Laws of Utah 1973, Chapter 196)

76-15-204, (Renumbered from 76-10-303, as enacted by Laws of Utah 1973, Chapter 196)

76-15-205, (Renumbered from 76-10-304, as enacted by Laws of Utah 1973, Chapter 196)

76-15-206, (Renumbered from 76-10-305, as enacted by Laws of Utah 1973, Chapter 196)

76-15-209, (Renumbered from 76-10-307, as last amended by Laws of Utah 1999, Chapter 97)

76-15-210, (Renumbered from 76-10-306, as last amended by Laws of Utah 2024, Chapter 343)

76-15-301, (Renumbered from 76-10-401, as repealed and reenacted by Laws of Utah 2002, Chapter 166)

76-15-302, (Renumbered from 76-10-402, as enacted by Laws of Utah 2002, Chapter 166)

76-15-303, (Renumbered from 76-10-403, as enacted by Laws of Utah 2002, Chapter 166)

76-16-201, (Renumbered from 76-10-701, as enacted by Laws of Utah 1973, Chapter 196)

76-16-202, (Renumbered from 76-10-709, as last amended by Laws of Utah 1995, Chapter 20)

76-16-203, (Renumbered from 76-10-710, as enacted by Laws of Utah 1973, Chapter 196)

76-16-204, (Renumbered from 76-10-711, as last amended by Laws of Utah 1995,

Chapter 20)

76-16-205, (Renumbered from 76-10-702, as enacted by Laws of Utah 1973, Chapter 196)

76-16-206, (Renumbered from 76-10-703, as enacted by Laws of Utah 1973, Chapter 196)

76-16-207, (Renumbered from 76-10-704, as enacted by Laws of Utah 1973, Chapter 196)

76-16-208, (Renumbered from 76-10-705, as last amended by Laws of Utah 1992, Third Special Session, Chapter 6)

76-16-209, (Renumbered from 76-10-706, as enacted by Laws of Utah 1973, Chapter 196)

76-16-215, (Renumbered from 76-10-707, as enacted by Laws of Utah 1973, Chapter 196)

76-16-216, (Renumbered from 76-10-708, as enacted by Laws of Utah 1973, Chapter 196)

76-16-301, (Renumbered from 76-10-1001, as last amended by Laws of Utah 1984, Chapter 66)

76-16-302, (Renumbered from 76-10-1002, as last amended by Laws of Utah 1984, Chapter 66)

76-16-303, (Renumbered from 76-10-1003, as last amended by Laws of Utah 1984, Chapter 66)

76-16-304, (Renumbered from 76-10-1004, as enacted by Laws of Utah 1973, Chapter 196)

76-16-305, (Renumbered from 76-10-1005, as last amended by Laws of Utah 1995, Chapter 20)

76-16-306, (Renumbered from 76-10-1006, as enacted by Laws of Utah 1973, Chapter 196)

76-16-307, (Renumbered from 76-10-1007, as enacted by Laws of Utah 1973, Chapter 196)

76-16-402, (Renumbered from 76-10-3002, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-403, (Renumbered from 76-10-3001, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-404, (Renumbered from 76-10-3005, as renumbered and amended by Laws of

Utah 2013, Chapter 187)

76-16-501, (Renumbered from 76-10-3103, as last amended by Laws of Utah 2015, Chapter 140)

76-16-502, (Renumbered from 76-10-3102, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-503, (Renumbered from 76-10-3117, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-504, (Renumbered from 76-10-3105, as last amended by Laws of Utah 2024, Chapter 147)

76-16-505, (Renumbered from 76-10-3106, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-506, (Renumbered from 76-10-3107, as last amended by Laws of Utah 2015, Chapter 140)

76-16-507, (Renumbered from 76-10-3116, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-508, (Renumbered from 76-10-3115, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-509, (Renumbered from 76-10-3108, as last amended by Laws of Utah 2019, Chapter 348)

76-16-510, (Renumbered from 76-10-3104, as renumbered and amended by Laws of Utah 2013, Chapter 187)

76-16-511, (Renumbered from 76-10-3109, as last amended by Laws of Utah 2019, Chapter 348)

76-16-512, (Renumbered from 76-10-3112, as last amended by Laws of Utah 2013, Chapter 285 and renumbered and amended by Laws of Utah 2013, Chapter 187)

76-17-202, (Renumbered from 76-10-3201, as last amended by Laws of Utah 2023, Chapters 515, 536)

76-17-301, (Renumbered from 76-6a-101, as renumbered and amended by Laws of Utah 2023, Chapter 111)

76-17-302, (Renumbered from 76-6a-104, as renumbered and amended by Laws of Utah 2023, Chapter 111)

76-17-303, (Renumbered from 76-6a-102, as enacted by Laws of Utah 2023, Chapter 111)

76-17-304, (Renumbered from 76-6a-103, as enacted by Laws of Utah 2023, Chapter

111)

76-17-401, (Renumbered from 76-10-1602, as last amended by Laws of Utah 2024, Chapter 96)

76-17-402, (Renumbered from 76-10-1604, as enacted by Laws of Utah 1981, Chapter 94)

76-17-403, (Renumbered from 76-10-1605, as last amended by Laws of Utah 2024, Chapter 158)

76-17-404, (Renumbered from 76-10-1607, as enacted by Laws of Utah 1981, Chapter 94)

76-17-405, (Renumbered from 76-10-1609, as enacted by Laws of Utah 1987, Chapter 238)

76-17-406, (Renumbered from 76-10-1608, as last amended by Laws of Utah 1987, Chapter 238)

76-17-407, (Renumbered from 76-10-1603, as repealed and reenacted by Laws of Utah 1987, Chapter 238)

REPEALS:

76-5b-101, as enacted by Laws of Utah 2011, Chapter 320

76-9-406, as enacted by Laws of Utah 1973, Chapter 196

76-9-505, as enacted by Laws of Utah 1973, Chapter 196

76-9-801, as enacted by Laws of Utah 2008, Chapter 15

76-9-901, as enacted by Laws of Utah 2009, Chapter 86

76-9-902, as last amended by Laws of Utah 2024, Chapter 96

76-9-906, as enacted by Laws of Utah 2009, Chapter 86

76-9-907, as last amended by Laws of Utah 2018, Chapter 200

76-9-1001, as enacted by Laws of Utah 2011, Chapter 21

76-10-404, as enacted by Laws of Utah 2002, Chapter 166

76-10-405, as enacted by Laws of Utah 2002, Chapter 166

76-10-500, as last amended by Laws of Utah 2022, Chapter 428

76-10-512, as last amended by Laws of Utah 2024, Chapter 301

76-10-521, as last amended by Laws of Utah 1993, Chapter 234

76-10-604, as last amended by Laws of Utah 1995, Chapter 20

76-10-803, as last amended by Laws of Utah 2019, Chapters 81, 227

76-10-1008, as last amended by Laws of Utah 1995, Chapter 20

76-10-1009, as enacted by Laws of Utah 1973, Chapter 196

76-10-1010, as enacted by Laws of Utah 1973, Chapter 196
76-10-1101.5, as enacted by Laws of Utah 2020, Chapter 291
76-10-1106, as last amended by Laws of Utah 1990, Chapter 118
76-10-1108, as last amended by Laws of Utah 2023, Chapter 448
76-10-1218, as enacted by Laws of Utah 1977, Chapter 93
76-10-1221, as last amended by Laws of Utah 2010, Chapter 43
76-10-1224, as enacted by Laws of Utah 1977, Chapter 93
76-10-1225, as last amended by Laws of Utah 1993, Chapter 38
76-10-1226, as last amended by Laws of Utah 1990, Chapter 138
76-10-1227, as last amended by Laws of Utah 2007, Chapter 123
76-10-1229.5, as enacted by Laws of Utah 1995, Chapter 131
76-10-1234, as last amended by Laws of Utah 2008, Chapter 382
76-10-1308, as enacted by Laws of Utah 1991, Chapter 107
76-10-1310, as last amended by Laws of Utah 2011, Chapter 70
76-10-1501, as enacted by Laws of Utah 1979, Chapter 72
76-10-1502, as enacted by Laws of Utah 1979, Chapter 72
76-10-1511, as enacted by Laws of Utah 1979, Chapter 72
76-10-1601, as last amended by Laws of Utah 1987, Chapter 238
76-10-1603.5, as last amended by Laws of Utah 2013, Chapter 394
76-10-1901, as enacted by Laws of Utah 1989, Chapter 241
76-10-1904, as last amended by Laws of Utah 1996, Chapter 17
76-10-1907, as enacted by Laws of Utah 1989, Chapter 241
76-10-2001, as enacted by Laws of Utah 1989, Chapter 179
76-10-2401, as last amended by Laws of Utah 2002, Chapter 31
76-10-2702, as enacted by Laws of Utah 2008, Chapter 22
76-10-3003, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3004, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3101, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3113, as renumbered and amended by Laws of Utah 2013, Chapter 187
76-10-3118, as renumbered and amended by Laws of Utah 2013, Chapter 187

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

Section 1. Section **4-2-903** is amended to read:

4-2-903 . Animal care violations.

(1) "Animal care facility" means the same as that term is defined in Section [~~76-9-301.9~~] 76-13-215.

(2) The department may, in accordance with this section and as resources allow, respond to a complaint that an animal care facility has violated Subsection [~~76-9-301(2)(a)~~] 76-13-202(2)(a) or Section [~~76-9-301.9~~] 76-13-215.

(3) If the department determines that a person has violated Subsection [~~76-9-301(2)(a)~~] 76-13-202(2)(a) or Section [~~76-9-301.9~~] 76-13-215, the department may:

(a) impose a civil fine of up to $500 per violation;

(b) seek a temporary restraining order;

(c) seek an injunction;

(d) seek an order of seizure or condemnation for an animal that is the subject of the violation, if the department has identified a suitable animal care facility that accepts custody of the animal; or

(e) report the circumstances to law enforcement or a prosecutor.

(4) An action by the department under Subsection (3) may precede and does not preclude a criminal penalty or criminal prosecution under Section [~~76-9-301 or 76-9-301.9~~] 76-13-202, 76-13-203, 76-13-204, or 76-13-215.

(5) The department shall deposit a fine imposed under Subsection (3) into the General Fund as a dedicated credit to be used by the department for enforcement of this section.

Section 2. Section **4-25-303** is amended to read:

4-25-303 . Feral swine detrimental to state's interests -- Seizure, capture, or destruction of feral swine.

(1) Feral swine are detrimental to the state's interests in agriculture and wildlife.

(2) Feral swine may be seized, captured, or destroyed at any time, in any place, and in any manner by:

(a) the department and the department's authorized agents;

(b) the Division of Wildlife Resources and the Division of Wildlife Resources' authorized agents; or

(c) a certified peace officer.

(3)(a) Notwithstanding [~~Section 76-9-301~~] Section 76-13-202, 76-13-203, or 76-13-204, and subject to the requirements of this section, an individual may kill a feral swine roaming on private or public land.

(b) An individual shall obtain the consent of the landowner before killing a feral swine on private land.

(c) Feral swine may be killed:

(i) year-round;

(ii) in any number; and

(iii) with a firearm, bow and arrow, or crossbow.

(4) Feral swine may not be hunted or killed under Subsection (3)(c):

(a) with the use of artificial light or night vision equipment, except as authorized by county ordinance; or

(b) from or with any airborne vehicle or device, except as provided in Section 4-23-106.

(5) An individual may not receive compensation, or attempt to receive compensation, from hunting feral swine.

(6) An authorized individual who kills a swine under this section is not liable to the owner for the loss of the swine, unless:

(a) the swine is conspicuously identified by an ear tag or other form of visual identification; and

(b) the individual who killed the swine knew the swine was identified by an ear tag or other form of usual identification.

Section 3. Section **4-41a-102** is amended to read:

4-41a-102 . Definitions.

As used in this chapter:

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

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

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

(a) to the public; and

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

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

(4)(a) "Anticompetitive business practice" means any practice that reduces the amount

of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section [~~76-10-3103~~] 76-16-501.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

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

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

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

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

(6) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(7) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(8) "Cannabis concentrate" means:

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

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

(9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(10) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

(11) "Cannabis cultivation facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

(12) "Cannabis derivative product" means a product made using cannabis concentrate.

(13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(14) "Cannabis processing facility" means a person that:

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

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

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

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

(15) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(16) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

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

(18) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(19) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

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

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

(20) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis product.

(21) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(22) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants

above other plants in multiple levels.

(23) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

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

(24) "Department" means the Department of Agriculture and Food.

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

(26) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

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

(28)(a) "Independent cannabis testing laboratory" means a person that:

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

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

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

(29) "Independent cannabis testing laboratory agent" means an individual who holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

(30) "Inventory control system" means a system described in Section 4-41a-103.

(31) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

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

(33) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

(34) "Medical cannabis courier" means a courier that:

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

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

(35) "Medical cannabis courier agent" means an individual who:

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

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

(36) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(37) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

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

(39) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

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

(41) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

(42) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(43) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

(44) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

(45) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

(46) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(47) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

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

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(49) "State electronic verification system" means the system described in Section 26B-4-202.

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

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

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

(i) held inside a medical cannabis pharmacy; and

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

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

(51) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

(52) "THC analog" means the same as that term is defined in Section 4-41-102.

(53) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(54) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 4. Section **4-44-202** is amended to read:

4-44-202 . Application of other statutes -- Ordinances.

(1)(a) In a civil action for nuisance or a criminal action for public nuisance under Section [~~76-10-803~~] 76-9-1301, it is a defense if the action involves agricultural operations and those agricultural operations are conducted in the normal and ordinary course of agricultural operations or conducted in accordance with sound agricultural

practices.

(b) Agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

(2) If the agricultural operations occur in an agricultural protection area, as defined in Section 17-41-101, Section 17-41-403 governs the action for nuisance.

(3)(a) An ordinance of a political subdivision that would make the operation of an agricultural operation or appurtenances to an agricultural operation a nuisance or that provide for abatement of the agricultural operation as a nuisance does not apply to an agricultural operation that is conducted in the normal and ordinary course of agricultural operations or conducted in accordance with sound agricultural practices.

(b) An agricultural operation undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are presumed to be operating within sound agricultural practices.

Section 5. Section **9-7-215** is amended to read:

9-7-215 . Internet and online access policy required.

(1) As used in this section:

(a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.

(b) "Harmful to minors" means the same as that term is defined in Section [~~76-10-1201~~] 76-5c-101.

(c) "Obscene" means the same as that term is defined in 20 U.S.C. Sec. 9101.

(d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.

(2) State funds may not be provided to any public library that provides public access to the Internet unless the library:

(a)(i) has in place a policy of Internet safety for minors, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are child sexual abuse materials, harmful to minors, or obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use by a minor of a computer or other device that

is connected to the Internet through a network provided by the library, including a wireless network; and

(b)(i) has in place a policy of Internet safety, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are child sexual abuse materials, harmful to minors, or obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network.

(3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.

(4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

(a) at the request of a library patron who is not a minor; and

(b) to enable access for research or other lawful purposes.

Section 6. Section **9-8a-304** is amended to read:

9-8a-304 . Antiquities Section created -- Duties.

(1) There is created within the office the Antiquities Section.

(2) The Antiquities Section shall:

(a) promote research, study, and activities in the field of antiquities;

(b) assist with the marking, protection, and preservation of sites;

(c) assist with the collection, preservation, and administration of specimens until the specimens are placed in a repository or curation facility;

(d) provide advice on the protection and orderly development of archaeological resources, and in doing so confer with the Public Lands Policy Coordinating Office if requested;

(e) assist with the excavation, retrieval, and proper care of ancient human remains discovered on nonfederal lands in accordance with:

(i) Section 9-8a-309;

(ii) Section 9-9-403;

(iii) [~~Subsection 76-9-704(3)~~] Subsection 76-5-802(4);

(iv) Subsection 76-5-803(4); and

[~~(iv)~~] (v) federal law;

(f) collect and administer site survey and excavation records;

(g) edit and publish antiquities records;

(h) inform the officer in writing about any request for advice or consultation from an agency or an agency's agent; and

(i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.

(3) The Antiquities Section shall cooperate with local, state, and federal agencies and all interested persons to achieve the purposes of this part and Part 4, Historic Sites.

(4) Before performing the duties specified in Subsections (2)(a) through (e), the Antiquities Section shall obtain permission from the landowner.

Section 7. Section **9-8a-309** is amended to read:

9-8a-309 . Ancient human remains on nonfederal lands that are not state lands.

(1) If a person knows or has reason to know that the person discovered ancient human remains on nonfederal land that is not state land:

(a) the person shall:

(i) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection (1)(e);

(ii) notify a local law enforcement agency in accordance with Section [~~76-9-704~~] 76-5-803; and

(iii) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

(b) the person who owns or controls the nonfederal land shall:

(i) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection (1)(e); and

(ii) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection (1)(e).

(c)(i) If the local law enforcement agency believes after being notified under this Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section.

(ii) The Antiquities Section shall:

(A) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's

permission; and

(B) if the landowner gives the landowner's permission, excavate the human remains by no later than:

(I) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1); or

(II) if extraordinary circumstances exist as provided in Subsection (1)(d), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1).

(d)(i) The director may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1), if the director determines that extraordinary circumstances exist on the basis of objective criteria such as:

(A) the unusual scope of the ancient human remains;

(B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or

(C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the director, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection (1)(d), the executive director shall:

(A) decide on the appeal within two business days; and

(B)(I) uphold the decision of the director; or

(II) designate a shorter time period than the director designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection (1)(d) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection (1)(d) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(e) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this

part or [~~Section 76-9-704~~] Sections 76-5-802 and 76-5-803 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection (1)(c)(ii)(B).

(2) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

(a) discovery of ancient human remains;

(b) excavation or retrieval of ancient human remains; or

(c) determination of ownership or disposition of ancient human remains.

(3) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

(4) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

(a) if the ancient human remains are in possession of the state;

(b) if the ancient human remains are not known to have been discovered on lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

(5) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

(6) The office, Antiquities Section, or Division of Indian Affairs may not make rules that

impose any requirement on a person who discovers ancient human remains or who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Section 8. Section **9-9-403** is amended to read:

9-9-403 . Ownership and disposition of Native American remains.

(1) If Native American remains are discovered on nonfederal lands on or after April 30, 2007, the ownership or control of the Native American remains shall be determined in the following priority:

(a) first, in the lineal descendants of the Native American;

(b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:

(i) has the closest cultural affiliation with the Native American remains; and

(ii) states a claim for the Native American remains; or

(c) third:

(i) in the Indian tribe that is recognized as aboriginally occupying the area in which the Native American remains are discovered, if:

(A) cultural affiliation of the Native American remains cannot be reasonably ascertained;

(B) the land is recognized either by a final judgment of the Indian Claims Commission or through other evidence as the exclusive or joint aboriginal land of some Indian tribe; and

(C) that tribe states a claim for the Native American remains; or

(ii) in a different tribe if:

(A) it can be shown by a preponderance of the evidence that that different tribe has a stronger genetic or cultural relationship with the Native American remains; and

(B) that different tribe states a claim for the Native American remains.

(2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that are not claimed under Subsection (1) shall be disposed of in accordance with rules made by the division:

(a) consistent with Chapter 8a, Part 3, Antiquities; and

(b) in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405.

(3) The intentional removal or excavation of Native American remains from state lands may be permitted only if:

(a) the Native American remains are excavated or removed pursuant to a permit issued under Section 9-8a-305;

(b) the Native American remains are excavated or removed after consultation with and written consent of the owner of the state land; and

(c) the ownership or right of control of the disposition of the Native American remains is determined as provided in Subsections (1) and (2).

(4)(a) A person who knows or has reason to know that the person has discovered Native American remains on state lands after March 17, 1992, shall notify, in writing, the appropriate state agency having primary management authority over the lands as provided in Chapter 8a, Part 3, Antiquities.

(b) If the discovery occurs in connection with construction, mining, logging, agriculture, or a related activity, the person shall:

(i) cease the activity in the area of the discovery;

(ii) make a reasonable effort to protect the Native American remains discovered before resuming the activity; and

(iii) provide notice of discovery to the appropriate state agency under Subsection (4)(a).

(c) Following notification under Subsections (4)(a) and (b) and upon certification by the head of the appropriate state agency that notification is received, the activity may resume after compliance with [~~Section 76-9-704~~] Sections 76-5-802 and 76-5-803.

(5)(a) Scientific study of Native American remains may be carried out only with approval of the owner of the Native American remains as established in Subsections (1) and (2).

(b)(i) If ownership is unknown, study before identifying ownership is restricted to those sufficient to identify ownership.

(ii) Study to identify ownership shall be approved only in accordance with rules made by the division in consultation with the review committee.

(c) The Native American remains may not be retained longer than 90 days after the date of establishing ownership.

(6)(a) Ownership of Native American remains shall be determined in accordance with this Subsection (6) if:

(i) there are multiple claims of ownership under Subsection (1) of Native American remains; and

(ii) the division cannot clearly determine which claimant is the most appropriate

claimant.

(b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having primary authority over the lands as provided in Chapter 8a, Part 3, Antiquities, may retain the remains until:

(i) the multiple claimants for the Native American remains enter into an agreement concerning the disposition of the Native American remains;

(ii) the dispute is resolved through an administrative process:

(A) established by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or

(iii) after the administrative process described in Subsection (6)(b)(ii) is complete, the dispute is resolved by a court of competent jurisdiction.

(7) The division may not make rules that impose any requirement on a person who discovers Native American remains or owns or controls nonfederal land that is not state land on which Native American remains are discovered that is not expressly provided for in Section 9-8a-309.

(8) For purposes of this part, if Native American remains are discovered on nonfederal land that is not state land, the Antiquities Section is considered the state agency having primary authority over the nonfederal land.

(9) This part does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of Native American remains.

Section 9. Section **9-23-306** is amended to read:

9-23-306 . Club fighting prohibited.

(1) Club fighting is prohibited.

(2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:

(a) guilty of a class A misdemeanor as provided in Section [~~76-9-705~~] 76-9-112; and

(b) subject to license revocation under this chapter.

Section 10. Section **10-8-41.5** is amended to read:

10-8-41.5 . Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) employment;

(v) a profit; or

(vi) other pecuniary gain.

(c)(i) "Escort" means a person who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within a place of public or private resort, a business or commercial establishment, or a private quarter.

(ii) "Escort" does not mean a person who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or a person with a disability;

(C) a social secretary or similar service personnel whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more and who provides a service not principally characterized as dating or socializing; or

(D) a person who provides services such as singing telegrams, birthday greetings, or similar activities that are characterized by an appearance in a public place, contracted for by a party other than the person for whom the service is being performed, and of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(i) genitals;

(ii) the pubic region; or

(iii) a female breast below a point immediately above the top of the areola.

(f)(i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor,

performs any service for compensation.

(ii) "Sexually oriented business" includes:

(A) an escort service; or

(B) an adult service.

(2) A person employed in a sexually oriented business may not work in a municipality if:

(a) the municipality requires that a person employed in a sexually oriented business obtain an individual license; and

(b) the person has not obtained an individual license from the municipality.

(3) A business entity that conducts a sexually oriented business may not conduct business in a municipality if:

(a) the municipality requires that a sexually oriented business obtain a license; and

(b) the business entity has not obtained a license from the municipality.

(4)(a) A violation of this section by an individual who is at least 18 years old is a class A misdemeanor.

(b) A person charged under this section may not also be charged under Section [~~76-10-1302~~] 76-5d-202.

Section 11. Section **10-8-41.6** is amended to read:

10-8-41.6 . Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section [

~~76-10-101~~] 76-9-1101.

(d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

(v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(h) "Self-service display" means the same as that term is defined in Section [~~76-10-105.1~~] 76-9-1107.

(i) "Tobacco product" means:

(i) a tobacco product as defined in Section [~~76-10-101~~] 76-9-1101; or

(ii) tobacco paraphernalia as defined in Section [~~76-10-101~~] 76-9-1101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3)(a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4)(a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6)(a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Title 76, Chapter 17, Part 4, Offenses

Concerning a Pattern of Unlawful Activity;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7)(a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a

general tobacco retailer permit or a retail tobacco specialty business permit under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial

establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 12. Section **10-8-47** is amended to read:

10-8-47 . Intoxication -- Fights -- Disorderly conduct -- Assault and battery -- Petit larceny -- Riots and disorderly assemblies -- Firearms and fireworks -- False pretenses and embezzlement -- Sale of liquor, narcotics, tobacco products, electronic cigarette products, or nicotine products to minors -- Possession of controlled substances -- Treatment of alcoholics and narcotics or drug addicts.

(1) A municipal legislative body may:

(a) prevent intoxication, fighting, quarreling, dog fights, cockfights, prize fights, bullfights, and all disorderly conduct and provide against and punish the offenses of assault and battery and petit larceny;

(b) restrain riots, routs, noises, disturbances, or disorderly assemblies in any street, house, or place in the city;

(c) regulate and prevent the discharge of firearms, rockets, powder, fireworks in accordance with Section 53-7-225, or any other dangerous or combustible material;

(d) provide against and prevent the offense of obtaining money or property under false pretenses and the offense of embezzling money or property in the cases when the money or property embezzled or obtained under false pretenses does not exceed in value the sum of $500;

(e) prohibit the sale, giving away, or furnishing of narcotics or alcoholic beverages to an individual younger than 21 years old; or

(f) prohibit the sale, giving away, or furnishing of a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~] 76-9-1101 to an individual younger than 21 years old.

(2) A city may:

(a) by ordinance, prohibit the possession of controlled substances as defined in the Utah Controlled Substances Act or any other endangering or impairing substance, provided the conduct is not a class A misdemeanor or felony; and

(b) provide for treatment of alcoholics, narcotic addicts, and other individuals who are addicted to the use of drugs or intoxicants such that an individual substantially lacks the capacity to control the individual's use of the drugs or intoxicants, and judicial

supervision may be imposed as a means of effecting the individual's rehabilitation.

Section 13. Section **10-18-103** is amended to read:

10-18-103 . Antitrust immunity.

(1) When a municipality is offering or providing a cable television service or public telecommunications service, the immunity from antitrust liability afforded to political subdivisions of the state under Section [~~76-10-3109~~] 76-16-511 does not apply to the municipality providing those services.

(2) A municipality that provides a cable television service or a public telecommunications service is subject to applicable antitrust liabilities under the federal Local Government Antitrust Act of 1984, 15 U.S.C. Secs. 34 to 36.

Section 14. Section **11-46-303** is amended to read:

11-46-303 . Community cats.

(1) A cat received by a shelter under the provisions of Section 11-46-103 may be released prior to the five-day holding period to a sponsor that operates a community cat program.

(2) A community cat is:

(a) exempt from licensing requirements and feeding bans; and

(b) eligible for release from an animal shelter prior to the mandatory five-day hold period in Section 11-46-103.

(3) Community cat sponsors or caretakers do not have custody, as defined in Section [~~76-9-301~~] 76-13-202, of any cat in a community cat colony. Cats in a colony that are obviously owned, as evidenced by a collar, tags, microchip, or other discernable owner identification, are not exempt from the provisions of [~~Title 76, Chapter 9, Part 3, Cruelty to Animals~~] Title 76, Chapter 13, Offenses Involving Cruelty to Animals.

(4) Sterilization and vaccination records shall be maintained for a minimum of three years and be available to an animal control officer upon request.

Section 15. Section **11-48-104**, which is renumbered from Section 76-9-905 is renumbered and amended to read:

CHAPTER 48. EMERGENCY RESPONSE AND PREVENTION

[~~76-9-905~~] 11-48-104 . Designation of public places where orders to disperse are authorized and gang loitering is prohibited.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "Gang loitering" means the same as that term is defined in Section 76-9-802.

(c) "Public place" means the same as that term is defined in Section 76-9-802.

[~~(1) Municipal and county legislative bodies shall, within their respective jurisdictions, designate the areas within their jurisdictions that they have determined are~~]

(2) A municipal or county legislative body shall designate public places within the municipal or county jurisdiction as areas where gang loitering is prohibited and subject to [~~the~~]enforcement [~~of~~] by law enforcement officers as described in Section [~~76-9-903 because~~] 53-25-602 and to criminal penalties under Section 76-9-805 if criminal street gangs have been able to, or are attempting to:

(a) establish control over [~~these identifiable~~] the areas;

(b) intimidate [~~others~~] other individuals from entering [~~those~~] the areas; or

(c) conceal illegal activities conducted in [~~those~~] the areas.

[~~(2)~~] (3)(a) [~~Prior to designating areas subject to enforcement under Section 76-9-903, the~~] Before a legislative body designates a public place as an area where gang loitering is prohibited, the legislative body shall consult, as appropriate, with [~~persons~~] individuals who are knowledgeable about the effects of gang activity in [~~areas where Section 76-9-903 may be enforced~~] the area.

(b) [~~Persons~~] Individuals consulted under Subsection [~~(2)(a)~~] (3)(a) may include:

(i) members of local law enforcement agencies who have training or experience related to criminal street gangs;

(ii) other agency personnel with particular knowledge of gang activities in the proposed designated area;

(iii) elected and appointed officials of the area where the proposed designated area is located; and

(iv) representatives of community-based organizations.

[~~(3)~~] (4) The municipal or county legislative body shall develop and implement procedures for periodic review and update of area designations [~~it makes~~] made under Subsection [~~(1)~~] (2).

(5) This section does not affect or limit an individual's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

Section 16. Section **13-39-202** is amended to read:

13-39-202 . Prohibition of sending certain materials to a registered contact point -- Exception for consent.

(1) A person may not send, cause to be sent, or conspire with a third party to send a communication to a contact point or domain that has been registered for more than 30

calendar days with the unit under Section 13-39-201 if the communication:

(a) has the primary purpose of advertising or promoting a product or service that a minor is prohibited by law from purchasing; or

(b) contains or has the primary purpose of advertising or promoting material that is harmful to minors, as defined in Section [~~76-10-1201~~] 76-5c-101.

(2) Except as provided in Subsection (4), consent of a minor is not a defense to a violation of this section.

(3) An Internet service provider does not violate this section for solely transmitting a message across the network of the Internet service provider.

(4)(a) Notwithstanding Subsection (1), a person may send a communication to a contact point if, before sending the communication, the person sending the communication receives consent from an adult who controls the contact point.

(b) Any person who proposes to send a communication under Subsection (4)(a) shall:

(i) verify the age of the adult who controls the contact point by inspecting the adult's government-issued identification card in a face-to-face transaction;

(ii) obtain a written record indicating the adult's consent that is signed by the adult;

(iii) include in each communication:

(A) a notice that the adult may rescind the consent; and

(B) information that allows the adult to opt out of receiving future communications; and

(iv) notify the unit that the person intends to send communications under this Subsection (4).

(c) The unit shall implement rules to verify that a person providing notification under Subsection (4)(b)(iv) complies with this Subsection (4).

Section 17. Section **13-40-102** is amended to read:

13-40-102 . Definitions.

As used in this chapter:

(1)(a) "Cause to be copied" means to distribute or transfer computer software, or any component of computer software.

(b) "Cause to be copied" does not include providing:

(i) transmission, routing, intermediate temporary storage, or caching of software;

(ii) a storage or hosting medium, such as a compact disk, website, or computer server through which the software was distributed by a third party; or

(iii) an information location tool, such as a directory, index, reference, pointer, or

hypertext link, through which the user of the computer located the software.

(2)(a) "Computer software" means a sequence of instructions written in any programming language that is executed on a computer.

(b) "Computer software" does not include a data component of a webpage that is not executable independently of the webpage.

(3) "Computer virus" means a computer program or other set of instructions that is designed to degrade the performance of or disable a computer or computer network and is designed to have the ability to replicate itself on another computer or computer network without the authorization of the owner of the other computer or computer network.

(4) "Damage" means any significant impairment to the:

(a) performance of a computer; or

(b) integrity or availability of data, software, a system, or information.

(5) "Execute," when used with respect to computer software, means the performance of the functions or the carrying out of the instructions of the computer software.

(6) "False pretenses" means the representation of a fact or circumstance that is not true and is calculated to mislead.

(7)(a) "Identifying information" means any information that can be used to access a person's financial accounts or to obtain goods and services, including the person's:

(i) address;

(ii) birth date;

(iii) Social Security number;

(iv) driver license number;

(v) non-driver governmental identification number;

(vi) telephone number;

(vii) bank account number;

(viii) student identification number;

(ix) credit or debit card number;

(x) personal identification number;

(xi) unique biometric data;

(xii) employee or payroll number;

(xiii) automated or electronic signature;

(xiv) computer image file;

(xv) photograph; or

(xvi) computer screen name or password.

(b) "Identifying information" does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

(8) "Intentionally deceptive" means any of the following:

(a) an intentionally and materially false or fraudulent statement;

(b) a statement or description that intentionally omits or misrepresents material information in order to deceive an owner or operator of a computer; or

(c) an intentional and material failure to provide a notice to an owner or operator concerning the installation or execution of computer software, for the purpose of deceiving the owner or operator.

(9) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet protocol (IP), or its subsequent extensions, and that is able to support communications using the transmission control protocol/Internet protocol (TCP/IP) suite, or its subsequent extensions, or other IP-compatible protocols, and that provides, uses, or makes accessible, either publicly or privately, high-level services layered on communications and related infrastructure.

(10) "Internet service provider" means:

(a) an Internet service provider, as defined in Section [~~76-10-1230~~] 76-5c-401; or

(b) a hosting company, as defined in Section [~~76-10-1230~~] 76-5c-401.

(11) "Message" means a graphical or text communication presented to an authorized user of a computer.

(12)(a) "Owner or operator" means the owner or lessee of a computer, or a person using a computer with the owner's or lessee's authorization.

(b) "Owner or operator" does not include a person who owned a computer before the first retail sale of the computer.

(13) "Person" means any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(14) "Personally identifiable information" means any of the following information if it allows the entity holding the information to identify the owner or operator of a computer:

(a) the first name or first initial in combination with the last name and a home or other physical address including street name;

(b) a personal identification code in conjunction with a password required to access an identified account, other than a password, personal identification number, or other identification number transmitted by an authorized user to the issuer of the account or

its agent;

(c) a Social Security number, tax identification number, driver license number, passport number, or any other government-issued identification number; or

(d) an account balance, overdraft history, or payment history that personally identifies an owner or operator of a computer.

(15) "Webpage" means a location that has a single uniform resource locator (URL) with respect to the World Wide Web or another location that can be accessed on the Internet.

Section 18. Section **13-44-301** is amended to read:

13-44-301 . Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce this chapter's provisions.

(2)(a) Nothing in this chapter creates a private right of action.

(b) Nothing in this chapter affects any private right of action existing under other law, including contract or tort.

(3) A person who violates this chapter's provisions is subject to a civil penalty of:

(a) no greater than $2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than $100,000 in the aggregate for related violations concerning more than one consumer, unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(4)(a) In addition to the penalties provided in Subsection (3), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings an action under this chapter in the district court, the attorney general shall bring the action in:

(i) Salt Lake City; or

(ii) the county in which resides a consumer who is affected by the violation.

(5) The attorney general shall deposit any amount received under Subsection (3), (4), or (10) into the Attorney General Litigation Fund created in Section [~~76-10-3114~~] 67-5-40.

(6) In enforcing this chapter, the attorney general may:

(a) investigate the actions of any person alleged to violate Section 13-44-201 or 13-44-202;

(b) subpoena a witness;

(c) subpoena a document or other evidence;

(d) require the production of books, papers, contracts, records, or other information relevant to an investigation;

(e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to enforce a civil provision under this chapter; and

(f) enter into a confidentiality agreement in accordance with Subsection (7).

(7)(a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (7)(a).

(c) A confidentiality agreement entered into under Subsection (7)(a) or a confidentiality order issued under Subsection (7)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(8) A subpoena issued under Subsection (6) may be served by certified mail.

(9) A person's failure to respond to a request or subpoena from the attorney general under Subsection (6)(b), (c), or (d) is a violation of this chapter.

(10)(a) The attorney general may inspect and copy all records related to the business conducted by the person alleged to have violated this chapter, including records

located outside the state.

(b) For records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general's expenses to inspect the records, including travel costs.

(c) Upon notification from the attorney general of the attorney general's intent to inspect records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general $500, or a higher amount if $500 is estimated to be insufficient, to cover the attorney general's expenses to inspect the records.

(d) To the extent an amount paid to the attorney general by a person who is found to have violated this chapter is not expended by the attorney general, the amount shall be refunded to the person who is found to have violated this chapter.

(e) The Division of Corporations and Commercial Code or any other relevant entity shall revoke any authorization to do business in this state of a person who fails to pay any amount required under this Subsection (10).

(11)(a) Subject to Subsection (11)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, produced the document, or produced material waives confidentiality in writing.

(b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony or produced the document or material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony or produced the document or material, or the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(12)(a) An administrative action filed under this chapter shall be commenced no later than 10 years after the day on which the alleged breach of system security last occurred.

(b) A civil action under this chapter shall be commenced no later than five years after the day on which the alleged breach of system security last occurred.

Section 19. Section **13-45-401** is amended to read:

13-45-401 . Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce the provisions of this chapter.

(2) A person who violates a provision of this chapter is subject to a civil fine of:

(a) no greater than $2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than $100,000 in the aggregate for related violations concerning more than one consumer, unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(3)(a) In addition to the penalties provided in Subsection (2), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings an action under this chapter in the district court, the attorney general shall bring the action in:

(i) Salt Lake City; or

(ii) the county in which resides a consumer who is the subject of a credit report on which a violation occurs.

(4) The attorney general shall deposit any amount received under Subsection (2) or (3) into the Attorney General Litigation Fund created in Section [~~76-10-3114~~] 67-5-40.

(5)(a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (5)(a).

(c) A confidentiality agreement entered into under Subsection (5)(a) or a confidentiality order issued under Subsection (5)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(6)(a) Subject to Subsection (6)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, or produced the document or material waives confidentiality in writing.

(b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality

order if the individual who provided testimony, produced the document, or produced the material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony, produced the document, or produced the material, or without the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(7) A civil action filed under this chapter shall be commenced no later than five years after the day on which the alleged violation last occurred.

Section 20. Section **13-74-101** is amended to read:

13-74-101 . Definitions.

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm.

(2) "Customer" means an individual who presents a payment card to a merchant for the purchase of a good or service.

(3) "Financial entity" means any person involved in facilitating or processing a payment card transaction, including:

(a) a payment card network;

(b) a merchant acquirer; or

(c) a payment facilitator.

(4) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(5)(a) "Firearm accessory or component" means a device specifically adapted to:

(i) enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm; or

(ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

(b) "Firearm accessory or component" includes a telescopic or laser sight, magazine,

flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace, ammunition carrier, or light for target illumination.

(6) "Firearms code" means the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms retailers.

(7) "Firearms retailer" means a merchant engaged in the lawful business of selling or trading firearms, firearm accessories or components, or ammunition.

(8) "Merchant" means a person physically located in the state who accepts a payment card from a customer for the purchase of a good or service.

(9) "Payment card" means a card, code, or other means by which a person may debit a deposit account or use a line of credit to purchase a good or service.

(10) "Reloading supplies" means any equipment, component, or material designed for the reloading of ammunition, including reloading presses, shell holders, powder measures, priming tools, reloading manuals, casings, and gunpowder.

Section 21. Section **16-6a-1414** is amended to read:

16-6a-1414 . Grounds and procedure for judicial dissolution.

(1) The attorney general or the division director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a) the nonprofit corporation obtained the nonprofit corporation's articles of incorporation through fraud; or

(b) the nonprofit corporation has continued to exceed or abuse the authority conferred upon the nonprofit corporation by law.

(2) A member or director of a nonprofit corporation may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the nonprofit corporation if it is established that:

(a)(i) the directors are deadlocked in the management of the corporate affairs;

(ii) the members, if any, are unable to break the deadlock; and

(iii) irreparable injury to the nonprofit corporation is threatened or being suffered;

(b) the directors or those in control of the nonprofit corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) the corporate assets are being misapplied or wasted.

(3) A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a)(i) the creditor's claim has been reduced to judgment;

(ii) the execution on the judgment has been returned unsatisfied; and

(iii) the nonprofit corporation is insolvent; or

(b)(i) the nonprofit corporation is insolvent; and

(ii) the nonprofit corporation has admitted in writing that the creditor's claim is due and owing.

(4)(a) As used in this Subsection (4):

(i)(A) "Misconduct claim" means:

[~~(A)~~] (I) a claim for wrongful death, fraud, breach of public trust, or an intentional tort; or

[~~(B)~~] (II) a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation that is a felony offense or an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76, Chapter 5b, Sexual Exploitation Act, or Section 76-7-102[~~, Section 76-9-702, or Section 76-9-702.1~~].

(B) "Misconduct claim" does not include a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation that is an offense described in Section 76-5-417 or 76-5-420.

(ii) "Nonprofit corporation" does not include a bona fide church or religious organization.

(b) If a person brings a misconduct claim in an action against a nonprofit corporation, the person may also bring an action to dissolve the nonprofit corporation.

(c) If a person brings a dissolution action under Subsection (4)(b), the court may only dissolve the nonprofit corporation if the court finds the nonprofit corporation is liable for the misconduct claim.

(d) Upon a motion by the plaintiff in a dissolution action described in Subsection (4)(b), the court may:

(i) issue an injunction preventing the nonprofit corporation from selling or disposing of any assets held by the nonprofit corporation; and

(ii) require the nonprofit corporation to deposit funds, or post a bond, with the court for the amount of damages pleaded in the complaint.

(e) The court may void a transaction that is made by the nonprofit corporation within 12 months before the day on which the action was filed with the court if the court finds that the transaction is voidable under Section 25-6-202.

(5) If an action is brought under this section, it is not necessary to make directors or members parties to the action to dissolve the nonprofit corporation unless relief is sought against the members individually.

(6) In an action under this section, the court may:

(a) issue injunctions;

(b) appoint a receiver or a custodian pendente lite with all powers and duties the court directs; or

(c) take other action required to preserve the nonprofit corporation's assets wherever located and carry on the business of the nonprofit corporation until a full hearing can be held.

(7) If a nonprofit corporation has been dissolved by voluntary or another action taken under this part:

(a) the nonprofit corporation may bring a proceeding to wind up and liquidate its business and affairs under judicial supervision in accordance with Section 16-6a-1405; and

(b) the attorney general, a director, a member, a creditor, or a plaintiff under Subsection (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit corporation under judicial supervision in accordance with Section 16-6a-1405, upon establishing the grounds set forth in Subsections (1) through (4).

Section 22. Section **17-41-403** is amended to read:

17-41-403 . Nuisances.

(1) A political subdivision shall ensure that any of the political subdivision's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition:

(a) for an agriculture protection area, any agricultural activity or operation within an agriculture protection area conducted using sound agricultural practices unless that activity or operation bears a direct relationship to public health or safety;

(b) for an industrial protection area, any industrial use of the land within the industrial protection area that is consistent with sound practices applicable to the industrial use, unless that use bears a direct relationship to public health or safety; or

(c) for a critical infrastructure materials protection area, any critical infrastructure

materials operations on the land within the critical infrastructure materials protection area that is consistent with sound practices applicable to the critical infrastructure materials operations, unless that use bears a direct relationship to public health or safety.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section [~~76-10-803~~] 76-9-1301, it is a complete defense if the action involves agricultural activities and:

(a) those agricultural activities were:

(i) conducted within an agriculture protection area; and

(ii) not in violation of any federal, state, or local law or regulation relating to the alleged nuisance or were conducted according to sound agricultural practices; or

(b) a defense under Section 4-44-201 applies.

(3)(a) A vested mining use undertaken in conformity with applicable federal and state law and regulations is presumed to be operating within sound mining practices.

(b) A vested mining use that is consistent with sound mining practices:

(i) is presumed to be reasonable; and

(ii) may not constitute a private or public nuisance under Section [~~76-10-803~~] 76-9-1301.

(c) A vested mining use in operation for more than three years may not be considered to have become a private or public nuisance because of a subsequent change in the condition of land within the vicinity of the vested mining use.

(4)(a) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Agriculture Protection Area

This property is located in the vicinity of an established agriculture protection area in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future be conducted on property included in the agriculture protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(b) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of an industrial protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Industrial Protection Area

This property is located in the vicinity of an established industrial protection area in which normal industrial uses and activities have been afforded the highest priority use status. It can be anticipated that such industrial uses and activities may now or in the future be conducted on property included in the industrial protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal industrial uses and activities."

(c) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a critical infrastructure materials protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"Critical Infrastructure Materials Protection Area

This property is located in the vicinity of an established critical infrastructure materials protection area in which critical infrastructure materials operations have been afforded the highest priority use status. It can be anticipated that such operations may now or in the future be conducted on property included in the critical infrastructure materials protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal critical infrastructure materials operations."

(d) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of a mining protection area, the owner of the development shall provide notice on any plat filed with the county recorder the following notice:

"This property is located within the vicinity of an established mining protection area in which normal mining uses and activities have been afforded the highest priority use status. It can be anticipated that the mining uses and activities may now or in the future be conducted on property included in the mining protection area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from the normal mining uses and activities."

Section 23. Section **17-50-333** is amended to read:

17-50-333 . Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(e) "Local health department" means the same as that term is defined in Section 26A-1-102.

(f) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

(v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(h) "Self-service display" means the same as that term is defined in Section [~~76-10-105.1~~] 76-9-1107.

(i) "Tobacco product" means:

(i) the same as that term is defined in Section [~~76-10-101~~] 76-9-1101; or

(ii) tobacco paraphernalia as defined in Section [~~76-10-101~~] 76-9-1101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3)(a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4)(a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803

to sell an electronic cigarette product or a nicotine product.

(6)(a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7)(a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms

of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 24. Section **19-2-114** is amended to read:

19-2-114 . Activities not in violation of chapter or rules.

(1) As used in this section, "attainment area" means an area that meets the national primary and secondary ambient air quality standard for pollution.

(2) The following are not a violation of this chapter or of a rule made under this chapter:

(a) burning incident to horticultural or agricultural operations of:

(i) prunings from trees, bushes, and plants; or

(ii) dead or diseased trees, bushes, and plants, including stubble;

(b) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;

(c) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

(d) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the United States Weather Service clearing index for the area where the burn is to occur is above 500.

(3)(a) The board or division may not prohibit a burn during the time period beginning November 1 and ending March 31 if the burn:

(i) occurs in an attainment area;

(ii) occurs on private property within an incorporated portion of a county;

(iii) occurs when the United States Weather Service clearing index for the area in which the burn is to occur is above 250;

(iv) is the open burning of clippings, bushes, plants, prunings from trees, or dead or diseased trees, bushes, and plants, that are:

(A) incident to property and residential clean-up activities; and

(B) thoroughly dry;

(v) does not include trash, rubbish, tires, or oil in the material to be burned, used to start the burn, or used to keep a fire burning; and

(vi) does not create a nuisance as defined in Section [~~76-10-803~~] 76-9-1301.

(b) Notwithstanding Subsection (3)(a), the board by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish the process for issuing a burn permit under this chapter.

Section 25. Section **19-6-429** is amended to read:

19-6-429 . False information and claims.

(1) Any person who presents or causes to be presented any oral or written statement, knowing the statement contains false information, in order to obtain a certificate of compliance is guilty of a class B misdemeanor.

(2)(a) Any person who presents or causes to be presented any claim for payment from the fund, knowing the claim contains materially false information or knowing the claim is not eligible for payment from the fund, is subject to the criminal penalties under Section [~~76-10-1801~~] 76-6-525 regarding fraud.

(b) The level of criminal penalty shall be determined by the value involved, in the same manner as in Section [~~76-10-1801~~] 76-6-525.

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

Section 26. Section **23A-4-1106** is amended to read:

23A-4-1106 . Suspension of license or permit privileges -- Suspension of certificates of registration.

(1) As used in this section:

(a) "License or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the division.

(b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(2) A hearing officer, appointed by the division, may suspend a person's license or permit

privileges if:

(a) in a court of law, the person:

(i) is convicted of:

(A) violating this title or a rule of the Wildlife Board;

(B) killing or injuring domestic livestock or a livestock guardian dog while engaged in an activity regulated under this title;

(C) violating Section 76-6-111; or

(D) violating Section [~~76-10-508~~] 76-11-207 while engaged in an activity regulated under this title;

(ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or

(iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person enters into a diversion agreement which suspends the prosecution of the offense; and

(b) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly, as defined in Section 76-2-103.

(3)(a) The Wildlife Board shall make rules establishing guidelines that a hearing officer shall consider in determining:

(i) the type of license or permit privileges to suspend; and

(ii) the duration of the suspension.

(b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are consistent with Subsections (4), (5), and (6).

(4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or permit privileges according to Subsection (2) for a period of time not to exceed:

(a) seven years for:

(i) a felony conviction;

(ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a felony, the prosecution of which is suspended pursuant to a diversion agreement;

(b) five years for:

(i) a class A misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement;

(c) three years for:

(i) a class B misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement; and

(d) one year for:

(i) a class C misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is suspended according to a diversion agreement.

(5) The hearing officer may double a suspension period established in Subsection (4) for offenses:

(a) committed in violation of an existing suspension or revocation order issued by the courts, division, or Wildlife Board; or

(b) involving the unlawful taking of a trophy animal, as defined in Section 23A-1-101.

(6)(a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.

(b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.

(c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.

(7)(a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

(i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:

(A) this title;

(B) a rule or order of the Wildlife Board;

(C) the terms of a certificate of registration; or

(D) the terms of a certificate of registration application or agreement; or

(ii) the person, in a court of law:

(A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;

(B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or

(C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

(b) A hearing officer shall suspend a certificate of registration for the harvesting of brine shrimp eggs, as defined in Section 59-23-3, if the hearing officer determines the holder of the certificate of registration has violated Section 59-23-5.

(8)(a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative functions provided in this section.

(b) The director may not appoint a division employee who investigates or enforces wildlife violations.

(9)(a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration.

(b) The courts shall promptly notify the division of suspension orders or recommendations entered.

(c) The division, upon receiving notification of suspension from the courts, shall prohibit the person from applying for, purchasing, or exercising the benefits conferred by a license, permit, or certification of registration for the duration and of the type specified in the court order.

(d) The hearing officer shall consider a recommendation made by a sentencing court concerning suspension before issuing a suspension order.

(10) Before suspension under this section, the division shall give a person:

(a) written notice of action the division intends to take; and

(b) an opportunity for a hearing.

(11)(a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.

(b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written documentation submitted at the hearing.

(c) The Wildlife Board may:

(i) take no action;

(ii) vacate or remand the decision; or

(iii) amend the period or type of suspension.

(12) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Chapter 2, Part 5, Wildlife Violator Compact.

(13) Within 30 days after the day on which an individual's privilege to hunt or fish is suspended under this title, the division shall report to the Division of Professional Licensing the:

(a) identifying information for the individual; and

(b) time period of the suspension.

(14) The Wildlife Board may make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section **23A-13-303** is amended to read:

23A-13-303 . Nuisances.

(1)(a) A county shall exclude the activities described in Subsection (1)(b) from the definition of public nuisance in a county law or ordinance regulating a public nuisance.

(b) An activity or occurrence normally associated with a migratory bird production area is not a nuisance, including:

(i) hunting;

(ii) discharging a firearm;

(iii) improving habitat;

(iv) trapping;

(v) eradicating weeds;

(vi) discing;

(vii) planting;

(viii) impounding water;

(ix) raising a bird or other domestic animal;

(x) grazing;

(xi) an activity conducted in the normal course of an agricultural operation as defined in Section 4-44-102; and

(xii) an odor.

(2) In a civil action for nuisance or a criminal action for public nuisance under Section [~~76-10-803~~] 76-9-1301, it is a complete defense if the action is:

(a) normally associated with a migratory bird production area;

(b) conducted within a migratory bird production area; and

(c) not in violation of federal or state law.

(3) An owner of a new development located in whole or in part within 1,000 feet of a migratory bird production area shall provide the following notice on a plat filed with the county recorder:

"Migratory Bird Production Area

This property is located in the vicinity of an established migratory bird production area in which hunting and activities related to the management and operation of land for the benefit of migratory birds have been afforded the highest priority use status. It can be anticipated that these uses and activities may now or in the future be conducted on land within the migratory bird production area. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from activities normally associated with a migratory bird production area."

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

Section 28. Section **26B-2-120** is amended to read:

26B-2-120 . Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a)(i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) an individual who transports a child for a youth transportation company;

(E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer supports, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the division;

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access;

(K) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(L) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services;

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services;

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the

Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Criminal finding" means a record of:

(i) an arrest for a criminal offense;

(ii) a warrant for a criminal arrest;

(iii) charges for a criminal offense; or

(iv) a criminal conviction.

(e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f)(i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

(i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

(v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

(k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(c) and (4);

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories; and

(e) an application showing an applicant's association with a certification, contract, or a

licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

(v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;

(e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

(f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and

(h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4)(a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5)(a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

[~~(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;~~]

[~~(F)~~] (E) an offense included in Title 76, Chapter 5, [~~Offenses Against the Individual~~] Part 1, 2, 3, 4, or 7;

[~~(G)~~] (F) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act, other than Section 76-5b-206;

[~~(H)~~] (G) an offense included in Title 76, Chapter 7, Offenses Against the Family;

[~~(I)~~] (H) an offense included in [~~Title 76, Chapter 9, Part 4, Offenses Against Privacy~~] Title 76, Chapter 12, Part 3, Privacy Offenses;

[~~(J)~~] (I) an offense included in [~~Title 76, Chapter 10, Part 4, Weapons of Mass Destruction~~] Title 76, Chapter 15, Part 3, Weapons of Mass Destruction;

[~~(K)~~] (J) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(L)~~] (K) aggravated arson, as described in Section 76-6-103;

[~~(M)~~] (L) aggravated burglary, as described in Section 76-6-203;

[~~(N)~~] (M) aggravated exploitation of prostitution, as described in Section [~~76-10-1306~~] 76-5d-208;

[~~(O)~~] (N) aggravated robbery, as described in Section 76-6-302;

[~~(P)~~] (O) endangering persons in a human services program, as described in Section 26B-2-113;

[~~(Q)~~] (P) failure to report, as described in Section 80-2-609;

[~~(R)~~] (Q) identity fraud crime, as described in Section 76-6-1102;

[~~(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;~~]

[~~(T)~~] (R) riot, as described in Section 76-9-101; or

[~~(U) sexual battery, as described in Section 76-9-702.1; or~~]

[~~(V)~~] (S) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section [~~76-10-506~~] 76-11-205; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider or a mental health professional, if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in

Subsection (5)(b)(i) in accordance with Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

(d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

(f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

(h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);

(i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex

offender registry;

(j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(k) has a pending charge for an offense described in Subsection (5)(a);

(l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section[-];

(m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

(p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504[-]; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

(7)(a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

(8) The office shall grant direct access qualified status to an applicant who is not denied under this section.

(9)(a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice, without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice, without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall grant or deny direct access qualified status to the applicant in accordance with this section.

(10)(a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

(b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

(12)(a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

(13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(c) The requirements described in Subsection (13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

(d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in

Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

(E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(F) aggravated murder, as described in Section 76-5-202;

(G) murder, as described in Section 76-5-203;

(H) manslaughter, as described in Section 76-5-205;

(I) child abuse homicide, as described in Section 76-5-208;

(J) homicide by assault, as described in Section 76-5-209;

(K) kidnapping, as described in Section 76-5-301;

(L) child kidnapping, as described in Section 76-5-301.1;

(M) aggravated kidnapping, as described in Section 76-5-302;

(N) human trafficking of a child, as described in Section 76-5-308.5;

(O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, or 76-5-419;

(P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(R) aggravated arson, as described in Section 76-6-103;

(S) aggravated burglary, as described in Section 76-6-203;

(T) aggravated robbery, as described in Section 76-6-302;

[~~(U) lewdness involving a child, as described in Section 76-9-702.5;~~]

[~~(V)~~] (U) incest, as described in Section 76-7-102; or

[~~(W)~~] (V) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(d)(i).

(e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(f) In addition to the circumstances described in Subsection (6), the office shall conduct a comprehensive review of an applicant's background check under this section if the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-2-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services for purposes of granting or denying direct access qualified status to an applicant.

Section 29. Section **26B-4-501** is amended to read:

26B-4-501 . Definitions.

As used in this part:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(3) "Designated facility" means:

(a) a freestanding urgent care center;

(b) a general acute hospital; or

(c) a critical access hospital.

(4) "Dispense" means the same as that term is defined in Section 58-17b-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

(7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

(8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(10) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(12) "Opiate" means the same as that term is defined in Section 58-37-2.

(13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

(14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use

of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(15) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section 26B-4-101;

(d) emergency medical service personnel, as defined in Section 26B-4-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) a certified peer support specialist, as defined in Section 26B-5-610;

(h) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

(i) an organization providing services to the homeless;

(j) a local health department;

(k) an individual licensed to practice under:

(i) Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

(iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or

(l) an individual.

(16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(19) "Physician" means the same as that term is defined in Section 58-67-102.

(20) "Practitioner" means:

(a) a physician; or

(b) any other person who is permitted by law to prescribe emergency contraception.

(21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(22)(a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(23)(a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

(b) "Sexual assault" does not include criminal conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness; or

(iv) Section 76-5-420, lewdness involving a child.

(24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

Section 30. Section **26B-7-205** is amended to read:

26B-7-205 . Willful introduction of communicable disease a misdemeanor.

Any person who willfully or knowingly introduces any communicable or infectious disease into any county, municipality, or community is guilty of a class A misdemeanor, except as provided in Section [~~76-10-1309~~] 76-5d-211.

Section 31. Section **26B-7-501** is amended to read:

26B-7-501 . Definitions.

As used in this part:

(1) "Community location" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(2) "Electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(3) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(4) "Electronic cigarette substance" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(5) "Employee" means an employee of a tobacco retailer.

(6) "Enforcing agency" means the department, or any local health department enforcing the provisions of this part.

(7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

(8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Manufacture" includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

(10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

(11) "Manufacturer sealed electronic cigarette product" means:

(a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or

(b) a prefilled electronic cigarette as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(12) "Nicotine" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(13) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(14) "Non-tobacco shisha" means any product that:

(a) does not contain tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(15) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.

(16) "Permit" means a tobacco retail permit issued under Section 26B-7-507.

(17) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

(a) buildings, offices, shops, elevators, or restrooms;

(b) means of transportation or common carrier waiting rooms;

(c) restaurants, cafes, or cafeterias;

(d) taverns as defined in Section 32B-1-102, or cabarets;

(e) shopping malls, retail stores, grocery stores, or arcades;

(f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;

(g) barber shops, hair salons, or laundromats;

(h) sports or fitness facilities;

(i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;

(j)(i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and

(ii) any child care, other than child care as defined in Section 26B-2-401, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;

(k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;

(l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or the members' guests or families;

(m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

(n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;

(o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and

(p) a holder of a bar establishment license, as defined in Section 32B-1-102.

(18)(a) "Proof of age" means:

(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a valid driving privilege card issued in accordance with Section 53-3-207.

(19) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

(20) "Retail tobacco specialty business" means the same as that term is defined:

(a) as it relates to a municipality, in Section 10-8-41.6; and

(b) as it relates to a county, in Section 17-50-333.

(21) "Shisha" means any product that:

(a) contains tobacco or nicotine; and

(b) is smoked or intended to be smoked in a hookah or water pipe.

(22) "Smoking" means:

(a) the possession of any lighted or heated tobacco product in any form;

(b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains:

(i) tobacco or any plant product intended for inhalation;

(ii) shisha or non-tobacco shisha;

(iii) nicotine;

(iv) a natural or synthetic tobacco substitute; or

(v) a natural or synthetic flavored tobacco product;

(c) using an electronic cigarette; or

(d) using an oral smoking device intended to circumvent the prohibition of smoking in this part.

(23) "Tax commission license" means a license issued by the State Tax Commission under:

(a) Section 59-14-201 to sell a cigarette at retail;

(b) Section 59-14-301 to sell a tobacco product at retail; or

(c) Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(24) "Tobacco product" means:

(a) a tobacco product as defined in Section [~~76-10-101~~] 76-9-1101; or

(b) tobacco paraphernalia as defined in Section [~~76-10-101~~] 76-9-1101.

(25) "Tobacco retailer" means a person that is required to obtain a tax commission license.

Section 32. Section **26B-7-505** is amended to read:

26B-7-505 . Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.

(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(3)(a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).

(c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a person may not sell an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(4)(a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

(5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

(6)(a) Any nicotine product shall contain the statement described in Subsection (6)(b) if the nicotine product:

(i)(A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

(B) is not otherwise required under federal or state law to contain a nicotine warning; and

(ii) contains nicotine.

(b) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6)(a) as follows:

"This product contains nicotine."

Section 33. Section **26B-7-508** is amended to read:

26B-7-508 . Permit application.

(1) A local health department shall issue a permit for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this part.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26B-7-509.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this part;

(ii) Section 26B-7-503;

(iii) Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

[~~(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;~~]

[~~(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and

(f) the dates of all violations disclosed under this Subsection (3).

(4)(a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets the

requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

(6)(a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this part.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section 34. Section **26B-7-511** is amended to read:

26B-7-511 . Permit requirements for a retail tobacco specialty business.

(1) A retail tobacco specialty business shall:

(a) electronically verify proof of age for any individual that enters the premises of the business in accordance with Section 26B-7-521;

(b) except as provided in [~~Subsection 76-10-105.1(4)~~] Section 76-9-1108, prohibit any individual from entering the business if the individual is under 21 years old; and

(c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:

(i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in [~~Subsection 76-10-105.1(4)~~] Section 76-9-1108; and

(ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections [~~76-10-104~~] 76-9-1104, [~~76-10-104.1~~] 76-9-1105, [~~76-10-105.1~~] 76-9-1108, and [~~76-10-114~~] 76-9-1116.

(2) A retail tobacco specialty business may not:

(a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Section 35. Section **26B-7-514** is amended to read:

26B-7-514 . Permit violation.

A person is in violation of the permit issued under this part if the person violates:

(1) a provision of this part;

(2) a provision of licensing laws under Section 10-8-41.6 or Section 17-50-333;

(3) a provision of [~~Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents~~] Title 76, Chapter 9, Part 11, Cigarettes, Tobacco, and Psychotoxic Chemical Solvents;

(4) a provision of [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Title 76,

Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(6) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

Section 36. Section **26B-7-516** is amended to read:

26B-7-516 . Inspection of retail tobacco businesses.

The department or a local health department may inspect a tobacco retailer to determine whether the tobacco retailer:

(1) continues to meet the qualifications for the permit issued under this part;

(2) if applicable, continues to meet the requirements for a retail tobacco specialty business license issued under Section 10-8-41.6 or Section 17-50-333;

(3) engaged in a pattern of unlawful activity under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity;

(4) violated any of the regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

(5) has violated any other provision of state law or local ordinance.

Section 37. Section **26B-7-517** is amended to read:

26B-7-517 . Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section 26B-7-515, evidence of the final criminal conviction of a tobacco retailer for violation of Section [~~76-10-114~~] 76-9-1116 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this part for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this part.

(2) If the tobacco retailer is convicted of violating Section [~~76-10-114~~] 76-9-1116, the enforcing agency:

(a) shall assess an additional monetary penalty under this part for the same offense for which the conviction was obtained; and

(b) shall revoke or suspend a permit in accordance with Section 26B-7-518.

Section 38. Section **26B-7-521** is amended to read:

26B-7-521 . Verification of proof of age.

(1) As used in this section:

(a) "Employee" means an employee of a retail tobacco specialty business.

(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.

(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

(3) To comply with Subsection (2), an employee shall:

(a) request the individual present proof of age; and

(b) verify the validity of the proof of age electronically in accordance with Subsection (4).

(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5)(a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.

(b) Information obtained under this section:

(i) shall be kept for at least 180 days; and

(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.

(6)(a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:

(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

(ii) purchase a tobacco product or an electronic cigarette product.

(b) In accordance with [~~Subsection 76-10-105.1(4)~~] Section 76-9-1108, an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:

(i) accompanied by a parent or legal guardian who provides proof of age; or

(ii)(A) present at the retail tobacco specialty business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;

(B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).

(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present

proof of age:

(a) an employee;

(b) a peace officer; or

(c) a representative of an enforcing agency.

Section 39. Section **26B-8-208** is amended to read:

26B-8-208 . Rendering a dead body unavailable for postmortem investigation.

(1) As used in this section:

(a) "Medical examiner" means the same as that term is defined in Section 26B-8-201.

(b) "Unavailable for postmortem investigation" means the same as that term is defined in Section 26B-8-201.

(2) It is unlawful for a person to engage in any conduct that makes a dead body unavailable for postmortem investigation, unless, before engaging in that conduct, the person obtains a permit from the medical examiner to render the dead body unavailable for postmortem investigation, under Section 26B-8-230, if the person intends to make the body unavailable for postmortem investigation.

(3) A person who violates Subsection (2) is guilty of a third degree felony.

(4) If a person engages in conduct that constitutes both a violation of this section and a violation of Section [~~76-9-704~~] 76-5-802 or 76-5-803, the provisions and penalties of Section [~~76-9-704~~] 76-5-802 or 76-5-803 supersede the provisions and penalties of this section.

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

Section 40. Section **31A-21-501** is amended to read:

31A-21-501 . Definitions.

For purposes of this part:

(1) "Applicant" means:

(a) in the case of an individual life or accident and health policy, the person who seeks to contract for insurance benefits; or

(b) in the case of a group life or accident and health policy, the proposed certificate holder.

(2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is 16 years old or older who:

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

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

(c) is related by blood or marriage to the other party;

(d) has one or more children in common with the other party; or

(e) resides or has resided in the same residence as the other party.

(3)(a) "Child abuse" means the commission or attempt to commit against a child a criminal offense described in:

[~~(a)~~] (i) Title 76, Chapter 5, Part 1, Assault and Related Offenses; or

[~~(b)~~] (ii) Title 76, Chapter 5, Part 4, Sexual Offenses[~~;~~] .

[~~(c) Section 76-9-702, Lewdness;~~]

[~~(d) Section 76-9-702.1, Sexual battery; or~~]

[~~(e) Section 76-9-702.5, Lewdness involving a child.~~]

(b) "Child abuse" does not include the criminal offense of enticing a minor, as described in Section 76-5-417.

(4)(a) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

[~~(a)~~] (i) aggravated assault, as described in Section 76-5-103;

[~~(b)~~] (ii) assault, as described in Section 76-5-102;

[~~(c)~~] (iii) criminal homicide, as described in Section 76-5-201;

[~~(d)~~] (iv) harassment, as described in Section 76-5-106;

[~~(e)~~] (v) electronic communication harassment, as described in [~~Section 76-9-201~~] Section 76-12-202, 76-12-203, or 76-12-204;

[~~(f)~~] (vi) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

[~~(g)~~] (vii) mayhem, as described in Section 76-5-105;

[~~(h)~~] (viii) sexual offenses, as described in Sections 76-5b-201 and 76-5b-201.1 and in Title 76, Chapter 5, Part 4, Sexual Offenses[~~, and Sections 76-5b-201 and 76-5b-201.1~~];

[~~(i)~~] (ix) stalking, as described in Section 76-5-106.5;

[~~(j)~~] (x) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

[~~(k)~~] (xi) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

[~~(l)~~] (xii) any offense against property described in Title 76, Chapter 6, Part 1,

Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

[~~(m)~~] (xiii) possession of a deadly weapon with intent to assault, as described in Section [~~76-10-507~~] 76-11-206; or

[~~(n)~~] (xiv) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section [~~76-10-508~~] 76-11-207.

(b) "Domestic violence" does not include the criminal offense of:

(i) enticing a minor, as described in Section 76-5-417;

(ii) sexual battery, as described in Section 76-5-418;

(iii) lewdness, as described in Section 76-5-419; or

(iv) lewdness involving a child, as described in Section 76-5-420.

(5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

Section 41. Section **32B-3-303** is amended to read:

32B-3-303 . Acts making a person subject to this part.

(1) One or more of the following acts constitute a nuisance activity:

(a) a single felony conviction within the last two years of:

(i) a retail licensee; or

(ii) supervisory or managerial level staff of the retail licensee;

(b) a single conviction under Title 58, Chapter 37, Utah Controlled Substances Act:

(i)(A) of a retail licensee; or

(B) staff of the retail licensee;

(ii) within the last two years; and

(iii) made on the basis of an act that occurs on the licensed premises;

(c) three or more convictions of patrons of a retail licensee under Title 58, Chapter 37, Utah Controlled Substances Act, if:

(i) the convictions are made on the basis of an act that occurs on the licensed premises; and

(ii) there is evidence that the retail licensee knew or should have known of the illegal activity;

(d) a single conviction within the last two years of a retail licensee or staff of the retail licensee that is made on the basis of:

(i) pornographic and harmful materials:

(A) that violate [~~Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances~~] Title 76, Chapter 5c, Pornographic and Harmful

Materials and Performances; and

(B) if the violation occurs on the licensed premises;

(ii) prostitution;

(iii) engaging in or permitting gambling, as defined and proscribed in [~~Title 76, Chapter 10, Part 11, Gambling~~] Title 76, Chapter 9, Part 14, Gambling, on the licensed premises;

(iv) having any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~] 76-9-1401 on the licensed premises;

(v) on the licensed premises engaging in or permitting a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value;

(vi) a disturbance of the peace that occurs on the licensed premises; or

(vii) disorderly conduct that occurs on the licensed premises; or

(e) three or more adjudicated violations of this title within the last two years by a retail licensee or by staff of the retail licensee that result in a criminal citation or an administrative referral to the department relating to:

(i) the sale, offer for sale, or furnishing of an alcoholic product to a minor;

(ii) the sale, offer for sale, or furnishing of an alcoholic product to a person actually, apparently, or obviously intoxicated;

(iii) the sale, offer for sale, or furnishing of an alcoholic product after the lawful hours for the sale or furnishing; or

(iv) acts or conduct on the licensed premises contrary to the public welfare and morals involving lewd acts or lewd entertainment prohibited by this title.

(2) For purposes of Subsection (1), in the case of a retail licensee that is a partnership, corporation, or limited liability company, a conviction under Subsection (1)(c) includes a conviction of any of the following for an offense described in Subsection (1)(c):

(a) a partner;

(b) a managing agent;

(c) a manager;

(d) an officer;

(e) a director;

(f) a stockholder who holds at least 20% of the total issued and outstanding stock of a

corporate retail licensee; or

(g) a member who owns at least 20% of a limited liability company retail licensee.

Section 42. Section **32B-4-423** is amended to read:

32B-4-423 . Immunity regarding alcohol consumption offenses when seeking emergency aid for another person.

(1) A law enforcement officer may not cite or arrest a person solely because of a person's violation of a provision under Subsection (2) if the officer came into contact with the person because:

(a) the person had requested or acted in concert with another person to request emergency medical assistance for a third party who reasonably appeared to be in need of medical care due to the consumption of alcohol;

(b) the officer was responding to the request for emergency medical assistance;

(c) the person provided to the officer the person's name and identifying information as requested by the officer;

(d) the person remained at the location where the third party was located until emergency medical response personnel arrived at the location; and

(e) the person cooperated with the emergency medical assistance personnel and law enforcement officers at the location.

(2) Offenses referred to in Subsection (1) are violations of:

(a) Section 32B-4-403 regarding the unlawful sale, offer for sale, or furnishing of alcohol to a minor;

(b) Subsection 32B-4-409(1) regarding the unlawful purchase, possession, or consumption of alcohol by a minor; and

(c) Subsection [~~76-9-701(1)~~] 76-9-110(2) regarding intoxication when the offense involves consumption of alcohol.

(3) An officer who declines to cite or arrest a person while acting in good faith under Subsection (1) is not civilly liable.

Section 43. Section **32B-5-301** is amended to read:

32B-5-301 . General operational requirements.

(1)(a) A retail licensee and staff of a retail licensee shall comply with this title and the rules of the commission, including the relevant chapter or part for the specific type of retail license.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a retail licensee;

(ii) individual staff of a retail licensee; or

(iii) both a retail licensee and staff of the retail licensee.

(2)(a) If there is a conflict between this part and the relevant chapter or part for the specific type of retail license, the relevant chapter or part for the specific type of retail license governs.

(b) Notwithstanding that this part refers to "liquor" or an "alcoholic product," a retail licensee may only sell, offer for sale, furnish, or allow the consumption of an alcoholic product specifically authorized by the relevant chapter or part for the retail licensee's specific type of retail license.

(c) Notwithstanding that this part or the relevant chapter or part for a specific retail licensee refers to "retail licensee," staff of the retail licensee is subject to the same requirement or prohibition.

(3)(a) A retail licensee shall display in a prominent place in the licensed premises the retail license that is issued by the department.

(b) A retail licensee shall display in a prominent place a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c)(i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A retail licensee may not on the licensed premises:

(a) engage in or permit any form of gambling, as defined in Section [~~76-10-1101~~]

76-9-1401, or fringe gambling, as defined in Section [~~76-10-1101~~] 76-9-1401;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~] 76-9-1401; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) A retail licensee may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) Upon the presentation of credentials, at any time during which a retail licensee is open for the transaction of business, the retail licensee shall immediately:

(a) admit a commissioner, authorized department employee, or law enforcement officer to the retail licensee's premises; and

(b) permit, without hindrance or delay, the person described in Subsection (6)(a) to inspect completely:

(i) the entire premises of the retail licensee; and

(ii) the records of the retail licensee.

(7) An individual may not consume an alcoholic product on the licensed premises of a retail licensee on any day during the period:

(a) beginning one hour after the time of day that the period during which a retail licensee may not sell, offer for sale, or furnish an alcoholic product on the licensed premises begins; and

(b) ending at the time specified in the relevant chapter or part for the retail licensee's specific type of retail license when the retail licensee may first sell, offer for sale, or furnish an alcoholic product on the licensed premises on that day.

(8) An employee of a retail licensee who sells, offers for sale, or furnishes an alcoholic product to a patron shall wear an identification badge.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commission shall make rules:

(a) related to the requirement described in Subsection (8); and

(b) for dispensing systems and dispensing areas of restaurant licensees, bar licensees, and taverns, establishing standards:

(i) in accordance with the provisions of this title; and

(ii) prohibiting a dispensing system to remain at a patron's table.

Section 44. Section **32B-7-202** is amended to read:

32B-7-202 . General operational requirements for off-premise beer retailer.

(1)(a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2)(a)(i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b)(i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4)(a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years old or older who is on

the licensed premises; and

(ii) the minor is at least 16 years old.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6)(a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection (6) is an infraction.

(e)(i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the

provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

(7)(a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

(i) full name;

(ii) address; and

(iii)(A) driver license number; or

(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (7) for immediate inspection by:

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to $250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection (7).

(8)(a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.

(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).

(9) An off-premise beer retailer may not on the licensed premises:

(a) engage in or permit any form of:

(i) gambling, as defined in Section [~~76-10-1101~~] 76-9-1401; or

(ii) fringe gambling, as defined in Section [~~76-10-1101~~] 76-9-1401;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~] 76-9-1401; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(10) An off-premise beer retailer may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section 58-37a-3.

(11) An off-premise beer retailer may not sell, offer for sale, or furnish a beer that is intended to be frozen and consumed in a manner other than as a beverage, including beer in the form of a freeze pop, popsicle, ice cream, or sorbet.

Section 45. Section **32B-9-204** is amended to read:

32B-9-204 . General operational requirements for an event permit.

(1)(a) An event permittee and a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at an event for which an event permit is issued, shall comply with this title and rules of the commission.

(b) Failure to comply as provided in Subsection (1)(a):

(i) may result in:

(A) disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(I) an event permittee;

(II) a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event; or

(III) any combination of the persons listed in this Subsection (1)(b);

(B) immediate revocation of the event permit;

(C) forfeiture of a bond; or

(D) immediate seizure of an alcoholic product present at the event; and

(ii) if the event permit is revoked, disqualifies the event permittee from applying for an event permit for a period of three years from the date of revocation of the event permit.

(c) An alcoholic product seized under this Subsection (1) shall be returned to the event permittee after an event if forfeiture proceedings are not instituted under Section 32B-4-206.

(2)(a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit held by the special use permittee, the relevant part governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," an event permittee may only sell, offer for sale, or furnish an alcoholic product specified in the relevant part under this chapter for the type of event permit that is held by the event permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of event permit held by an event permittee refers to "event permittee," a person involved in the storage, sale, offer for sale, or furnishing of an alcoholic product at the event for which the event permit is issued is subject to the same requirement or prohibition.

(3) An event permittee shall display a copy of the event permit in a prominent place in the area in which an alcoholic product is sold, offered for sale, furnished, and consumed.

(4) An event permittee may not on the premises of the event:

(a) engage in or allow any form of gambling, as defined in Section [~~76-10-1101~~] 76-9-1401, or fringe gambling, as defined in Section [~~76-10-1101~~] 76-9-1401;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section [~~76-10-1101~~] 76-9-1401; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(5) An event permittee may not knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.

(6) An event permittee may not sell, offer for sale, or furnish beer except beer purchases from:

(a) a beer wholesaler licensee;

(b) a beer retailer; or

(c) a small brewer.

(7) An event permittee may not store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product purchased for an event in a location other than that described in the application and designated on the event permit unless the event permittee first applies for and receives approval from the director, with the approval of the Compliance, Licensing, and Enforcement Subcommittee, for a change of location.

(8)(a) Subject to Subsection (8)(b), an event permittee may sell, offer for sale, or furnish beer for on-premise consumption:

(i) in an open original container; and

(ii) in a container on draft.

(b) An event permittee may not sell, offer for sale, or furnish beer sold pursuant to Subsection (8)(a):

(i) in a size of container that exceeds two liters; or

(ii) to an individual patron in a size of container that exceeds one liter.

(9)(a) An event permittee may not sell or offer for sale an alcoholic product at less than the cost of the alcoholic product to the event permittee.

(b) An event permittee may not sell an alcoholic product at a discount price on any date or at any time.

(c) An event permittee may not sell or offer for sale an alcoholic product at a price that encourages overconsumption or intoxication.

(d) An event permittee may not sell or offer for sale an alcoholic product at a special or reduced price for only certain hours of the day of an event.

(e) An event permittee may not sell, offer for sale, or furnish more than one alcoholic product at the price of a single alcoholic product.

(f) An event permittee, or a person operating, selling, offering, or furnishing an alcoholic product under an event permit, may not sell, offer for sale, or furnish an indefinite or

unlimited number of alcoholic products during a set period for a fixed price, unless:

(i) the alcoholic product is served to a patron at a seated event;

(ii) food is available whenever the alcoholic product is sold, offered for sale, or furnished; and

(iii) no person advertises that at the event a person may be sold or furnished an indefinite or unlimited number of alcoholic products during a set period for a fixed price.

(g) An event permittee may not engage in a public promotion involving or offering a free alcoholic product to the general public.

(10) An event permittee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(11)(a) An alcoholic product is considered under the control of the event permittee during an event.

(b) A patron at an event may not bring an alcoholic product onto the premises of the event.

(12) An event permittee may not permit a patron to carry from the premises an open container that:

(a) is used primarily for drinking purposes; and

(b) contains an alcoholic product.

(13)(a) A person involved in the storage, sale, or furnishing of an alcoholic product at an event is considered under the supervision and direction of the event permittee.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product at an event may not, while on duty:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(14) A minor may not handle, sell, offer for sale, or furnish an alcoholic product at an event.

(15) The location specified in an event permit may not be changed without prior written approval of the commission.

(16) An event permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the event permit to another person whether for monetary gain or not.

(17)(a) An event permittee may not sell, offer for sale, furnish, or allow the consumption of an alcoholic product during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) This Subsection (17) does not preclude a local authority from being more restrictive with respect to the hours of sale, offer for sale, furnishing, or consumption of an alcoholic product at an event.

(18) A patron may have no more than one alcoholic product of any kind at a time before the patron.

(19)(a) An event permittee shall display, in a prominent place, a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health and Human Services at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(b)(i) The text described in Subsections (19)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (19)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (19)(a) shall be in the same font size.

(c) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

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

Section 46. Section **34-45-102** is amended to read:

34-45-102 . Definitions.

As used in this chapter:

(1) "Firearm" has the same meaning as provided in Section [~~76-10-501~~] 76-11-101.

(2) "Motor vehicle" has the same meaning as provided in Section 41-1a-102.

(3) "Person" means an individual, property owner, landlord, tenant, employer, business entity, or other legal entity.

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

Section 47. Section **34-45-107** is amended to read:

34-45-107 . Exemptions -- Limitations on chapter -- School premises -- Government entities -- Religious organizations -- Single family detached residential units.

(1)(a) School premises, as defined in Subsection 76-3-203.2(1), are exempt from the provisions of this chapter.

(b) Possession of a firearm on or about school premises is subject to the provisions of Section [~~76-10-505.5~~] 76-11-204.

(2) Government entities, including a local authority or state entity, are subject to the requirements of Title 53, Chapter 5a, Firearm Laws, but are otherwise exempt from the provisions of this chapter.

(3) Religious organizations, including religious organizations acting as an employer, are exempt from, and are not subject to the provisions of this chapter.

(4) Owner-occupied single family detached residential units and tenant-occupied single family detached residential units are exempt from the provisions of this chapter.

(5) A person who is subject to federal law that specifically forbids the presence of a firearm on property designated for motor vehicle parking, or a person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section, is exempt from Section 34-45-103 if:

(a) providing alternative parking or a storage location under Subsection 34-45-103(2)(a) would pose an undue burden on the person; and

(b) the person files a statement with the attorney general citing the federal law that forbids the presence of a firearm and detailing the reasons why providing alternative parking or a storage location poses an undue burden.

(6) A person who is subject to Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in accordance with that section is exempt from this chapter if:

(a) the person has attempted to provide alternative parking or a storage location in accordance with Subsection 34-45-103(2)(a);

(b) the secretary of the federal Department of Homeland Security notifies the person that the provision of alternative parking or a storage location causes the person to be out of compliance with Section 550 of the United States Department of Homeland Security Appropriations Act of 2007, Pub. L. No. 109-295 or regulations enacted in

accordance with that section and the person may be subject to punitive measures; and

(c) the person files a detailed statement with the attorney general notifying the attorney general of the facts under Subsections (6)(a) and (b).

Section 48. Section **34-52-201** is amended to read:

34-52-201 . Public employer requirements.

(1) Except as provided in Subsections (3) and (6), a public employer may not:

(a) exclude an applicant from an initial interview because of:

(i) a past criminal conviction or juvenile adjudication; or

(ii) if the applicant is a mental health professional applicant, an arrest for an offense that occurred before the applicant was 18 years old;

(b) make an inquiry related to an applicant's expunged criminal or juvenile delinquency history;

(c) when making a hiring decision regarding a mental health professional applicant, consider:

(i) an arrest for an offense that occurred before the mental health professional applicant was 18 years old;

(ii) an arrest not followed by a criminal conviction or juvenile adjudication;

(iii) a juvenile adjudication; or

(iv) a past criminal conviction if:

(A) the sentence for the criminal conviction is terminated; and

(B) the mental health professional applicant was not incarcerated for the past criminal conviction or the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment; or

(d) deny a mental health professional applicant employment based on a past criminal conviction that does not bear a direct relationship to the mental health professional applicant's ability to safely or competently perform the duties of employment.

(2) A public employer excludes an applicant from an initial interview under Subsection (1) if the public employer:

(a) requires an applicant to disclose a criminal conviction or juvenile adjudication:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment; or

(b) requires an applicant who is a mental health professional applicant to disclose an

arrest for an offense that occurred before the applicant was 18 years old:

(i) on an employment application;

(ii) before an initial interview; or

(iii) if no interview is conducted, before making a conditional offer of employment.

(3) A public employer may not deny a mental health professional applicant employment that requires the mental health professional applicant to provide substance use treatment based on:

(a) the mental health professional applicant's participation in substance use treatment; or

(b) a past criminal conviction for a nonviolent drug offense if:

(i) the sentence for the criminal conviction is terminated; and

(ii)(A) the mental health professional applicant was not incarcerated for the past criminal conviction; or

(B) the mental health professional applicant's incarceration for the past criminal conviction ended at least three years before the day on which the mental health professional applicant applied for employment.

(4) An applicant seeking employment from a public employer may answer a question related to an expunged criminal or juvenile delinquency record as though the action underlying the expunged criminal or juvenile delinquency record never occurred.

(5) Except as provided in Subsections (1) through (3), this section does not prevent a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction or juvenile delinquency history during an initial interview or after an initial interview; or

(b) considering an applicant's criminal conviction or juvenile delinquency history when making a hiring decision.

(6)(a) Subsections (1) through (4) do not apply:

(i) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction or juvenile delinquency history;

(ii) to a public employer that is a law enforcement agency;

(iii) to a public employer that is part of the criminal or juvenile justice system;

(iv) to a public employer seeking a nonemployee volunteer;

(v) to a public employer that works with children or vulnerable adults;

(vi) to the Department of Alcoholic Beverage Services created in Section 32B-2-203;

(vii) to the State Tax Commission;

(viii) to a public employer whose primary purpose is performing financial or fiduciary functions; or

(ix) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

(b) Subsections (1)(c)(iv) and (1)(d) do not apply to a criminal conviction for:

(i) a violent felony as defined in Section 76-3-203.5; or

(ii) a felony related to a criminal sexual act under:

(A) Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-419, or 76-5-420; or

(B) Title 76, Chapter 5b, Sexual Exploitation Act.

(c) Subsections (1)(a)(ii), (1)(c), (1)(d), and (3) apply to a person under contract with a public employer.

Section 49. Section **34A-5-114** is amended to read:

34A-5-114 . Limitations on enforceability of nondisclosure and non-disparagement clauses -- Retaliation prohibited.

(1) As used in this section:

(a) "Confidentiality clause" means a nondisclosure clause or a non-disparagement clause.

(b) "Employee" means a current or a former employee.

(c) "Nondisclosure clause" means an agreement between an employee and employer that:

(i) prevents, or has the effect of preventing, an employee from disclosing or discussing:

(A) sexual assault;

(B) allegations of sexual assault;

(C) sexual harassment; or

(D) allegations of sexual harassment.

(d) "Non-disparagement clause" means an agreement between an employee and employer that prohibits, or has the effect of prohibiting, an employee from making a negative statement that is:

(i) about the employer; and

(ii) related to:

(A) a claim of sexual assault or sexual harassment;

(B) a sexual assault dispute; or

(C) a sexual harassment dispute.

(e) "Post-employment restrictive covenant" means the same as that term is defined in

Section 34-51-102.

(f) "Proprietary information" means an employer's business plan or customer information.

(g) "Retaliate" means taking an adverse action against an employee because the employee made an allegation of sexual harassment or assault, including:

(i) discharge;

(ii) suspension;

(iii) demotion; or

(iv) discrimination in the terms, conditions, or privileges of employment.

(h)(i) "Sexual assault" means:

[~~(i)~~] (A) conduct that would constitute a violation of 18 U.S.C. Secs. 2241 through 2244; or

[~~(ii)~~] (B) criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(ii) "Sexual assault" does not include criminal conduct described in:

(A) Section 76-5-417, enticing a minor;

(B) Section 76-5-418, sexual battery;

(C) Section 76-5-419, lewdness; or

(D) Section 76-5-420, lewdness involving a child.

(i) "Sexual assault dispute" means a dispute between an employer and the employer's employee relating to alleged sexual assault.

(j) "Sexual harassment" means conduct that is a violation of:

(i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or

(ii) Subsection 34A-5-106(1)(a)(i) prohibiting harassment on the basis of sex, sexual orientation, or gender.

(k) "Sexual harassment dispute" means a dispute between an employer and the employer's employee relating to alleged sexual harassment.

(2)(a) A confidentiality clause regarding sexual misconduct, as a condition of employment, is against public policy and is void and unenforceable.

(b) After an employee makes an allegation of sexual harassment or sexual assault, an employer of any sized business, regardless of Subsection 34-5-102(1)(i)(D):

(i) may not retaliate against the employee because the employee made an allegation of sexual harassment or assault; or

(ii) may not retaliate based on an employee's refusal to enter into a confidentiality clause or an employment contract that, as a condition of employment, contains a

confidentiality clause.

(c) An employee may, within three business days after the day on which the employee agrees to a settlement agreement that includes a confidentiality clause regarding sexual misconduct, withdraw from the settlement agreement.

(3) An employer who attempts to enforce a confidentiality clause in violation of this section:

(a) is liable for all costs, including reasonable attorney fees, resulting from legal action to enforce the confidentiality clause; and

(b) is not entitled to monetary damages resulting from a breach of a confidentiality clause.

(4) This section does not:

(a) prohibit an agreement between an employee who alleges sexual assault or sexual harassment and an employer from containing a nondisclosure clause, a non-disparagement clause, or any other clause prohibiting disclosure of:

(i) the amount of a monetary settlement; or

(ii) at the request of the employee, facts that could reasonably lead to the identification of the employee;

(b) prohibit an employer from requiring an employee to:

(i) sign a post-employment restrictive covenant; or

(ii) agree not to disclose an employer's non-public trade secrets, proprietary information, or confidential information that does not involve illegal acts;

(c) authorize an employee to:

(i) disclose data otherwise protected by law or legal privilege; or

(ii) knowingly make statements or disclosures that are false or made with reckless disregard of the truth;

(d) prohibit an employee from discussing sexual misconduct or allegations of sexual misconduct in a civil or criminal case when subpoenaed if the sexual misconduct or allegations of sexual misconduct are against the individual whom the employee alleged engaged in sexual misconduct;

(e) permit a disclosure that would violate state or federal law; or

(f) limit other grounds that may exist at law or in equity for the unenforceability of a confidentiality clause.

Section 50. Section **41-1a-1008** is amended to read:

41-1a-1008 . Criminal penalty for violation.

(1) Except as provided in Subsection (2) or unless otherwise provided, it is a class A

misdemeanor to knowingly violate Sections 41-1a-1001 through 41-1a-1006.

(2) Any owner, who is not a manufacturer, dealer, motor vehicle auction, or consignor to a motor vehicle auction not licensed under Section 41-3-201, who knowingly or intentionally conceals, removes, destroys, or alters a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3 is guilty of a:

(a) class A misdemeanor; or

(b) third degree felony if the person has previously been convicted two or more times of knowingly or intentionally concealing, removing, destroying, or altering a disclosure statement or a certificate of title branded under Section 41-3-201 or Sections 41-1a-1004 through 41-1a-1005.3.

(3) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section [~~76-10-1801~~] 76-6-525.

(4) Each vehicle sold, offered for sale, or displayed for sale in violation of Section 41-1a-1005.3 shall be a separate offense.

Section 51. Section **41-3-413** is amended to read:

41-3-413 . Criminal penalties -- Nonexclusive.

(1) Knowing or intentional concealment, removal, destruction, or alteration of a disclosure statement or of a certificate of title branded under Section 41-1a-522 is a second degree felony.

(2) Criminal penalties under this chapter are not exclusive, but are in addition to those under Section [~~76-10-1801~~] 76-6-525.

(3) The remedies provided in Sections 41-3-410 through this section are not exclusive but are in addition to any other remedies provided by law.

Section 52. Section **45-2-11**, which is renumbered from Section 76-9-504 is renumbered and amended to read:

[~~76-9-504~~] 45-2-11 . Fair reporting privilege of newspaper or broadcasting station personnel as to public official proceedings -- Privilege as to defamatory matter not subject to censorship.

[~~No reporter, editor, or proprietor of any newspaper, and no owner, licensee, or operator of a visual or sound radio broadcasting station, or network of stations, nor the agents or employees of a newspaper or broadcasting station, is liable to any prosecution for a fair and true report or broadcast of any judicial, legislative, or other public official proceedings, or of any statement, speech, argument, or debate in course of the same, except upon proof of malice~~

~~in making the report, which shall not be implied from the mere fact of publication. In no event shall any owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations, or the agents or employees thereof, be liable for prosecution for any defamatory matter or statement published or uttered in such radio or television broadcast where the publication cannot be censored by reason of the provisions of federal statute or the regulations of the federal communications commission.~~]

(1) Except as provided in Subsection (2), the following persons may not be prosecuted for a fair and true report or broadcast of a judicial, legislative, or other public official proceeding, or of a statement, speech, argument, or debate related to the judicial, legislative, or other public official proceeding:

(a) a reporter, editor, or proprietor of a newspaper;

(b) an owner, a licensee, or an operator of a visual sound radio broadcasting station or network of stations; or

(c) an agent or employee of a newspaper or broadcasting station.

(2) Notwithstanding Subsection (1), a person listed in Subsection (1)(a), (b), or (c) may be prosecuted for making a report described in Subsection (1) if there is proof the person acted with malice in making the report, which may not be implied from the mere fact of publication.

(3) An owner, licensee, or operator of a visual or sound radio broadcasting station or network of stations, or an agent or employee of a sound radio broadcasting station or network of stations, may not be prosecuted for a defamatory matter or statement published or uttered in a radio or television broadcast if the publication cannot be censored by reason of the provisions of a federal statute or a regulation issued by the Federal Communications Commission.

Section 53. Section **45-2-12**, which is renumbered from Section 76-9-506 is renumbered and amended to read:

[~~76-9-506~~] 45-2-12 . Privilege as to communications between interested persons.

(1) A communication made to a person interested in the communication by one who is also interested, or who stands in a relation to the former as to afford a reasonable ground for supposing his motive innocent, is not presumed to be malicious, and is a privileged communication.

(2) Libelous remarks or comments connected with a matter privileged by Subsection (1) receive no privilege by reason of the libelous remarks or comments being so connected.

Section 54. Section **45-2-13**, which is renumbered from Section 76-9-509 is renumbered

and amended to read:

[~~76-9-509~~] 45-2-13 . Conveying false or libelous material to newspaper or broadcasting stations.

[~~Any~~] A person who willfully states, conveys, delivers, or transmits, by any means[~~whatsoever~~], to the manager, editor, publisher, reporter, or agent of any radio station, television station, newspaper, magazine, periodical, or serial for publication[~~therein~~], any false or libelous statement concerning any person, and thereby secures actual publication[~~of the same~~], is guilty of a class B misdemeanor.

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

Section 55. Section **47-3-305** is amended to read:

47-3-305 . Exceptions and prohibitions.

(1) This part does not apply to:

(a) shooting ranges that are otherwise open to the public;

(b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;

(c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport;

(d) Department of Corrections ranges; and

(e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.

(2) Firearms may not be allowed in a school building, except under the provision of Section [~~76-10-505.5~~] 76-11-204, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used. An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.

(3) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants. For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.

(4) Group range use is a lawful, approved activity under Subsection [~~76-10-505.5(4)(a)~~] 76-11-204(4)(d).

Section 56. Section **51-9-203** is amended to read:

51-9-203 . Requirements for tobacco and electronic cigarette programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction,

cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health and Human Services containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(I) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products and electronic cigarette products, as those terms are defined in Section [~~76-10-101~~] 76-9-1101, are available to individuals under 21 years old;

(b) agree, by contract, to file an annual written report with the Department of Health and Human Services that contains the following:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products;

(C) Sections 26B-7-514 through 26B-7-520; and

(D) Title 77, Chapter 39, Sale of Tobacco or Alcohol to Under Age Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health and Human Services shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

(4) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(5) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Section 57. Section **51-9-801** is amended to read:

51-9-801 . Opioid Litigation Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the Opioid Litigation Proceeds Restricted Account.

(2) The account consists of:

(a) any money deposited into the account in accordance with Subsection (3);

(b) interest earned on money in the account; and

(c) money appropriated to the account by the Legislature.

(3) Notwithstanding Sections 13-2-8 and [~~76-10-3114~~] 67-5-40, after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (3)(a) or (b), the following shall be deposited into the account:

(a) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids from a case designated as an opioid case by the attorney general in a legal services contract; and

(b) all money received by the attorney general or the Department of Commerce as a result of any multistate judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(4) Subject to appropriation by the Legislature, money in the account shall be used:

(a) to address the effects of alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids; or

(b) if applicable, in accordance with the terms of a settlement agreement described in Subsection (3)(a) or (b) entered into by the state.

Section 58. Section **53-2a-214** is amended to read:

53-2a-214 . Prohibition of restrictions on and confiscation of a firearm or ammunition during an emergency.

(1) As used in this section:

(a)(i) "Confiscate" means for an individual in Utah to intentionally deprive another of a privately owned firearm.

(ii) "Confiscate" does not include the taking of a firearm from an individual:

(A) in self-defense;

(B) possessing a firearm while the individual is committing a felony or misdemeanor; or

(C) who may not, under state or federal law, possess the firearm.

(b) "Firearm" has the same meaning as defined in Section [~~76-10-501~~] 76-11-101.

(2) During a declared state of emergency or local emergency under this part:

(a) neither the governor nor an agency of a governmental entity or political subdivision

of the state may impose restrictions, which were not in force before the declared state of emergency, on the lawful possession, transfer, sale, transport, storage, display, or use of a firearm or ammunition; and

(b) an individual, while acting or purporting to act on behalf of the state or a political subdivision of the state, may not confiscate a privately owned firearm of another individual.

(3) A law or regulation passed during a declared state of emergency that does not relate specifically to the lawful possession or use of a firearm and that has attached criminal penalties may not be used to justify the confiscation of a firearm from an individual acting in defense of self, property, or others when on:

(a) the individual's private property; or

(b) the private property of another as an invitee.

(4)(a) An individual who has a firearm confiscated in violation of Subsection (2) may bring a civil action in a court having the appropriate jurisdiction:

(i) for damages, in the maximum amount of $10,000, against a person who violates Subsection (2);

(ii) for a civil penalty, in the amount of $5,000 per violation, against a person who violates Subsection (2); and

(iii) for return of the confiscated firearm.

(b) As used in this Subsection (4), "person" means an individual, the governmental entity on whose behalf the individual is acting or purporting to act, or both the individual and the governmental entity.

(5)(a) A law enforcement officer is not subject to disciplinary action for refusing to confiscate a firearm under this section if:

(i) ordered or directed to do so by a superior officer; and

(ii) by obeying the order or direction, the law enforcement officer would be committing a violation of this section.

(b) For purposes of this Subsection (5), disciplinary action might include:

(i) dismissal, suspension, or demotion;

(ii) loss of or decrease in benefits, pay, privileges or conditions of employment; and

(iii) any type of written or electronic indication, permanent or temporary, on the officer's personnel record of the officer's refusal to obey the unlawful order.

(6)(a) If a law enforcement officer commits a violation of this section, the officer's liability in an action brought under Subsection (4)(a) is limited to 5% of the damages

and civil penalty allowed under Subsection (4)(a) if the officer can show by clear and convincing evidence that the officer was obeying a direct and unlawful order from a superior officer or authority.

(b) The court shall assess the balance of the damages and civil penalty, the remaining 95%, against the superior officer or authority who ordered or directed the confiscation in violation of this section.

Section 59. Section **53-3-219** is amended to read:

53-3-219 . Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~] 76-9-110(6)(a), or Section 80-6-707.

(2)(a)(i) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~] 76-9-110(6)(a), or Section 80-6-707, the division shall:

(A) impose a suspension for a period of one year;

(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), [~~76-9-701(4)(b)~~] 76-9-110(6)(b), or 80-6-707(3)(a).

(b)(i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~] 76-9-110(6)(a), or Subsection 80-6-707(3)(b), the division shall:

(A) impose a suspension for a period of two years;

(B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years; or

(C) if the person is under the age of eligibility for a driver license, deny the

person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection [~~76-9-701(1)~~] 76-9-110(6)(a), or Section 80-6-707, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), [~~76-9-701(4)(c)~~] 76-9-110(6)(c), or 80-6-707(3)(b).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

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

Section 60. Section **53-3-220** is amended to read:

53-3-220 . Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, automobile homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section [~~76-10-508 or 76-10-508.1~~] 76-11-207 or 76-11-208 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection [~~76-10-306(4)(b)~~] 76-15-210(2)(b)(ii);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(xviii) two or more offenses that:

(A) are committed within a period of one year;

(B) are enhanced under Section 76-3-203.17; and

(C) arose from separate incidents.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section [~~76-10-508 or 76-10-508.1~~] 76-11-207 or 76-11-208 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection [~~76-10-306(4)(b)~~] 76-15-210(2)(b)(ii).

(c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d)(i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e)(i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A)(I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B)(I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:

(i) an order from the sentencing court requiring the person's driver license to be suspended; and

(ii) a record of the conviction.

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is

driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4)(a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician or physician assistant that:

(I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person

was involved as an operator of a vehicle.

(b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 61. Section **53-3-229** is amended to read:

53-3-229 . Prohibited uses of license certificate -- Penalty.

(1) It is a class C misdemeanor for an individual to:

(a) lend or knowingly permit the use of a license certificate issued to the individual, by another individual not entitled to the license certificate;

(b) display or represent as the individual's own license certificate a license certificate not issued to the individual;

(c) refuse to surrender to the division or a peace officer upon demand any license certificate issued by the division;

(d) use a false name or give a false address in any application for a license or any renewal or duplicate of the license certificate, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in the application;

(e) display a canceled, denied, revoked, suspended, or disqualified driver license certificate as a valid driver license certificate;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic driver license certificate issued by a governmental entity if the item is not an

authentic driver license certificate issued by that governmental entity; or

(g) alter any information on an authentic driver license certificate so that it no longer represents the information originally displayed.

(2) The provisions of Subsection (1)(e) do not prohibit the use of an individual's driver license certificate as a means of personal identification.

(3) It is a class A misdemeanor to knowingly:

(a) issue a driver license certificate with false or fraudulent information;

(b) issue a driver license certificate to an individual who is younger than 21 years old if the driver license certificate is not distinguished as required for an individual who is younger than 21 years old under Section 53-3-207; or

(c) acquire, use, display, or transfer a false or altered driver license certificate to procure a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~] 76-9-1101.

(4) An individual may not use, display, or transfer a false or altered driver license certificate to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(5) It is a third degree felony if an individual's acquisition, use, display, or transfer of a false or altered driver license certificate:

(a) aids or furthers the individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the individual's efforts to commit a violent felony.

Section 62. Section **53-3-810** is amended to read:

53-3-810 . Prohibited uses of identification card -- Penalties.

(1) It is a class C misdemeanor to:

(a) lend or knowingly permit the use of an identification card issued to the individual, by an individual not entitled to the identification card;

(b) display or to represent as the individual's own identification card an identification card not issued to the individual;

(c) refuse to surrender to the division or a peace officer upon demand any identification card issued by the division;

(d) use a false name or give a false address in any application for an identification card or any renewal or duplicate of the identification card, or to knowingly make a false statement, or to knowingly conceal a material fact in the application;

(e) display a revoked identification card as a valid identification card;

(f) knowingly acquire, use, display, or transfer an item that purports to be an authentic identification card issued by a governmental entity if the item is not an authentic identification card issued by that governmental entity; or

(g) alter any information contained on an authentic identification card so that it no longer represents the information originally displayed.

(2) It is a class A misdemeanor to knowingly:

(a) issue an identification card with false or fraudulent information;

(b) issue an identification card to an individual who is younger than 21 years old if the identification card is not distinguished as required for an individual who is younger than 21 years old under Section 53-3-806; or

(c) acquire, use, display, or transfer a false or altered identification card to procure a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~] 76-9-1101.

(3) An individual may not knowingly use, display, or transfer a false or altered identification card to procure alcoholic beverages, gain admittance to a place where alcoholic beverages are sold or consumed, or obtain employment that may not be obtained by a minor in violation of Section 32B-1-403.

(4) It is a third degree felony if an individual's acquisition, use, display, or transfer of a false or altered identification card:

(a) aids or furthers the individual's efforts to fraudulently obtain goods or services; or

(b) aids or furthers the individual's efforts to commit a violent felony.

Section 63. Section **53-5-702** is amended to read:

53-5-702 . Definitions.

In addition to the definitions in Section [~~76-10-501~~] 76-11-101, as used in this part:

(1) "Active duty service member" means a person on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.

(2) "Active duty service member spouse" means a person recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.

(3) "Board" means the Concealed Firearm Review Board created in Section 53-5-703.

(4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(5) "Commissioner" means the commissioner of the Department of Public Safety.

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced in accordance with Section 76-3-402.

(7)(a) "School employee" means an employee of a public school district, charter school, or private school whose duties, responsibilities, or assignments require the employee to be physically present on a school's campus at least half of the days on which school is held during a school year.

(b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

(8) "School year" means the period of time designated by a local school board, charter school governing board, or private school as the school year for high school, middle school, or elementary school students.

Section 64. Section **53-5-704** is amended to read:

53-5-704 . Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1)(a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b)(i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a $10 application fee.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

(c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(d) The provisions of Subsections [~~76-10-504(1) and (2)~~] 76-11-202(2), (3)(a), and (3)(b), and Section [~~76-10-505~~] 76-11-203 do not apply to an individual issued a permit under Subsection (1)(a) or (b).

(e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section [~~76-10-503~~] 76-11-302 and federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful

violence; or

(iii) conviction of an offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d)(i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section [~~76-10-503~~] 76-11-302.

(4)(a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for

renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8)(a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9)(a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm under Section [~~76-10-503~~] 76-11-302;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or another nationally recognized firearm training organization that customarily offers firearm safety and firearm law instructor training or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c)(i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii)(A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d)(i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11)(a)(i) A concealed firearms instructor shall provide a signed certificate to an

individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii)(A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section [~~76-10-503~~] 76-11-302 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16)(a) In the event of a denial, suspension, or revocation of a permit, the applicant or

permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e)(i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 65. Section **53-5-705** is amended to read:

53-5-705 . Temporary permit to carry concealed firearm -- Denial, suspension, or revocation -- Appeal.

(1) The bureau or its designated agent may issue a temporary permit to carry a concealed firearm to a person who:

(a) has applied for a permit under Section 53-5-704;

(b) has applied for a temporary permit under this section; and

(c) meets the criteria required in Subsections (2) and (3).

(2) To receive a temporary permit under this section, the applicant shall demonstrate in writing to the satisfaction of the bureau extenuating circumstances that would justify issuing a temporary permit.

(3) A temporary permit may not be issued under this section until preliminary record checks regarding the applicant have been made with the National Crime Information Center and the bureau to determine any criminal history.

(4)(a) A temporary permit is valid only for a maximum of 90 days or any lesser period specified by the bureau, or until a permit under Section 53-5-704 is issued to the

holder of the temporary permit, whichever period is shorter.

(b) The provisions of Subsections [~~76-10-504(1) and (2)~~] 76-11-202(2), (3)(a), and (3)(b) and Section [~~76-10-505~~] 76-11-203 do not apply to a person issued a temporary permit under this section during the time period for which the temporary permit is valid.

(5) The bureau may deny, suspend, or revoke a temporary permit prior to expiration if the commissioner determines:

(a) the circumstances justifying the temporary permit no longer exist; or

(b) the holder of the temporary permit does not meet the requirements for a permit under Section 53-5-704.

(6)(a) The denial, suspension, or revocation of a temporary permit shall be in writing and shall include the reasons for the action.

(b) The bureau's decision to deny, suspend, or revoke a temporary permit may not be appealed to the board.

(c) Denial, suspension, or revocation under this subsection is final action for purposes of judicial review under Section 63G-4-402.

Section 66. Section **53-5-710** is amended to read:

53-5-710 . Cross-references to concealed firearm permit restrictions.

(1) A person with a permit of any kind to carry a concealed firearm may not carry a concealed firearm in the following locations:

(a) any secure area prescribed in Section [~~76-10-523.5~~] 53-5a-107 in which firearms are prohibited and notice of the prohibition posted;

(b) any airport secure area as provided in Section [~~76-10-529~~] 76-11-215; or

(c) any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section [~~76-10-530~~] 76-11-216.

(2) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-204(4), a person under the age of 21 with a permit of any kind to carry a concealed firearm may not carry a concealed firearm on or about school premises, as defined in Subsection [~~76-10-505.5(1)(a)~~] 76-11-204(1)(a)(i).

Section 67. Section **53-5-711** is amended to read:

53-5-711 . Law enforcement officials, judges, and court commissioners exempt -- Training requirements -- Qualification -- Revocation.

(1) As used in this section and Section [~~76-10-523~~] 53-5a-108:

(a) "Court commissioner" means an individual appointed under Section 78A-5-107.

(b)(i) "Judge" means a judge or justice of a court of record or a court not of record.

(ii) "Judge" does not include a judge pro tem or senior judge.

(c) "Law enforcement official" means:

(i) a member of the Board of Pardons and Parole;

(ii) a district attorney, deputy district attorney, county attorney or deputy county attorney of a county not in a prosecution district;

(iii) the attorney general;

(iv) an assistant attorney general designated as a criminal prosecutor; or

(v) a city attorney or a deputy city attorney designated as a criminal prosecutor.

(2) To qualify for an exemption in Section [~~76-10-523~~] 53-5a-108, a law enforcement official, judge, or court commissioner shall complete the following training requirements:

(a) meet the requirements of Sections 53-5-704, 53-5-706, and 53-5-707; and

(b) successfully complete an additional course of training as established by the commissioner of public safety designed to assist them while carrying out their official law enforcement, judicial, or court commissioner duties as agents for the state or its political subdivisions.

(3) Annual requalification requirements for law enforcement officials, judges, or court commissioners shall be established by the commissioner of public safety. Additional requalification requirements may be established by the:

(a) Board of Pardons and Parole by rule for its members;

(b) Judicial Council by rule for judges and court commissioners; and

(c) the district attorney, county attorney in a county not in a prosecution district, the attorney general, or city attorney by policy for prosecutors under their jurisdiction.

(4) The bureau may:

(a) issue a certificate of qualification to a judge, law enforcement official, or court commissioner who has completed the requirements of Subsection (2), which certificate of qualification is valid until revoked;

(b) revoke the certificate of qualification of a judge, law enforcement official, or court commissioner who:

(i) fails to meet the annual requalification criteria established pursuant to Subsection (3);

(ii) would be subject to revocation of a concealed firearm permit under Subsection 53-5-704(2)(a); or

(iii) is no longer employed as a judge, law enforcement official, or court commissioner as defined in Subsection (1); and

(c) certify instructors for the training requirements of this section.

Section 68. Section **53-5a-102** is amended to read:

CHAPTER 5a. FIREARM LAWS

Part 1. General Firearm Laws

53-5a-102 . Uniform firearm laws.

[~~(1) As used in this section:~~]

[~~(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.~~]

[~~(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.~~]

[~~(c) "Firearm" means:~~]

[~~(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive;~~]

[~~(ii) ammunition; and~~]

[~~(iii) a firearm accessory.~~]

[~~(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.~~]

[~~(e) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.~~]

[~~(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is defined in Section 76-10-501.~~]

[~~(g) "Shotgun" means the same as that term is defined in Section 76-10-501.~~]

[~~(2)~~] (1) The individual right to keep and bear arms being a constitutionally protected right under Article I, Section 6 of the Utah Constitution and the Second Amendment to the United States Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state and declares that the Legislature occupies the whole field of state regulation of firearms.

[~~(3)~~] (2) Except as specifically provided by state law, a local or state governmental entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm, ammunition, or a firearm accessory at the individual's place of residence, property, business, or in any vehicle lawfully in the individual's possession or lawfully under the individual's control; or

(b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm, ammunition, or a firearm accessory.

[~~(4)~~] (3) [~~In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is~~] This part and Title 76, Chapter 11, Weapons, are uniformly applicable throughout [~~this~~] the state and in all the [~~state's~~]political subdivisions of the state.

[~~(5)~~] (4) Authority to regulate firearms is reserved to the state except where the Legislature specifically delegates responsibility to local or state governmental entities.

[~~(6)~~] (5) Unless specifically authorized by the Legislature by statute, a local or state governmental entity may not enact, establish, or enforce [~~any ordinance, regulation, rule, or policy~~] a directive pertaining to firearms, ammunition, or firearm accessories that in any way inhibits or restricts the possession, ownership, purchase, sale, transfer, transport, or use of firearms, ammunition, or firearm accessories on either public or private property.

[~~(7)~~] (6) This section does not restrict or expand private property rights.

[~~(8)~~] (7) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm Preemption Enforcement Act.

Section 69. Section **53-5a-102.1** is enacted to read:

53-5a-102.1 . Definitions.

As used in this part:

(1) "Ammunition" means the same as that term is defined in Section 53-5d-102.

(2)(a) "Antique firearm" means:

(i) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of a firearm described in this Subsection (2)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and is not readily available in ordinary channels of commercial trade; or

(iii) a firearm that:

(A) is a muzzle-loading rifle, shotgun, or pistol;

(B) is designed to use black powder, or a black powder substitute; and

(C) cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle-loading weapon; or

(iii) a muzzle-loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (2)(b)(iii)(A), (B), or (C).

(3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the department.

(4)(a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of the firearm's presence; and

(ii) readily accessible for immediate use.

(b) "Concealed firearm" does not include a firearm that is unloaded and securely encased.

(5) "Court commissioner" means an individual appointed under Section 78A-5-107.

(6) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(7) "Directive" means the same as that term is defined in Section 78B-6-2301.

(8) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(9) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.

(10) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(11) "Judge" means the same as that term is defined in Section 53-5-711.

(12) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.

(13) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that the weapon can be retrieved and used as readily as if carried on the person.

(14) "Residence" means an improvement to real property used or occupied as a primary or

secondary residence.

(15) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

(16) "Short barreled rifle" means the same as that term is defined in Section 53-5a-301.

(17) "Short barreled shotgun" means the same as that term is defined in Section 53-5a-301.

(18) "Shotgun" means the same as that term is defined in Section 53-5a-301.

(19) "Slug" means the same as that term is defined in Section 53-5a-301.

Section 70. Section **53-5a-102.3**, which is renumbered from Section 76-10-511 is renumbered and amended to read:

[~~76-10-511~~] 53-5a-102.3 . Possession of a loaded firearm at a residence or on real property authorized.

Except for persons described in Section [~~76-10-503~~] 76-11-302 and 18 U.S.C. Sec. 922(g) and as otherwise prescribed in this part, [~~a person~~] an individual may have a loaded firearm:

(1) at the [~~person's~~] individual's place of residence, including any temporary residence or camp; or

(2) on the [~~person's~~] individual's real property.

Section 71. Section **53-5a-105**, which is renumbered from Section 76-10-520 is renumbered and amended to read:

[~~76-10-520~~] 53-5a-105 . Number or mark assigned to a handgun by the department.

(1) The [~~Department of Public Safety~~] department upon request may assign a distinguishing number or mark of identification to [~~any pistol or revolver~~] a handgun whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the [~~Department of Public Safety~~] department has been destroyed or obliterated.

(2) Except as provided in Subsection (3), an individual who places or stamps a number on a handgun except one assigned to the handgun by the department is guilty of a class A misdemeanor.

(3) This section does not:

(a) prohibit restoration by the owner of the name of the maker, model, or of the original manufacturer's number or other mark of identification when the restoration is

authorized by the department;

(b) prohibit a manufacturer from placing in the ordinary course of business the name of the make, model, manufacturer's number, or other mark of identification upon a new handgun; or

(c) apply to a handgun that is an antique firearm.

Section 72. Section **53-5a-106**, which is renumbered from Section 76-10-522 is renumbered and amended to read:

[~~76-10-522~~] 53-5a-106 . Alteration of number or mark on a handgun.

(1) [~~Any person who changes, alters, removes, or obliterates~~] An individual may not change, alter, remove, or obliterate the name of the maker, the model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the [~~Department of Public Safety~~] department, on [~~any pistol or revolver~~] a handgun, without first having secured written permission from the [~~Department of Public Safety~~] department to make the change, alteration, [~~or~~]removal, [~~is guilty of a class A misdemeanor~~] or obliteration.

(2) Except as provided in Subsection (3), a violation of Subsection (1) is a class A misdemeanor.

(3) This section does not apply to a handgun that is an antique firearm.

Section 73. Section **53-5a-107**, which is renumbered from Section 76-10-523.5 is renumbered and amended to read:

[~~76-10-523.5~~] 53-5a-107 . Compliance with rules for secure facilities.

[~~Any person~~] An individual, including [~~a person~~] an individual licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, shall comply with any rule established [~~for secure facilities~~] by a secure facility pursuant to Sections 53B-3-103, 76-8-311.1, 76-8-311.3, and 78A-2-203 and [~~shall be~~] is subject to any penalty provided in those sections.

Section 74. Section **53-5a-108**, which is renumbered from Section 76-10-523 is renumbered and amended to read:

[~~76-10-523~~] 53-5a-108 . Persons exempt from weapons laws.

(1) Except for Sections [~~76-10-506, 76-10-508, and 76-10-508.1, this part~~] 76-11-205, 76-11-207, and 76-11-208, this part, Title 76, Chapter 11, Weapons, and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711;

(f) a court commissioner as defined and qualified under Section 53-5-711; or

(g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) Notwithstanding Subsection (1), the provisions of Section [~~76-10-528~~] 76-11-214 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

(3) Subsections [~~76-10-504(1) and (2), and Section 76-10-505~~] 76-11-202(2), (3)(a), and (3)(b), and Section 76-11-203 do not apply to:

(a) an individual to whom a permit to carry a concealed firearm has been issued:

(i) pursuant to Section 53-5-704; or

(ii) by another state or county; or

(b) [~~a person~~] an individual who is issued a protective order under Subsection 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the [~~person~~] individual is a restricted person as described in Subsection [~~76-10-503(1)~~] 76-11-302(1), for a period of 120 days after the day on which the [~~person~~] individual is issued the protective order.

(4) Except for Sections [~~76-10-503, 76-10-506, 76-10-508, and 76-10-508.1~~] 76-11-205, 76-11-207, 76-11-208, and 76-11-302, this part, Title 76, Chapter 11, Weapons, and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased[~~ as defined in Section 76-10-501~~].

(5) Subsections [~~76-10-504(1) and (2), and 76-10-505(1)(b)~~] 76-11-202(2), (3)(a), and (3)(b), and 76-11-203(2)(b) do not apply to [~~a person~~] an individual 21 years old or older who may otherwise lawfully possess a firearm.

Section 75. Section **53-5a-202** is amended to read:

53-5a-202 . Definitions.

As used in this part:

(1)(a) "Federal regulation" means a federal executive order, rule, or regulation that infringes upon, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or

firearm accessory.

(b) "Federal regulation" does not include:

(i) a federal firearm statute; or

(ii) a federal executive order, rule, or regulation that is incorporated into the Utah Code by reference.

(2) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(4) "Political subdivision" means a city, town, county, special district, or water conservancy district.

Section 76. Section **53-5a-301** is enacted to read:

Part 3. Sale and Purchase of a Firearm

53-5a-301 . Definitions.

As used in this part:

(1) "Antique firearm" means the same as that term is defined in Section 53-5a-102.1.

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the department.

(3) "Criminal history background check" means a criminal background check conducted through the bureau or a local law enforcement agency.

(4) "Dangerous weapon" means the same as that term is defined in Section 76-11-101.

(5) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(6) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(7) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held by the person.

(8)(a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle, or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) "Firearm" does not include an antique firearm.

(9)(a) "Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16 inches in length.

(b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(10)(a) "Short barreled shotgun" means a shotgun that has a barrel or barrels of fewer than 18 inches in length.

(b) "Short barreled shotgun" includes a dangerous weapon made from a shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

(11) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

(12) "Slug" means a single projectile discharged from a shotgun shell.

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

Section 77. Section **53-5a-302**, which is renumbered from Section 76-10-526 is renumbered and amended to read:

[~~76-10-526~~] 53-5a-302 . Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

[~~(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.~~]

[~~(2)~~] (1)(a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection [~~(2)~~] (1).

[~~(3)~~] (2)(a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection [~~(3)(a)~~] (2)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

[~~(4)~~] (3)(a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

[~~(5)~~] (4)(a) The dealer shall send the information required by Subsection [~~(4)~~] (3) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection [~~(4)~~] (3) and has received approval from the bureau under Subsection [~~(7)~~] (6).

[~~(6)~~] (5) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

[~~(7)~~] (6) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, and the temporary restricted file created under Section 53-5c-301, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

[~~(8)~~] (7)(a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

[~~(9)~~] (8)(a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall:

(i) within 24 hours after determining that the purchaser is prohibited from purchasing, possessing, or transferring a firearm, notify the law enforcement agency in the jurisdiction where the dealer is located; and

(ii) inform the law enforcement agency in the jurisdiction where the individual resides.

(b) Subsection [~~(9)(a)~~] (8)(a) does not apply to an individual prohibited from purchasing a firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

(c) A law enforcement agency that receives information from the bureau under Subsection [~~(9)(a)~~] (8)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection [~~(9)(a)~~] (8)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection [~~(9)(c)(i)~~] (8)(c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(d) The bureau shall:

(i) compile the information from the reports described in Subsection [~~(9)(c)~~] (8)(c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

[~~(10)~~] (9) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

[~~(11)~~] (10) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107

Stat. 1536 (1993).

[~~(12)~~] (11)(a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection [~~(12)(a)~~] (11)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c)(i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

[~~(13)~~] (12)(a) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

[~~(a)~~] (i) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

[~~(b)~~] (ii) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(b) An individual with a temporary permit to carry a concealed firearm issued under Section 53-5-705 is not exempt from a background check and the corresponding fee required in this section for the purchase of a firearm.

[~~(14)~~] (13)(a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection [~~(14)(a)~~] (13)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

[~~(15)~~] (14) A dealer engaged in the business of selling, leasing, or otherwise transferring a firearm shall:

(a) make the firearm safety brochure described in Subsection [~~26B-5-211(3)~~] 26B-5-102(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection [~~26B-5-211(3)~~] 26B-5-102(3) to a customer purchasing a shotgun, short

barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

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

Section 78. Section **53-5a-303**, which is renumbered from Section 76-10-526.1 is renumbered and amended to read:

[~~76-10-526.1~~] 53-5a-303 . Information check before private sale of firearm.

(1) As used in this section:

(a) "Governmental entity" means the state and the state's political subdivisions.

(b) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(c) "Personally identifiable information" means the same as that term is defined in Section 63D-2-102.

(2) Subject to Subsections (3) and (4), the bureau shall create an online process that allows an individual who is selling or purchasing a firearm to voluntarily determine:

(a) if the other individual involved in the sale of the firearm has a valid concealed carry permit; or

(b) based on the serial number of the firearm, if the firearm is reported as stolen.

(3) Subsection (2) does not apply to a federal firearms licensee or dealer.

(4) The bureau may not:

(a) provide information related to a request under Subsection (2) to a law enforcement agency; or

(b) collect a user's personally identifiable information under Subsection (2).

(5) A governmental entity may not require an individual who is selling or purchasing a firearm to use the process under Subsection (2).

(6) If an individual uses the process under Subsection (2), the individual is not required, based on the information the individual receives from the bureau, to make a report to a law enforcement agency.

(7) After responding to a request under Subsection (2), the bureau shall immediately dispose of all information related to the request.

(8)(a) This section does not create a civil cause of action arising from the sale or purchase of a firearm under this section.

(b) An individual's failure to use the process under Subsection (2) is not evidence of the individual's negligence in a civil cause of action.

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

Section 79. Section **53-5a-304**, which is renumbered from Section 76-10-527 is renumbered and amended to read:

[~~76-10-527~~] 53-5a-304 . Penalties.

(1) A dealer is guilty of a class A misdemeanor [~~who~~] if the dealer willfully and intentionally:

(a) requests, obtains, or seeks to obtain criminal history background information under false pretenses;

(b) disseminates criminal history background information; or

(c) violates Section [~~76-10-526~~] 53-5a-302.

(2) [~~A person~~] An individual who purchases or transfers a firearm is guilty of a third degree felony [~~of the third degree if the person~~] if the individual willfully and intentionally makes a false statement of the information required for a criminal background check in Section [~~76-10-526~~] 53-5a-302.

(3) Except as otherwise provided in Subsection (1), a dealer is guilty of a [~~felony of the~~] third degree felony if the dealer willfully and intentionally sells or transfers a firearm in violation of this part or Title 76, Chapter 11, Part 1, Weapons.

(4) [~~A person~~] An individual is guilty of a [~~felony of the~~]third degree felony if the [~~person~~] individual purchases a firearm with the intent to:

(a) resell or otherwise provide a firearm to [~~a person~~] an individual who is ineligible to purchase or receive a firearm from a dealer; or

(b) transport a firearm out of this state to be resold to an [~~ineligible person~~] individual who is ineligible to purchase or receive a firearm from a dealer.

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

Section 80. Section **53-5a-305**, which is renumbered from Section 76-10-524 is renumbered and amended to read:

[~~76-10-524~~] 53-5a-305 . Purchase of firearms pursuant to federal law.

This part [~~will allow purchases~~] allows the purchase of firearms and ammunition pursuant to U.S.C. Title 18 Chapter 44 Sec. 922b(3).

Section 81. Section **53-5c-201** is amended to read:

53-5c-201 . Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(1)(a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant

or another cohabitant with access to the firearm is an immediate threat to:

(i) a cohabitant;

(ii) the owner cohabitant; or

(iii) another individual.

(b) Except as provided in Subsection (2), if the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold the firearm under this section; and

(ii) shall return the firearm to the owner.

(2) A law enforcement agency may not return a firearm to an owner under Subsection (1)(b) if the owner of the firearm:

(a) is a restricted person under Section [~~76-10-503~~] 76-11-302; or

(b)(i) has been arrested and booked into a county jail on a class A misdemeanor or felony domestic violence offense;

(ii) has had a court:

(A) review the probable cause statement detailing the incident leading to the owner's arrest; and

(B) determine that probable cause existed for the arrest; and

(iii) is subject to a jail release agreement or a jail release court order arising out of the domestic violence offense.

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody:

(i) for 60 days after the day on which the firearm is voluntarily committed; or

(ii)(A) for an owner described in Subsection (2)(b), during the time the jail release agreement or jail release court order is in effect; and

(B) for 60 days after the day on which the jail release agreement or jail release court order expires; and

(d) upon proof of identification, return the firearm to:

(i)(A) the owner cohabitant after the expiration of the 60-day period; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

(7) Unless otherwise provided, the provisions of Title 77, Chapter 11d, Lost or Mislaid Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

(9) The department shall create a pamphlet to be distributed by a law enforcement officer under Section 77-36-2.1 that includes information about a cohabitant's or owner cohabitant's ability to have the owner cohabitant's firearm committed to a law enforcement agency for safekeeping in accordance with this section.

Section 82. Section **53-5c-301** is amended to read:

53-5c-301 . Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person under Section [~~76-10-503~~] 76-11-302 may voluntarily request to be restricted from the purchase or possession of firearms.

(2) An individual requesting to be restricted under Subsection (1) may request placement on one of the following restricted lists:

(a) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm for 180 days with automatic removal of the individual from the restricted list at the end of the 180 days; and

(ii) allows the individual to request removal 30 days after the day on which the individual is added to the restricted list; or

(b) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm indefinitely; and

(ii) allows the individual to request removal 90 days after the day on which the individual is added to the restricted list.

(3)(a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms for inclusion on, and removal from, a restricted list as described in Subsection (2) to be maintained by the bureau.

(b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):

(i) name;

(ii) address;

(iii) date of birth;

(iv) contact information;

(v) signature; and

(vi)(A) if the individual is entered on the restricted list as described in Subsection (2)(a), an acknowledgment of the statement in Subsection (8)(a); or

(B) if the individual is entered on the restricted list as described in Subsection (2)(b), an acknowledgment of the statement in Subsection (8)(b).

(4)(a) An individual requesting inclusion on a restricted list under Subsection (2) shall:

(i) deliver the completed form in person to a law enforcement agency; or

(ii) direct the individual's health care provider under Section 53-5c-302 to electronically deliver the individual's request to the bureau.

(b) The law enforcement agency described in Subsection (4)(a)(i):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(5) Upon receipt of a verified form provided under this section or Section 53-5c-302 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add the individual's name to the restricted list.

(6)(a) For an individual added to the restricted list described in Subsection (2)(a):

(i) the individual may not request removal from the restricted list unless the individual has been on the restricted list for at least 30 days;

(ii) the bureau shall remove the individual from the restricted list 180 days after the day on which the individual was added to the restricted list, unless the individual:

(A) requests to be removed from the restricted list after 30 days;

(B) requests to remain on the restricted list; or

(C) directs the individual's health care provider to request that the individual remain on the restricted list;

(iii) a request for an extension shall be made in the same manner as the original request; and

(iv) the individual may continue to request, or direct the individual's health care provider to continue to request, extensions every 180 days.

(b) For an individual added to a restricted list under Subsection (2)(b), the individual:

(i) may not request removal from the restricted list unless the individual has been on the restricted list for at least 90 days; and

(ii) shall remain on the restricted list, unless the bureau receives a request from the individual to have the individual's name removed from the restricted list.

(7) If an individual restricted under this section is a concealed firearm permit holder, the individual's permit shall be:

(a) suspended upon entry on the restricted list; and

(b) reinstated upon removal from the restricted list, unless:

(i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or

(ii) the individual has become a restricted person under Section [~~76-10-503~~] 76-11-302.

(8)(a) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms for a minimum of 30 days, and up to 6 months. I understand that by

voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 30 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(b) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms indefinitely. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 90 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(9)(a) An individual requesting removal from a restricted list shall deliver a completed removal form in person to:

(i) the law enforcement agency that processed the inclusion form if the individual was placed on the restricted list under Subsection (4)(a)(i); or

(ii) the individual's local law enforcement agency if the individual was placed on the restricted list under Subsection (4)(a)(ii).

(b) The law enforcement agency described in Subsection (9)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a removal form from someone other than the individual named on

the form; and

(iii) shall transmit the removal form electronically to the bureau through the Utah Criminal Justice Information System.

(10) Upon receipt of a verified removal form, the bureau shall, after three business days, remove the individual from the restricted list and remove the information from the National Instant Criminal Background Check System.

(11) For an individual added to the restricted list under Subsection (2)(a), within 30 days before the 180-day removal deadline, the bureau shall notify the individual at the address listed on the inclusion form described in Subsection (4) and, if applicable, the law enforcement agency that processed the inclusion form, that the individual is due to be removed from the restricted list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(12)(a) A law enforcement agency that receives a request for inclusion under Subsection (4)(a)(i) shall:

(i) maintain the completed form and all subsequent completed forms in a separate file; and

(ii) for an individual added to the restricted list under Subsection (2)(a), destroy the entire file within five days after the date indicated in the notification if the individual does not request an extension after notification in accordance with Subsection (11).

(b) A law enforcement agency that receives a removal request under Subsection (9) shall destroy the entire file associated with the individual within five days after the day on which the information is transmitted to the bureau.

(c) Upon removal of an individual from a restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual within five days after the day on which the individual was removed.

(d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 83. Section **53-5c-302** is amended to read:

53-5c-302 . Assistance from a health care provider -- Restricted list.

(1) An individual who is not a restricted person under Section [~~76-10-503~~] 76-11-302 and is seeking inclusion on a restricted list under Section 53-5c-301 may direct the individual's health care provider to electronically deliver the individual's inclusion request described in Section 53-5c-301 to the bureau.

(2) In addition to the inclusion form described in Section 53-5c-301, the bureau shall create a form, available by download through the bureau's website, for:

(a) an individual who is directing a health care provider to electronically deliver the individual's inclusion request and require, at a minimum, the following information:

(i) the individual's signature;

(ii) the name of the individual's health care provider; and

(iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

(b) a health care provider who is delivering an individual's inclusion request and require, at a minimum, the following information for the health care provider:

(i) the health care provider's name;

(ii) the name of the health care provider's organization;

(iii) the health care provider's license or certification, including the license or certification number;

(iv) the health care provider's signature; and

(v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

(3)(a) An individual who is directing a health care provider to electronically deliver the individual's request to be included on a restricted list shall, in the presence of the health care provider, complete the forms described in Section 53-5c-301 and Subsection (2)(a).

(b) The health care provider:

(i) shall verify the individual's identity before accepting the forms;

(ii) may not accept forms from someone other than the individual named on the forms;

(iii) shall complete the form described in Subsection (2)(b); and

(iv) shall deliver the request to the bureau electronically and maintain a copy of the completed request in the individual's health record.

(4)(a) The form described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to my health care provider, I understand that I am

requesting that my health care provider present my name to the Bureau of Criminal Identification to be placed on a restricted list that restricts my ability to purchase or possess firearms."

(b) The form described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

By presenting this completed form to the Bureau of Criminal Identification, I understand that I am acknowledging that I have verified the identity of [name of individual seeking inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting that [name of individual] be placed on a restricted list that restricts [name of individual]'s ability to purchase or possess firearms. I affirm that [name of individual] is currently my patient, and I am a licensed health care provider acting within the scope of my license, certification, practice, education, or training."

(5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

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

Section 84. Section **53-5d-102** is amended to read:

53-5d-102 . Definitions.

As used in this chapter:

(1) "Ammunition" means a bullet, a cartridge case, primer, propellant powder, or other ammunition designed for use in any firearm, either as an individual component part or in a completely assembled cartridge.

(2) "Manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing a qualified product and who is licensed to engage in business as a manufacturer under 18 U.S.C. Chapter 44.

(3) "Negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(4) "Person" means the same as that term is defined in Section 68-3-12.5.

(5)(a) "Qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or

declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party.

(b) "Qualified civil liability action" does not include:

(i) an action brought against a transferor convicted under 18 U.S.C. Sec. 924(h) or Section [~~76-10-503~~] 76-11-302 by a party directly harmed by the conduct of which the transferee was convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a state or federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including:

(A) any incident in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under federal or state law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(B) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under 18 U.S.C. Sec. 922(g) or (n) or Section [~~76-10-503~~] 76-11-302;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries, or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense, then the act shall be considered the sole proximate cause of any resulting death, personal injuries, or property damage; or

(vi) an action or proceeding commenced to enforce the provisions of 18 U.S.C. Chapter 44, 26 U.S.C. Chapter 53, or [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons.

(6) "Qualified product" means a firearm or antique firearm, as defined in Section [~~76-10-501~~] 76-11-101, ammunition, or a component part of a firearm or ammunition.

(7) "Seller" means, with respect to a qualified product, a federal firearms licensee, as defined in Section [~~76-10-501~~] 53-5a-301.

(8) "Trade association" means:

(a) any corporation, unincorporated association, federation, business league, or professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(b) an organization described in 26 U.S.C. Sec. 501(c)(6) and exempt from tax under 26 U.S.C. Sec. 501(a); and

(c) an organization, two or more members of which are manufacturers or sellers of a qualified product.

(9) "Unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

Section 85. Section **53-10-202** is amended to read:

53-10-202 . Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate;

(c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and

(d) other statistics required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons as provided in Sections 26B-8-130 and 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section [~~76-10-520~~] 53-5a-105;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5;

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal.

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

Section 86. Section **53-10-208.1** is amended to read:

53-10-208.1 . Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days after the day of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental condition;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 26B-5-332;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders;

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) When transmitting information on a criminal matter under Subsection (1)(a)(i), (ii), (v), or (vii) for a conviction of misdemeanor assault under Section 76-5-102, the magistrate or clerk of a court shall include available information regarding whether the conviction for assault resulted from an assault against an individual:

(a) who is included in at least one of the relationship categories described in Subsection [~~76-10-503(1)(b)(xii)~~] 76-11-302(1)(b)(xii); or

(b) with whom none of the relationships described in Subsection [~~76-10-503(1)(b)(xii)~~] 76-11-302(1)(b)(xii) apply.

(3) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 26B-5-332(16).

(4) The record described in Subsection (3) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

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

Section 87. Section **53-10-403** is amended to read:

53-10-403 . DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

(a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) a person who has been booked on or after January 1, 2011, through December 31,

2014, for any offense under Subsection (2)(c);

(d) a person who has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) a minor:

(i)(A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

(B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice Services for the offense on or after July 1, 2002; and

(ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c)(i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8 (2)(g);

(v) a felony violation of enticing a minor, Section [~~76-4-401~~] 76-5-417;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) automobile homicide, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Section 76-8-309.3;

(xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;

(xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

(xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xxii) a felony violation of sexual battery, Section [~~76-9-702.1~~] 76-5-418;

(xxiii) a felony violation of lewdness involving a child, Section [~~76-9-702.5~~] 76-5-420;

(xxiv) a felony violation of abuse or desecration of a dead human body, Section [~~76-9-704~~] 76-5-802;

(xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section [~~76-10-402~~] 76-15-302;

(xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,

Section [~~76-10-403~~] 76-15-303;

(xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection [~~76-10-504(4)~~] 76-11-202(3)(c)(ii);

(xxviii) assault with the intent to commit bus hijacking with a dangerous weapon[~~, Subsection 76-10-1504(3)~~] as described in Subsection 76-9-1503(3)(b);

(xxix) aggravated commercial obstruction, [~~Subsection 76-10-2402(2)~~] Section 76-9-114;

(xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxxii) violation of condition for release after arrest under Section 78B-7-802.

Section 88. Section **53-10-801** is amended to read:

53-10-801 . Definitions.

For purposes of this part:

(1) "Alleged sexual offender" means an individual or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the commission of a sexual offense or an attempted sexual offense [~~under Title 76, Chapter 5, Part 4, Sexual Offenses, ~~]and regarding which:

(a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.

(2) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.

(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means an individual who is HIV positive as determined by the State Health Laboratory.

(5) "Local department of health" means a local health department as defined in Section 26A-1-102.

(6) "Minor" means an individual younger than 18 years old.

(7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

(8)(a) "Sexual offense" means a violation of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual offense" does not include a violation of Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health and Human Services.

Section 89. Section **53-10-803** is amended to read:

53-10-803 . Voluntary testing -- Victim to request -- Costs paid by Utah Office for Victims of Crime.

(1) A victim or minor victim of a sexual offense [~~as provided under Title 76, Chapter 5, Part 4, Sexual Offenses, ~~]may request a test for the HIV infection.

(2)(a) The local health department shall obtain the blood specimen from the victim and forward the specimen to the Department of Health and Human Services.

(b) The Department of Health and Human Services shall analyze the specimen of the victim.

(3) The testing shall consist of a base-line test of the victim at the time immediately or as soon as possible after the alleged occurrence of the sexual offense. If the base-line test result is not positive, follow-up testing shall occur at three months and six months after the alleged occurrence of the sexual offense.

(4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the victim provides a substantiated claim of the sexual offense, does not test HIV positive at the base-line testing phase, and complies with eligibility criteria established by the Utah Office for Victims of Crime.

Section 90. Section **53-13-116** is amended to read:

53-13-116 . Report required after pointing a firearm at an individual.

(1) As used in this section:

(a) "Conductive energy device" means a weapon that uses electrical current to disrupt

voluntary control of muscles.

(b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(c) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(d) "Officer-involved critical incident" means the same as that term is defined in Section 76-2-408.

(2) A law enforcement officer shall file a report described in Subsection (3) if, during the performance of the officer's duties:

(a) the officer points a firearm at an individual; or

(b) the officer aims a conductive energy device at an individual and displays the electrical current.

(3)(a) A report described in Subsection (2) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the law enforcement agency.

(b) A law enforcement officer shall submit a report required under Subsection (2) to the officer's law enforcement agency within 48 hours after the incident.

(4) A supervisory law enforcement officer shall review a report submitted under Subsection (3)(b).

(5) This section does not apply to:

(a) law enforcement training exercises; or

(b) an officer who, as part of an officer-involved critical incident, engaged in conduct described under Subsection (2)(a) or (2)(b).

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

Section 91. Section **53-22-105** is amended to read:

53-22-105 . School guardian program.

(1) As used in this section:

(a) "Annual training" means an annual four-hour training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs;

(iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;

(v) includes the following components:

(A) firearm safety, including safe storage of a firearm;

(B) de-escalation tactics;

(C) the role of mental health in incidents; and

(D) disability awareness and interactions; and

(vi) contains other training needs as determined by the state security chief.

(b) "Biannual training" means a twice-yearly training that:

(i) is at least four hours, unless otherwise approved by the state security chief;

(ii) a county security chief or a designee administers;

(iii) the state security chief approves;

(iv) can be tailored to local needs; and

(v) through which a school guardian at a school or simulated school environment:

(A) receives training on the specifics of the building or buildings of the school, including the location of emergency supplies and security infrastructure; and

(B) participates in a live-action practice plan with school administrators in responding to active threats at the school; and

(vi) shall be taken with at least three months in between the two trainings.

(c) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(d) "Initial training" means an in-person training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs; and

(iv) provides:

(A) training on general familiarity with the types of firearms that can be concealed for self-defense and defense of others;

(B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;

(C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the demonstration and explanation of the difference between sight picture, sight alignment, and trigger control, and a recognized pistol course;

(D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-defense, defense of others, transportation of firearms, and concealment of firearms;

(E) coordination with law enforcement officers in the event of an active threat;

(F) basic trauma first aid;

(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force;

(H) situational response evaluations, including:

(I) protecting and securing a crime or accident scene;

(II) notifying law enforcement;

(III) controlling information; and

(IV) other training that the county sheriff, designee, or department deems appropriate.

(e) "Program" means the school guardian program created in this section.

(f)(i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

(ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

(A) the principal, teacher, or individual is employed at a school with 100 or fewer students;

(B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

(C) as provided in Subsection 53G-8-701.5(3).

(g) "School guardian" means a school employee who meets the requirements of Subsection (3).

(2)(a)(i) There is created within the department the school guardian program;

(ii) the state security chief shall oversee the school guardian program;

(iii) the applicable county security chief shall administer the school guardian program in each county.

(b) The state security chief shall ensure that the school guardian program includes:

(i) initial training;

(ii) biannual training; and

(iii) annual training.

(c) A county sheriff may partner or contract with:

(i) another county sheriff to support the respective county security chiefs in jointly

administering the school guardian program in the relevant counties; and

(ii) a local law enforcement agency of relevant jurisdiction to provide the:

(A) initial training;

(B) biannual training; and

(C) annual training.

(3)(a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:

(i) the school administrator approves the volunteer school employee to be designated as a school guardian;

(ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;

(iii) the school employee holds a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and

(v) the school employee successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance Abuse and Mental Health established in Section 26B-5-102.

(b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.

(4) The state security chief shall:

(a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;

(b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and

(c) provide each school guardian with a one-time stipend of $500.

(5) A school guardian:

(a) may store the school guardian's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the school guardian's office; and

(iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;

(b) shall carry the school guardian's firearm in a concealed manner; and

(c) may not, unless during an active threat, display or open carry a firearm while on school grounds.

(6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection [~~76-10-505.5(4)~~] 76-11-204(4).

(7) A school guardian:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the school where the school guardian is employed:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.

(8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.

(10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:

(a) when carrying or storing a firearm:

(i) is acting in good faith; and

(ii) is not grossly negligent; or

(b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.

(12)(a) A report described in Subsection (11) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) A school guardian shall submit a report required under Subsection (11) to the school

administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (12)(b).

(13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

(14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.

(15)(a) Any information or record created detailing a school guardian's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) administrators at the school guardian's school;

(C) if applicable, other school safety personnel described in Section 53G-8-701.5;

(D) a local law enforcement agency that would respond to the school in case of an emergency; and

(E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.

(b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.

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

Section 92. Section **53-22-107** is amended to read:

53-22-107 . Educator-Protector Program.

(1) As used in this section:

(a) "Annual classroom response training" means a training for a teacher:

(i) that is held at least once a year and is administered, at no cost to a teacher, by the

individual identified by the county sheriff as described in Section 53-22-103; and

(ii) where the teacher is trained:

(A) on how to defend a classroom against active threats emphasizing the teacher's role in stationary defense; and

(B) on the safe loading, unloading, storage, and carrying of firearms in a school setting.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(c) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(d) "Program" means the Educator-Protector Program created under this section.

(e) "Teacher" means an individual employed by a local education agency who has an assignment to teach in a classroom.

(2) There is created the Educator-Protector Program to incentivize a teacher to responsibly secure or carry a firearm on the grounds of the school where the teacher is employed.

(3)(a) To participate in the program, a teacher shall:

(i) have completed an annual classroom response training within six months before the day on which the teacher joins the program;

(ii) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act; and

(iii) certify to the department that:

(A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and (3)(a)(ii); and

(B) if applicable, intends to securely store or carry a firearm on the grounds of a school where the teacher is employed.

(b) After joining the program, to retain the teacher's active status in the program, a teacher shall:

(i) participate in annual classroom response training; and

(ii) comply with any rules established by the department in accordance with Subsection (10).

(4)(a) The state security chief shall:

(i) track each teacher that participates in the program by collecting a photograph, name, and contact information for each teacher;

(ii) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state; and

(iii) provide reasonable reimbursement, using funds appropriated by the Legislature, to a county sheriff for providing a teacher with annual classroom response training.

(b) The state security chief shall categorize the information described in Subsection (4)(a)(i) by school.

(5) A teacher participating in the program:

(a) may store the teacher's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the teacher's classroom or office; and

(iii) the teacher is physically present on the grounds of the school while the firearm is stored in the biometric gun safe; and

(b) shall carry the teacher's firearm in a concealed manner unless during an active threat.

(6) This section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying firearms on the grounds of a school as described in Subsection [~~76-10-505.5(4)~~] 76-11-204(4).

(7)(a) A teacher who has active status in the program is not liable for any civil damages or penalties if the teacher:

(i) when carrying or storing a firearm:

(A) is acting in good faith; and

(B) is not grossly negligent; or

(ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(b) A local education agency is not liable for civil damages or penalties resulting from a teacher who is participating in the program carrying, using, or storing a firearm at a school.

(8) A local education agency may not prevent a teacher from participating in the program under this section.

(9)(a) Any information or record created detailing a teacher's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) a local law enforcement agency that would respond to the school in case of an emergency; and

(C) the individual identified by the county sheriff as described in Section 53-22-103.

(b) The information or record described in Subsection (9)(a) includes the information described in Subsection (4)(a)(i) and any personal identifying information of a teacher participating in the program collected or obtained during annual classroom response training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty of a class A misdemeanor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules to administer this section.

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

Section 93. Section **53-25-103** is amended to read:

53-25-103 . Airport dangerous weapon possession reporting requirements.

(1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) Beginning on January 1, 2026, a law enforcement agency having law enforcement jurisdiction over an airport shall annually, on or before April 30, submit a report to the commission detailing:

(a) for an offense described in Subsection [~~76-10-529(2)(a)(i)~~] 76-11-215(2)(a):

(i) the number of issued written warnings;

(ii) the number of issued citations;

(iii) the number of referrals to a detective; and

(iv) the number of referrals to a prosecutor; and

(b) for an offense described in Subsection [~~76-10-529(2)(a)(ii)~~] 76-11-215(2)(b):

(i) the number of issued written warnings; and

(ii) if applicable, the number of issued citations, including the number of individuals who have received more than one citation for the offense.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 94. Section **53-25-202** is amended to read:

53-25-202 . Sexual assault offense reporting requirements for law enforcement agencies.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Sexual assault offense" means:

(i) rape, Section 76-5-402;

(ii) rape of a child, Section 76-5-402.1;

(iii) object rape, Section 76-5-402.2;

(iv) object rape of a child, Section 76-5-402.3;

(v) forcible sodomy, Section 76-5-403;

(vi) sodomy on a child, Section 76-5-403.1;

(vii) forcible sexual abuse, Section 76-5-404;

(viii) sexual abuse of a child, Section 76-5-404.1;

(ix) aggravated sexual abuse of a child, Section 76-5-404.3;

(x) aggravated sexual assault, Section 76-5-405; or

(xi) sexual battery, Section [~~76-9-702.1~~] 76-5-418.

(2)(a) Beginning January 1, 2025, a law enforcement agency shall:

(i) annually, on or before April 30, submit a report to the commission for the previous calendar year containing the number of each type of sexual assault offense that:

(A) was reported to the law enforcement agency;

(B) was investigated by a detective; and

(C) was referred to a prosecutor for prosecution; and

(ii) submit a report to the commission on whether the law enforcement agency has created and publicly posted on the law enforcement agency's website:

(A) the policy described in Subsection 53-24-101(1)(a); and

(B) the guide described in Subsection 53-24-101(2)(a).

(b) A law enforcement agency shall:

(i) compile the report described in Subsection (2)(a)(i) for each calendar year in the standardized format developed by the commission under Subsection (3); and

(ii) publicly post the information reported in Subsection (2)(a)(i) on the law enforcement agency's website.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 95. Section **53-25-501** is amended to read:

53-25-501 . Reporting requirements for seized firearms.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(c) "Restricted person" means a Category I or Category II restricted person as defined in Section [~~76-10-503~~] 76-11-302.

(2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of Corrections, shall annually on or before April 30 report to the commission the following data for the previous calendar year:

(a) the number of firearms the law enforcement agency lawfully seized from restricted persons;

(b) the types of firearms the law enforcement agency lawfully seized from restricted persons;

(c) information on where the restricted persons obtained the firearms seized by the law enforcement agency if the information is known or discoverable by the law enforcement agency; and

(d) the reasons under Subsection [~~76-10-503(1)(a)~~] 76-11-302(1)(a) or (b) that made the individuals who had weapons seized restricted persons.

Section 96. Section **53-25-601** is enacted to read:

Part 6. Requirements Related to Criminal Street Gangs

53-25-601 . Definitions.

As used in this part:

(1) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(2) "Gang loitering" means the same as that term is defined in Section 76-9-802.

(3) "Public place" means the same as that term is defined in Section 76-9-802.

Section 97. Section **53-25-602**, which is renumbered from Section 76-9-903 is renumbered and amended to read:

[~~76-9-903~~] 53-25-602 . Law enforcement officer responsibilities for gang loitering.

(1) [~~When~~] If a law enforcement officer observes [~~a person~~] an individual whom the law

enforcement officer reasonably believes to be a member of a criminal street gang engaging in gang loitering in the presence of one or more other [~~persons~~] individuals in [~~any~~] a public place that is designated by a municipal or county legislative body as an area where gang loitering is prohibited under Section [~~76-9-905~~] 11-48-104 and subject to the penalties under Section 76-9-805, the [~~police~~] law enforcement officer shall:

(a) inform [~~all the persons that they are within an~~] the individual and all other individuals engaging in gang loitering with the individual in a group that the area in which the group is loitering by a group containing one or more criminal street gang members is prohibited;

(b) order [~~all the persons in the group~~] the individual to disperse and remove [~~themselves~~] the individual from within sight and hearing of the location where the officer issues the order to disperse; and

(c) inform the [~~persons~~] individuals that any [~~person~~] individual in the group will be subject to being charged with a criminal offense and will also be subject to arrest if the [~~person~~] individual fails to promptly obey the order to disperse.

(2) The law enforcement officer under Subsection (1) shall also advise the [~~persons~~] individuals the law enforcement officer is directing to disperse that each of the [~~persons~~] individuals directed to disperse is subject to being charged with a criminal offense and will also be subject to arrest if the [~~person~~] individual is again, within eight hours after the current order to disperse is made:

(a) present in a public place with a group that includes one or more [~~persons~~] individuals a [~~peace~~] law enforcement officer reasonably believes to be a member of a criminal street gang; and

(b) within sight or hearing of the location where the law enforcement officer is currently issuing the order to disperse.

(3) This section does not affect or limit an individual's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

(4) A sheriff or chief of police implementing this section shall:

(a) issue a written directive to all agency employees that provides information on preventing the enforcement of this section against individuals who are engaged in constitutionally protected collective advocacy activities;

(b) ensure that all law enforcement officers charged with enforcing this section successfully complete appropriate training on identification of gang members and

criminal street gangs; and

(c) ensure that any training described in this section complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 98. Section **53B-16-601** is amended to read:

53B-16-601 . Definitions.

As used in this part:

(1) "Institution" means:

(a) an institution of higher education described in Section 53B-1-102; or

(b) a private, nonprofit institution of higher education.

(2) "Intercollegiate athletics program" means an institution-sponsored athletic program or sporting activity in which a student athlete represents the student athlete's institution in competition against another institution.

(3) "Prohibited endorsement provision" means a provision that requires or permits the use of a student athlete's name, image, or likeness to promote:

(a) a tobacco product or [~~e-cigarettes~~] electronic cigarette, as those terms are defined in Section [~~76-10-101~~] 76-9-1101, including vaping;

(b) an alcoholic product, as that term is defined in Section 32B-1-102;

(c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;

(d) gambling or betting;

(e) a sexually oriented business, as that term is defined in Section 17-50-331; or

(f) a firearm that the student athlete cannot legally purchase.

(4)(a) "Student athlete" means an individual who:

(i) is enrolled in an institution; and

(ii) participates as an athlete for the institution in an intercollegiate athletics program.

(b) "Student athlete" includes an agent or other representative of a student athlete.

(5) "Student athlete agreement" means a proposed or executed contract:

(a) between a student athlete and a third party that is not an institution; and

(b) in which the student athlete and third party agree that the student athlete's name, image, or likeness may be used to promote a business, product, service, or individual in exchange for the student athlete receiving financial compensation or other benefits.

Section 99. Section **53G-1-103** is amended to read:

53G-1-103 . Definitions.

As used in this title, "electronic cigarette product" means the same as that term is

defined in Section [~~76-10-101~~] 76-9-1101.

Section 100. Section **53G-4-402** is amended to read:

53G-4-402 . Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3)(a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4)(a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) A local school board shall ensure that an agreement under Subsection (6):

(a) is signed by the president of the local school board of each participating district;

(b) specifies the resource being shared;

(c) includes a mutually agreed upon pro rata cost;

(d) includes the duration of the agreement; and

(e) is filed with the state board.

(8) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii)(A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12)(a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13)(a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14)(a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15)(a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection [~~76-10-105(2)(b)~~] 76-9-1106(3)(c).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17)(a) A local school board shall make and enforce policies necessary for the control

and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19)(a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) in consultation with the Utah Safety Council and the Division of Family Health Services, provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20)(a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan:

(i) includes prevention, intervention, and response components;

(ii) is consistent with the school discipline and conduct policies required for school districts under Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21)(a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22)(a) A local school board shall approve an LEA's policies and procedures that an LEA develops to ensure that students have non-electronic notification of and access to:

(i) school activities and events, including:

(A) schedule changes;

(B) extracurricular activities; and

(C) sporting events; and

(ii) the emergency response plans described in Subsections (20) and (21).

(b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii) if:

(i)(A) the school provides each student with an electronic device; and

(B) the electronic device is capable of receiving electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii); or

(ii) an emergency, unforeseen circumstance, or other incident arises and an LEA cannot reasonably provide timely non-electronic notification.

(c) An LEA may not require the use of a privately owned electronic device to complete course work.

(23) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(24)(a) As used in this subsection, "special enrollment program" means a full-day academic program in which a parent opts to enroll the parent's student and that is offered at a specifically designated school within an LEA, including:

(i) gifted or advanced learning programs; or

(ii) dual language immersion programs.

(b) Before closing a school, changing the boundaries of a school, or changing or closing the location of a special enrollment program, a local school board shall:

(i) at a local school board meeting, make and approve a motion to initiate the notification required under Subsections (24)(b)(ii) through (iv);

(ii) on or before 90 days before the day on which the local school board approves the

school closure or at least 30 days before the day on which the local school board approves a school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address; and

(C) the governing council and the mayor of the municipality in which the school is located;

(iii) provide an opportunity for public comment on the proposed school closure during at least two public local school board meetings;

(iv) provide an opportunity for public comment on the proposed school boundary change during one public local school board meeting; and

(v) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing in accordance with Subsection (24)(c).

(c) A local school board shall:

(i) ensure that the notice of a public hearing required under Subsection (24)(b)(v) indicates the:

(A) name of the school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) if feasible, hold the public hearing at the location of the school that is under consideration for closure;

(iii) for at least 10 days before the day on which the public hearingoccurs, publish the notice of public hearing occurs, publish the notice of the public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

(iv) at least 30 days before the day on which the public hearing occurs, provide notice of the public hearing in the same manner as the notice of consideration under

Subsection (24)(b)(ii).

(d) A motion made under Subsection (24)(b) shall name each school under consideration for closure in a separate motion.

(e) For a school closure, a local school board shall complete the process described in this Subsection (24) on or before December 31 of the calendar year preceding the beginning of the school year in which a school closure takes effect.

(f)(i) For a school boundary change, a local school board shall complete the process described in this Subsection (24) no more than 60 days after the day on which the local school board votes to approve a school closure.

(ii) Parents of students enrolled in a school affected by a boundary change shall have at least 30 days after the day on which the local school board votes to approve a school boundary change to request an out of area enrollment request in accordance with Chapter 6, Part 4, School District Enrollment.

(25) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(26) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(27)(a) As used in this Subsection (27):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii)(A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (27)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection (27)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (27)(c)(i), the board:

(A) before the meetings described in Subsection (27)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (27) requires a local school board to review all learning materials used within the LEA.

Section 101. Section **53G-6-204** is amended to read:

53G-6-204 . School-age children exempt from school attendance.

(1)(a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over 16 years old may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician or physician assistant if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over 16 years old is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2)(a)(i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in:

(I) Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(II) in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4)(a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 102. Section **53G-8-201** is amended to read:

53G-8-201 . Definitions.

As used in this part:

(1)(a) "Sexual crime" or "sexual misconduct" means any conduct described in:

[~~(a)~~] (i) Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(b)~~] (ii) Title 76, Chapter 5b, Sexual Exploitation Act; or

[~~(c)~~] (iii) Section 76-7-102, incest[~~;~~] .

[~~(d) Section 76-9-702, lewdness; and~~]

[~~(e) Section 76-9-702.1, sexual battery.~~]

(b) "Sexual crime" or "sexual misconduct" does not include conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-420, lewdness involving a child; or

(iii) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(2) "Serious offense" means the same as that term is defined in Section 80-6-103.

Section 103. Section **53G-8-205** is amended to read:

53G-8-205 . Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2)(a) A student shall be suspended or expelled from a public school for the following reasons:

(i) a serious violation affecting another student or a staff member, or a serious violation occurring in a school building, in or on school property, or in conjunction with a school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual use of violence or sexual misconduct;

(C) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(D) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3;

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor; or

(iii) making a false report of an emergency at a school under Subsection [~~76-9-202(2)(d)~~] 76-9-105.5(2)(b).

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's superintendent, the superintendent's designee, chief administrative officer of a

charter school, or the chief administrative officer's designee, accompanied by a parent; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school, including any provided for in the policies described in Section 53G-8-203;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the LEA, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local governing board and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).

(5) A local governing board shall prepare an annual report for the state board on:

(a) each violation committed under this section; and

(b) each action taken by the LEA against a student who committed the violation.

Section 104. Section **53G-8-209** is amended to read:

53G-8-209 . Extracurricular activities -- Prohibited conduct -- Reporting of violations -- Limitation of liability.

(1) The Legislature recognizes that:

(a) participation in student government and extracurricular activities may confer important educational and lifetime benefits upon students, and encourages school districts and charter schools to provide a variety of opportunities for all students to participate in such activities in meaningful ways;

(b) there is no constitutional right to participate in these types of activities, and does not through this section or any other provision of law create such a right;

(c) students who participate in student government and extracurricular activities, particularly competitive athletics, and the adult coaches, advisors, and assistants who direct those activities, become role models for others in the school and community;

(d) these individuals often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded the school; and

(e) it is of the utmost importance that those involved in student government, whether as officers or advisors, and those involved in competitive athletics and related activities, whether students or staff, comply with all applicable laws and standards of behavior and conduct themselves at all times in a manner befitting their positions and responsibilities.

(2)(a) The state board may, and local school boards and charter school governing boards shall, adopt rules or policies implementing this section that apply to both students and staff.

(b) The rules or policies described in Subsection (2)(a) shall include prohibitions against the following types of conduct in accordance with Section 53G-8-211, while in the classroom, on school property, during school sponsored activities, or regardless of the location or circumstance, affecting a person or property described in Subsections 53G-8-203(1)(e)(i) through (iv):

(i) the use of foul, abusive, or profane language while engaged in school related activities;

(ii) the illicit use, possession, or distribution of:

(A) a controlled substance or drug paraphernalia;

(B) a tobacco product, an electronic cigarette product, or a nicotine product as those terms are defined in Section [~~76-10-101~~] 76-9-1101; or

(C) an alcoholic beverage; and

(iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, or inappropriate exposure of body parts not normally exposed in public settings, forced ingestion of any substance, or any act which would constitute a crime against a person or public order under state law.

(3)(a) School employees who reasonably believe that a violation of this section may have occurred shall immediately report that belief to the school principal, district superintendent, or chief administrative officer of a charter school.

(b) Principals who receive a report under Subsection (3)(a) shall submit a report of the alleged incident, and actions taken in response, to the district superintendent or the

superintendent's designee within 10 working days after receipt of the report.

(c) Failure of a person holding a professional certificate to report as required under this Subsection (3) constitutes an unprofessional practice.

(4) Limitations of liability set forth under Section 53G-8-405 apply to this section.

Section 105. Section **53G-8-211** is amended to read:

53G-8-211 . Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that:

(i) has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) has been rated as effective by a standardized program evaluation tool; or

(iii) is created and developed by a school or school district and has been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii)(A) is truant at least 20 days during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(i) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(d) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(65)(b) and (c).

(e) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(f) "School administrator" means a principal of a school.

(g) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(h) "School resource officer" means a law enforcement officer, as defined in Section

53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(i) "School-age child" means the same as that term is defined in Section 53G-6-201.

(j)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(k)(i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to:

(a) a minor who is alleged to be a habitual truant; and

(b) a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity.

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, or a minor is alleged to be a habitual truant, the school administrator, the school administrator's designee, or a school resource officer shall refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services;

(vi) a tobacco cessation or education program if the offense is a violation of Section [~~76-10-105~~] 76-9-1106; or

(vii) truancy mediation; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice and Youth Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection (6), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed an offense on school property on a previous occasion; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for the previous offense.

(5) If a minor is alleged to be a habitual truant, a school administrator, the school administrator's designee, or a school resource officer may only refer the minor to a law enforcement officer or agency or a court if:

(a) the minor was previously alleged of being a habitual truant at least twice during the same school year; and

(b) the minor was referred to an evidence-based alternative intervention, or for prevention and early intervention youth services, as described in Subsection (3) for at least two of the previous habitual truancies.

(6) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for

the traffic offense.

(7) Notwithstanding Subsections (4) and (5), a school resource officer may:

(a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(b) consult with school administration about the conduct of a minor enrolled in a school;

(c) transport a minor enrolled in a school to a location if the location is permitted by law;

(d) take temporary custody of a minor in accordance with Section 80-6-201; or

(e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(8)(a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4) or (5), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (8)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice and Youth Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) or (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353:

(i) when the underlying offense is a status offense or infraction; or

(ii) for being a habitual truant.

(e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when

available, the resources of the Division of Juvenile Justice and Youth Services or the Office of Substance Use and Mental Health to address the minor.

(9) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

(10) A school administrator, a school administrator's designee, and a school resource officer retain the discretion described under this section in relation to Title 63G, Chapter 31, Distinctions on the Basis of Sex.

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

Section 106. Section **53G-8-701.8** is amended to read:

53G-8-701.8 . School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements, including the annual and biannual requirements, described in:

(i) Section 53-22-105 for school guardians;

(ii) Section 53G-8-702 for school resource officers; and

(iii) Section 53G-8-704 for armed school security guards;

(b) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and

regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat;

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402;

(4) Notwithstanding Subsection [~~76-10-505.5(4)~~] 76-11-204(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 107. Section **53G-10-103** is amended to read:

53G-10-103 . Sensitive instructional materials.

(1) As used in this section:

(a)(i) "Instructional material" means a material, regardless of format, used:

(A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or

(B) to support a student's learning in any school setting.

(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

(iii) "Instructional material" does not mean exclusively library materials.

(b) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the state board.

(c) "Material" means the same as that term is defined in Section [~~76-10-1201~~] 76-5c-101.

(d) "Minor" means any person less than 18 years old.

(e) "Objective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section [~~76-10-1235~~] 76-5c-208, under the non-discretionary standards described in [~~Subsection 76-10-1227(1)(a)(i), (ii), or (iii)~~] Subsections 76-5c-207(1)(a)(i)(A), (B), or (C).

(f) "Public school" means:

(i) a district school;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(g)(i) "School setting" means, for a public school:

(A) in a classroom;

(B) in a school library; or

(C) on school property.

(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

(A) an assembly;

(B) a guest lecture;

(C) a live presentation; or

(D) an event.

(h)(i) "Sensitive material" means an instructional material that constitutes objective sensitive material or subjective sensitive material.

(ii) "Sensitive material" does not include an instructional material:

(A) that an LEA selects under Section 53G-10-402;

(B) for a concurrent enrollment course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child;

(C) for medical courses;

(D) for family and consumer science courses; or

(E) for another course the state board exempts in state board rule.

(iii) "Subjective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section [~~76-10-1235~~]

76-5c-208, under the following factor-balancing standards:

(A) material that is harmful to minors under Section [~~76-10-1201~~] 76-5c-101;

(B) material that is pornographic under Section [~~76-10-1203~~] 76-5c-101; or

(C) material that includes certain fondling or other erotic touching under Subsection [~~76-10-1227(1)(a)(iv)~~] 76-5c-207(1)(a)(i)(D).

(2)(a) Sensitive materials are prohibited in the school setting.

(b) A public school or an LEA may not:

(i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or

(ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.

(c) In evaluating, selecting, or otherwise considering action related to a given instructional material under this section, each public school and each LEA shall prioritize protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material.

(d) If an instructional material constitutes objective sensitive material:

(i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and

(ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.

(3)(a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:

(i) an employee of the relevant LEA;

(ii) a student who is enrolled in the relevant LEA;

(iii) a parent of a child who is enrolled in the relevant LEA; or

(iv) a member of the relevant LEA governing board.

(b)(i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.

(ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.

(4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:

(a)(i) make an initial determination as to whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and

(ii) if the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material under Subsection (4)(a)(i), immediately remove the challenged material from any school setting that provides student access to the challenged material until the LEA completes the LEA's full review of the challenged material under this section;

(b)(i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and

(ii) if the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;

(c) only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:

(i) review the allegations and the challenged instructional material under the subjective material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material;

(ii) allow student access to the challenged instructional material during the LEA's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and

(iii) if the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option described in Subsection (4)(c)(ii); and

(d) communicate to the state board the allegation and the LEA's final determination regarding the allegation and the challenged instructional material.

(5)(a) An individual described in Subsection (3)(a) may appeal an LEA's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the LEA governing board.

(b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:

(i) the board's rationale for the decision; and

(ii) the board's determination on each component of the statutory and any additional policy standards the board uses to reach the board's conclusions.

(6) An LEA governing board may not enact rules or policies that prevent the LEA governing board from:

(a) revisiting a previous decision;

(b) reviewing a recommendation of LEA personnel or a parent-related committee regarding a challenged instructional material; or

(c) reconsidering a challenged instructional material if the LEA governing board receives additional information regarding the material.

(7)(a) Except as provided in Subsection (7)(d), if the threshold described in Subsection (7)(b) is met, each LEA statewide shall remove the relevant instructional material from student access.

(b) The requirement described in Subsection (7)(a) to remove a given material from student access applies if the following number of LEAs makes a determination that a given instructional material constitutes objective sensitive material:

(i) at least three school districts; or

(ii) at least two school districts and five charter schools.

(c) The state board shall:

(i) aggregate allegations and LEA determinations described in Subsection (4)(d); and

(ii) no later than 10 school days after the day on which the condition described in Subsection (7)(b) occurs, communicate to all LEAs the application of the requirement described in Subsection (7)(a) to remove the material from student access.

(d)(i) When the threshold described in Subsection (7)(b) is met for a given instructional material, in addition to making the communication described in Subsection (7)(c), the state board may:

(A) place the material on the agenda of a public board meeting within 60 days after the day on which the state board makes the communication to LEAs under Subsection (7)(c); and

(B) at the specified state board meeting, vote to overturn the application of the requirement described in Subsection (7)(a) to remove a given material from

student access statewide.

(ii) If the state board votes to overturn the application of the statewide removal requirement described in Subsection (7)(a) under Subsection (7)(d)(i):

(A) the statewide removal requirement described in Subsection (7)(a) no longer applies;

(B) an LEA may choose to return the given material to student access; and

(C) nothing affects the findings of an LEA governing board regarding removal of the given material within the board's LEA.

(e) This Subsection (7) applies to sensitive materials that LEAs remove from student access, regardless of whether:

(i) the sensitive material determinations occur in the same academic year; or

(ii) a sensitive material determination occurred before July 1, 2024.

(8) The state board shall:

(a) in consultation with the Office of the Attorney General, provide guidance and training to support public schools in identifying instructional materials that meet the definition of sensitive materials under this section;

(b) establish a process through which an individual described in Subsection (3)(a) may report to the state board an allegation that an LEA is out of compliance with this section; and

(c) annually report to the Education Interim Committee, at or before the November interim meeting, on implementation and compliance with this section, including:

(i) any policy the state board or an LEA adopts to implement or comply with this section;

(ii) any rule the state board makes to implement or comply with this section; and

(iii) any complaints an LEA or the state board receives regarding a violation of this section, including:

(A) action taken in response to a complaint described in this Subsection (8)(c)(iii);

(B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material; and

(C) compliance failures that the state board identifies through the reporting process described in Subsection (8)(b) and other investigations or research.

(9) The state shall defend, indemnify, and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney

fees, that:

(a) a person brings or incurs as a result of this section; and

(b) is not covered by the person's insurance policies or any coverage agreement that the State Risk Management Fund issues.

(10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall:

(a) conduct an audit of each school district's compliance with this section, ensuring the completion of all school district audits before November 2028; and

(b) annually report to the Education Interim Committee regarding completed sensitive material audits under this Subsection (10).

Section 108. Section **57-22-5.1** is amended to read:

57-22-5.1 . Crime victim's right to new locks -- Domestic violence victim's right to terminate rental agreement -- Limits an owner relating to assistance from public safety agency.

(1) As used in this section:

(a)(i) "Court order" means, except as provided in Subsection (1)(a)(ii):

(A) a civil protective order, as defined in Section 78B-7-102;

(B) a civil stalking injunction, as defined in Section 78B-7-102;

(C) a criminal protective order, as defined in Section 78B-7-102; or

(D) a criminal stalking injunction, as defined in Section 78B-7-102.

(ii) "Court order" does not include:

(A) an ex parte civil protective order, as defined in Section 78B-7-102; or

(B) an ex parte civil stalking injunction, as defined in Section 78B-7-102, for which a hearing is requested.

(b)(i) "Crime victim" means a victim of:

[~~(i)~~] (A) domestic violence, as defined in Section 77-36-1;

[~~(ii)~~] (B) stalking, as defined in Section 76-5-106.5;

[~~(iii)~~] (C) [~~a crime~~] an offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(iv)~~] (D) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or

[~~(v)~~] (E) dating violence, as defined in Section 78B-7-102.

(ii) "Crime victim" does not include a victim of an offense of:

(A) enticing a minor under Section 76-5-417;

(B) sexual battery under Section 76-5-418;

(C) lewdness under Section 76-5-419; or

(D) lewdness involving a child under Section 76-5-420.

(c) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(d) "Financial obligation" means any rent, fees, damages, or other costs owed by a renter.

(e)(i) "Future obligations" means a renter's obligations under the rental agreement after the date on which the renter vacates the residential rental unit in accordance with Subsection (6).

(ii) "Future obligations" includes:

(A) the payment of rent and fees for the residential rental unit; and

(B) the right to occupy the residential rental unit.

(f) "Public safety agency" means a governmental entity that provides fire protection, law enforcement, ambulance, medical, or similar service.

(g) "Victim of domestic violence" means the same as the term "victim" in Section 77-36-1.

(h) "Termination fee" means the equivalent of one month of rent under the rental agreement.

(2) An acceptable form of documentation of an act listed in Subsection (1) is:

(a) a protective order protecting the renter issued pursuant to Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, subsequent to a hearing of which the petitioner and respondent have been given notice under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders; or

(b) a copy of a police report documenting an act listed in Subsection (1).

(3)(a) A renter who is a crime victim may require the renter's owner to install a new lock to the renter's residential rental unit if the renter:

(i) provides the owner with an acceptable form of documentation of an act listed in Subsection (1); and

(ii) pays for the cost of installing the new lock.

(b) An owner may comply with Subsection (3)(a) by:

(i) rekeying the lock if the lock is in good working condition; or

(ii) changing the entire locking mechanism with a locking mechanism of equal or greater quality than the lock being replaced.

(c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the key that opens the new lock.

(d) Notwithstanding any rental agreement, an owner who installs a new lock under Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to

the perpetrator of the act listed in Subsection (1).

(e) Notwithstanding Section 78B-6-814, if an owner refuses to provide a copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file a petition with a court of competent jurisdiction within 30 days to:

(i) establish whether the perpetrator should be given a key and allowed access to the residential rental unit; or

(ii) whether the perpetrator should be relieved of further liability under the rental agreement because of the owner's exclusion of the perpetrator from the residential rental unit.

(f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further liability under the rental agreement if the perpetrator is found by the court to have committed the act upon which the landlord's exclusion of the perpetrator is based.

(4) A renter who is a victim of domestic violence may terminate all of the renter's future obligations under a rental agreement if the renter:

(a) except as provided in Subsection (5), is in compliance with all obligations under the rental agreement, including the requirements of Section 57-22-5;

(b) provides the owner with:

(i) a court order protecting the renter from a domestic violence perpetrator; or

(ii) a copy of a police report documenting that the renter is a victim of domestic violence and is not the predominant aggressor under Subsection 77-36-2.2(3);

(c) provides the owner with a written notice of termination that includes the date on which the renter intends to vacate the renter's residential rental unit; and

(d) pays the owner a termination fee on the later of the day on which:

(i) the renter provides the owner with a written notice of termination; or

(ii) the renter vacates the renter's residential rental unit.

(5) A renter may terminate all of the renter's future obligations under a rental agreement under Subsection (4) when the renter is not in compliance with the requirements of Subsection 57-22-5(1)(g) or (2) if:

(a) the renter provides evidence to the owner with the written notice of termination under Subsection (4)(c) establishing that:

(i) the noncompliance with Subsection 57-22-5(1)(g) or (2) occurred less than 30 days before the day on which the renter provided the written notice of termination to the owner; and

(ii) the noncompliance with Subsection 57-22-5(1)(g) or (2) is due to domestic violence;

(b) the renter is in compliance with all obligations of the rental agreement, except for the noncompliance described in Subsection (5)(a); and

(c) the renter complies with Subsections (4)(b), (c), and (d).

(6) If a renter provides an owner with a written notice of termination under Subsection (4)(c), the renter shall:

(a) vacate the renter's residential rental unit within 15 days after the day on which the written notice of termination is provided to the owner; and

(b) pay rent for any occupation of the residential rental unit during that 15-day time period.

(7) A renter may not terminate all of the renter's future obligations under a rental agreement under Subsection (4) after a notice of eviction is served on the renter.

(8) A renter who terminates all of the renter's future obligations under a rental agreement under Subsection (4) is liable for any financial obligation owed by the renter:

(a) before the renter provided the owner with the written notice of termination under Subsection (4)(c);

(b) for any noncompliance with Subsection 57-22-5(1)(g) or (2) as described in Subsection (5); and

(c) for any occupancy of the residential rental unit by the renter during the 15-day time period described in Subsection (6).

(9) The termination of a renter's future obligations under a rental agreement does not terminate the rental agreement for any other person entitled under the rental agreement to occupy the residential rental unit.

(10) An owner may not:

(a) impose a restriction on a renter's ability to request assistance from a public safety agency; or

(b) penalize or evict a renter because the renter makes reasonable requests for assistance from a public safety agency.

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

Section 109. Section **58-37-8** is amended to read:

58-37-8 . Prohibited acts -- Penalties.

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

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

intentionally:

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

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

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

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

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

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

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

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

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

(c)(i) Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for

an indeterminate term as described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section [~~76-10-501~~] 76-11-101, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm readily accessible for immediate use, as [~~those terms are~~] that term is defined in Section [~~76-10-501~~] 76-11-201; or

(C) distributed a firearm, as that term is defined in Section [~~76-10-501~~] 76-11-101, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

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

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

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

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

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

(e) The Administrative Office of the Courts shall report to the Division of Professional

Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

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

(a) It is unlawful:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Prohibited acts C -- Penalties:

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

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

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud,

forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

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

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

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

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

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

(4) Prohibited acts D -- Penalties:

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

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

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

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

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

(v) in or on the grounds of a house of worship as defined in Section [~~76-10-501~~] 76-11-201;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea

which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) engaged in medical research; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 110. Section **58-37-8.1**, which is renumbered from Section 76-10-2204 is renumbered and amended to read:

[~~76-10-2204~~] 58-37-8.1 . Duty to report drug diversion.

(1) As used in this section:

(a) "Diversion" means a practitioner's transfer of a significant amount of drugs to another individual for an unlawful purpose.

(b) "Drug" means a Schedule II or Schedule III controlled substance, as defined in Section 58-37-4, that is an opiate.

(c) "HIPAA" means the same as that term is defined in Section 26B-3-126.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(e) "Practitioner" means an individual:

(i) licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice; or

(ii) employed by a person who is licensed, registered, or otherwise authorized by the appropriate jurisdiction to administer, dispense, distribute, or prescribe a drug in the course of professional practice or standard operations.

(f) "Significant amount" means an aggregate amount equal to, or more than, 500 morphine milligram equivalents calculated in accordance with guidelines developed by the Centers for Disease Control and Prevention[~~ (CDC)~~].

(2) An individual is guilty of a class B misdemeanor if the individual:

(a) knows that a practitioner is involved in diversion; and

(b) knowingly fails to report the diversion to a peace officer or law enforcement agency.

(3) Subsection (2) does not apply to the extent that an individual is prohibited from

reporting by 42 C.F.R. Part 2 or HIPAA.

Section 111. Section **58-37-8.2**, which is renumbered from Section 76-10-2203 is renumbered and amended to read:

[~~76-10-2203~~] 58-37-8.2 . Possession, sale, or use of an adulterant or synthetic urine.

(1) As used in this section, "adulterant" means a substance that may be added to human urine or another human bodily fluid to change, dilute, or interfere with the composition, chemical properties, physical appearance, or physical properties of the urine or other bodily fluid.

(2) Under circumstances not amounting to a violation of Section 76-8-510.5, [~~it is unlawful for a person to~~] Tampering with evidence, a person commits possession, sale or use of an adulterant or synthetic urine if the person:

(a) [~~distribute, possess, or sell~~] distributes, possesses, or sells synthetic urine;

(b) [~~distribute or sell~~] distributes or sells an adulterant with:

(i) intent that the adulterant be used to defeat or defraud an alcohol or drug screening test; or

(ii) knowledge that the recipient of the adulterant intends to use the adulterant to defeat or defraud an alcohol or drug screening test;

(c) [~~possess~~] possesses an adulterant with intent to use the adulterant to defeat or defraud an alcohol or drug screening test; or

(d) intentionally [~~use~~] uses:

(i) an adulterant to defeat or defraud an alcohol or drug screening test;

(ii) the person's urine or bodily fluid to defeat or defraud an alcohol or drug screening test if the urine or bodily fluid was expelled or withdrawn before the time at which the urine or bodily fluid is collected for the test; or

(iii) the urine or bodily fluid of another person to defeat or defraud an alcohol or drug screening test.

(3) [~~A person who violates this section is guilty of~~] A violation of this section is an infraction.

(4) A person [~~is not guilty of a violation of this section for~~] does not commit a violation of Subsection (2) if the person is engaging in conduct described in this section for the sole purpose of education or medical or scientific research.

(5) This section does not apply to persons currently under:

(a) court-ordered supervision; or

(b) the supervision of the Board of Pardons and Parole.

(6) An entity that collects specimens for the purpose of testing and screening, and reports the results back to an employer, shall report to the employer and the Department of Public Safety if a report is received that indicates that adulterated or synthetic urine was submitted for an alcohol or drug screening test.

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

Section 112. Section **58-63-307** is amended to read:

58-63-307 . Use of firearms.

(1) An individual licensed as an armored car security officer or an armed private security officer may carry a firearm only while acting as an armored car security officer or an armed private security officer in accordance with this chapter and rules made under this chapter.

(2) An individual licensed as an armored car security officer or an armed private security officer is exempt from the provisions of Section [~~76-10-505~~] 76-11-203 and Title 53, Chapter 5, Part 7, Concealed Firearm Act, while acting as an armored car security officer or an armed private security officer in accordance with this chapter and rules made under this chapter.

Section 113. Section **59-14-102** is amended to read:

59-14-102 . Definitions.

As used in this chapter:

(1) "Alternative nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(2) "Cigarette" means a roll made wholly or in part of tobacco:

(a) regardless of:

(i) the size of the roll;

(ii) the shape of the roll;

(iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient; or

(iv) whether the tobacco is heated or burned; and

(b) if the roll has a wrapper or cover that is made of paper or any other substance or material except tobacco.

(3) "Cigarette rolling machine" means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.

(4) "Cigarette rolling machine operator" means a person who:

(a)(i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

(ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or

(b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

(5) "Consumer" means a person that is not required:

(a) under Section 59-14-201 to obtain a license under Section 59-14-202;

(b) under Section 59-14-301 to obtain a license under Section 59-14-202; or

(c) to obtain a license under Section 59-14-803.

(6) "Counterfeit cigarette" means:

(a) a cigarette that has a false manufacturing label; or

(b) a package of cigarettes bearing a counterfeit tax stamp.

(7)(a) "Electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(b) "Electronic cigarette" does not include a cigarette or a tobacco product.

(8) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(9) "Electronic cigarette substance" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(10) "Importer" means a person that imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.

(11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on tribal lands located in the state.

(12) "Little cigar" means a roll for smoking that:

(a) is made wholly or in part of tobacco;

(b) uses an integrated cellulose acetate filter or other similar filter; and

(c) is wrapped in a substance:

(i) containing tobacco; and

(ii) that is not exclusively natural leaf tobacco.

(13)(a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:

(i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or

(ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages, relabels, or imports an electronic cigarette product or a nicotine

product.

(b) "Manufacturer" does not include a cigarette rolling machine operator.

(14) "Moist snuff" means tobacco that:

(a) is finely cut, ground, or powdered;

(b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) is not intended to be:

(i) smoked; or

(ii) placed in the nasal cavity; and

(d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:

(i) tablets;

(ii) lozenges;

(iii) strips;

(iv) sticks; or

(v) packages containing multiple single-use units.

(15) "Nicotine" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(16) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(17) "Nontherapeutic nicotine device" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(18) "Nontherapeutic nicotine device substance" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(19) "Nontherapeutic nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(20) "Prefilled electronic cigarette" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(22) "Retailer" means a person that:

(a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state; or

(b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state.

(23) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.

(24)(a) "Tobacco product" means a product made of, or containing, tobacco.

(b) "Tobacco product" includes:

(i) a cigarette produced from a cigarette rolling machine;

(ii) a little cigar; or

(iii) moist snuff.

(c) "Tobacco product" does not include a cigarette.

(25) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

Section 114. Section **59-14-501.5** is enacted to read:

59-14-501.5 . Advertising warning label requirements.

(1) For purposes of this section, "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in an oral cavity or nasal passage.

(2)(a) An advertisement for smokeless tobacco placed in a newspaper, magazine, or periodical published in this state must bear a warning that states: "Use of smokeless tobacco may cause oral cancer and other mouth disorders and is addictive."

(b) The warning described in Subsection (2)(a) shall be placed in a conspicuous location and in conspicuous and legible type, in contrast with the typography, layout, and color of all other printed material in the advertisement.

Section 115. Section **59-14-507** is amended to read:

59-14-507 . Penalty for violation.

[~~Violation of this part~~] A violation of any of the following sections is a class B misdemeanor:

(1) Section 59-14-501, Warning labels required;

(2) Section 59-14-502, Requirements for placement of warning labels;

(3) Section 59-14-504, Responsibility for placement of warning labels; or

(4) Section 59-14-509, Restrictions on mail order or Internet sales.

Section 116. Section **59-14-807** is amended to read:

59-14-807 . Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account

consists of:

(a) revenue collected from the tax imposed by Section 59-14-804;

(b) fees and penalties collected under Section 59-14-810;

(c) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section [~~76-10-101~~] 76-9-1101:

(i) if the total amount of the judgment, settlement, or compromise received by the state exceeds $1,000,000; and

(ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection (2)(c); and

(d) amounts appropriated by the Legislature.

(3)(a) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) $2,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(ii) $2,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;

(iii) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(iv) $3,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(v) $5,084,200 to the State Board of Education for school-based prevention programs;

(vi) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television; and

(vii) of the money deposited under Section 59-14-810:

(A) to the commission, in an amount equal to the amount necessary to create and

maintain the registry described in Section 59-14-810;

(B) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

(C) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.

(4)(a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26B-7-505;

(ii) the labeling requirement described in Section 26B-7-505; and

(iii) the penalty provisions described in Section 26B-7-518.

(b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.

(c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)(v) to distribute to local education agencies to pay for:

(i)(A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406 (3)(b); or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

(5)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account after the distribution

described in Subsection (3) may only be used for:

(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and

(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 117. Section **59-14-810** is amended to read:

59-14-810 . Electronic cigarette product registry.

(1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that is sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the commission, that:

(a) the manufacturer agrees to comply with this section; and

(b) the electronic cigarette product is a premarket authorized or pending electronic cigarette product as defined in Section [~~76-10-101~~] 76-9-1101 and will not be illegal to be sold in the state as of January 1, 2025.

(2) When submitting the certification a manufacturer shall submit a form that separately lists each electronic cigarette product that is sold in this state.

(3)(a) Each certification form shall include:

(i) the name of the electronic cigarette product, nicotine content level by percentage, and any flavors contained in the product;

(ii)(A) a copy of the order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product or nicotine product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(iii) a nonrefundable $1,000 fee for an electronic cigarette product that is being added to the registry in the first instance; and

(iv) information described in Subsection (10) if applicable.

(b) The commission shall make the materials submitted under Subsection (3)(a) available to the Department of Health and Human Services for review and approval.

(c) A manufacturer required to submit a certification form under this section shall notify the commission and the Department of Health and Human Services in a manner

prescribed by the commission within 30 days of any material change making the certification form no longer accurate, including:

(i) the issuance or denial of a marketing authorization or other order by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j; or

(ii) any other order or action by the United States Food and Drug Administration or any court that affects the ability of the electronic cigarette product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer shall:

(i) recertify that the information contained in the certification is correct and accurate;

(ii) correct or amend information if necessary; and

(iii) pay a $250 nonrefundable fee for each electronic cigarette product on the registry that is manufactured by the manufacturer.

(e) A manufacturer may amend a certification, including to add additional electronic cigarette products to the registry, if all requirements of this section are met.

(f) The commission shall:

(i) provide an electronic notification to a manufacturer that has not submitted a recertification under Subsection (3)(d); and

(ii) remove a manufacturer or an electronic cigarette product that is not recertified from the registry by March 15.

(4)(a) The Department of Health and Human Services shall review materials described in Subsection (3)(a) and notify the commission regarding whether an electronic cigarette product should be included in the registry.

(b) On or before October 1, 2024, the commission shall make publicly available on the commission's website a registry that lists each electronic cigarette product manufacturer and each electronic cigarette product for which certification forms have been approved by the Department of Health and Human Services.

(c) An electronic cigarette product may not be listed on the registry unless the Department of Health and Human Services determines the requirements of Subsection (3)(a) are met.

(5)(a) If the Department of Health and Human Services obtains information that an electronic cigarette product should not be listed in the registry, the Department of Health and Human Services shall provide the manufacturer notice and an opportunity

to cure deficiencies before notifying the commission to remove the manufacturer or products from the registry.

(b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission to remove an electronic cigarette product or manufacturer from the registry.

(c) Subsection (5)(b) does not apply to a manufacturer failing:

(i) to decertify an electronic cigarette product;

(ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

(iii) to comply with Subsection (10).

(6)(a) If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30 days from the day on which the product is removed from the registry to remove the product from any inventory and return the product to the manufacturer for disposal.

(b) After the period described in Subsection (6)(a), any electronic cigarette product of a manufacturer identified in the notice of removal are contraband and are subject to penalties under Subsection (8) and seizure, forfeiture, and destruction under Section 26A-1-131.

(7)(a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.

(b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, an electronic cigarette product in this state that is not included in the registry.

(8)(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:

(i) $1,000 for each product offered for sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of Subsection (8)(a) as follows:

(i) for a second violation within a 12-month period, at least 14 days;

(ii) for a third violation within a 12-month period, at least 60 days; or

(iii) for a fourth violation within a 12-month period, at least one year.

(c) A manufacturer whose electronic cigarette products are not listed in the registry and are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of:

(i) $1,000 for each product offered for retail sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(d) A manufacturer that falsely represents any information required by a certification form described in this section shall be guilty of a class C misdemeanor for each false representation.

(e) A repeated violation of this section shall constitute a deceptive act or practice as provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or penalties available for a violation of those sections.

(9)(a) To assist in ensuring compliance and enforcement of this section and Section 26A-1-131, the commission shall disclose to the following entities, upon request, any information obtained under this section:

(i) the Department of Health and Human Services;

(ii) a local health department; or

(iii) the attorney general.

(b) The commission and attorney general shall share with each other information received under this section, or corresponding laws of other states.

(10)(a)(i) The commission may not list a nonresident manufacturer of an electronic cigarette product in the registry unless:

(A) the nonresident manufacturer has registered to do business in the state as a foreign corporation or business entity; or

(B) the nonresident manufacturer appoints and maintains without interruption the services of an agent in this state to receive any service of process on behalf of the manufacturer.

(b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to the commission.

(c)(i) A nonresident manufacturer shall provide notice to the commission 30 days before the termination of the authority of an agent and shall further provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment.

(ii) In the event an agent terminates an agency appointment, the manufacturer shall

notify the commission of the termination within five calendar days and shall include proof to the satisfaction of the commission of the appointment of a new agent.

(11) Before May 31 of each year, the commission and the Department of Health and Human Services shall provide a report to the Revenue and Taxation Interim Committee and the Health and Human Services Interim Committee regarding:

(a) the status of the registry;

(b) manufacturers and products included in the registry;

(c) revenue and expenditures related to administration of this section; and

(d) enforcement activities undertaken under this section and Section 26A-1-131.

(12) All fees and penalties collected under this section shall be used for administration and enforcement of this section and Section 26A-1-131.

(13) The commission, in consultation with the Department of Health and Human Services, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 118. Section **59-27-105** is amended to read:

59-27-105 . Sexually Explicit Business and Escort Service Fund -- Administrative charge.

(1) There is created an expendable special revenue fund called the "Sexually Explicit Business and Escort Service Fund."

(2)(a) Except as provided in Subsection (3), the fund consists of all amounts collected by the commission under this chapter.

(b)(i) The money in the fund shall be invested by the state treasurer pursuant to Title 51, Chapter 7, State Money Management Act.

(ii) All interest or other earnings derived from the fund money shall be deposited in the fund.

(3) Notwithstanding any other provision of this chapter, the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

(4)(a) Fund money shall be used as provided in this Subsection (4).

(b) The Department of Corrections shall use 60% of the money in the fund, in addition to existing budgets, to provide treatment services to nonworking or indigent adults who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual

Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and

(ii) are not currently confined or incarcerated in a jail or prison.

(c) The Adult Probation and Parole section of the Department of Corrections shall use 15% of the money in the fund to provide outpatient treatment services to individuals who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and

(ii) are not currently confined or incarcerated in a jail or prison.

(d) The Department of Corrections shall use 10% of the money in the fund, in addition to existing budgets, to implement treatment programs for juveniles who have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(e) The attorney general shall use 15% of the money in the fund to provide funding for any task force:

(i) administered through the Office of the Attorney General; and

(ii) that investigates and prosecutes individuals who use the Internet to commit crimes against children.

Section 119. Section **63G-6a-2505** is amended to read:

63G-6a-2505 . Debarment or suspension from consideration for award of contracts.

(1) The executive director may:

(a) debar or suspend a person from consideration for an award of a contract for a human services procurement item for any amount of time in accordance with the process described in Subsection 63G-6a-904(1); and

(b) obtain the recommendation of the council before debarring or suspending the person.

(2) The council shall recommend that the executive director debar or suspend a person for an award of a contract for a human services procurement item if the person:

(a) is convicted of a criminal offense:

(i) for actions taken to obtain or perform under a public or private contract;

(ii) for embezzlement, fraud, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property; or

(iii) under [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~] Title 76, Chapter 16, Part 5, Antitrust Offenses, or another antitrust law;

(b) fails, without good cause, to perform in accordance with the terms of a contract with

the department;

(c) commits two or more violations of department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) violates this chapter;

(e) poses a significant risk of harm to department clients or the department;

(f) is barred or suspended from providing services to another governmental agency; or

(g) takes another action that the council determines is fraudulent or substantially affects the person's ability to perform under a contract with the department for a human services procurement item.

Section 120. Section **63G-7-301** is amended to read:

63G-7-301 . Waivers of immunity.

(1)(a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah [ ]Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private

property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section [~~76-9-702.1~~] 76-5-418, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402;

(k) as to any action brought under Section 78B-6-2303; and

(l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student

Legal Representation.

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

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section [~~76-9-702.1~~] 76-5-418, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4)(a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section [~~76-9-702.1~~] 76-5-418.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii)(A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 121. Section **63G-12-102** is amended to read:

63G-12-102 . Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

(15) "Program" means the Guest Worker Program described in Section 63G-12-201.

(16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

(17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education, as defined in Section 53B-3-102;

(c) a political subdivision of the state including a county, city, town, school district, special district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Section 53-5a-304;

(b) Title 76, Chapter 5, Offenses Against the Individual;

[~~(b)~~] (c) Title 76, Chapter 5b, Sexual Exploitation Act;

(d) Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances;

(e) Title 76, Chapter 5d, Prostitution;

[~~(c)~~] (f) Title 76, Chapter 6, Offenses Against Property;

[~~(d)~~] (g) Title 76, Chapter 7, Offenses Against the Family;

[~~(e)~~] (h) Title 76, Chapter 8, Offenses Against the Administration of Government;

(i) Title 76, Chapter 9, Offenses Against Public Order, Health, and Safety;

(j) Title 76, Chapter 11, Weapons;

(k) Title 76, Chapter 12, Offenses Related to Privacy, Information, and Communication;

(l) Title 76, Chapter 13, Offenses Involving Cruelty to Animals;

(m) Title 76, Chapter 14, Offenses Related to Immigration Status;

(n) Title 76, Chapter 15, Explosives and Weapons of Mass Destruction;

(o) Title 76, Chapter 16, Offenses Concerning Business Practices; and

(p) Title 76, Chapter 17, Offenses Concerning Kickbacks, Pyramid Schemes, and Patterns of Unlawful Activity.

[~~(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and~~]

[~~(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.~~]

(21)(a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 122. Section **63G-12-106** is amended to read:

63G-12-106 . Severability.

(1) If a provision of Part 2, Guest Worker Program, or the application of a provision to a person or circumstance is held invalid, the remainder of this chapter may not be given effect without the invalid provision or application so that the provisions of this chapter are not severable.

(2) The following provisions are severable from this chapter:

(a) [~~Title 76, Chapter 9, Part 10, The Illegal Immigration Enforcement Act~~] Title 76, Chapter 14, Offenses Related to Immigration Status; and

[~~(b) Section 76-10-2901; and~~]

[~~(c)~~] (b) Section 77-7-2.

Section 123. Section **63G-31-302** is amended to read:

63G-31-302 . Sex-designated changing rooms in publicly owned facilities open to the general public.

(1)(a) Except as provided in Subsection (1)(b), to preserve the individual privacy of males and females, an individual may only access an operational sex-designated changing room in a government entity's facility that is open to the general public if:

(i) the individual's sex corresponds with the sex designation of the changing room; or

(ii) the individual has:

(A) legally amended the individual's birth certificate to correspond with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(B) undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102 to correspond with the sex designation of the changing room.

(b) Subsection (1)(a) does not apply to:

(i) a minor child who requires assistance to access or use the changing room that corresponds with the sex of the minor's parent, guardian, or relative;

(ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined in Section 76-5-111 who requires assistance to access or use the changing room that corresponds with the sex of a caretaker;

(iii) an individual providing public safety services, including law enforcement, emergency medical services as defined in Section 26B-4-101, and fire protection;

(iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide health care services to a patient of the health care facility; or

(v) an individual whose employment duties include the maintenance or cleaning of the changing room.

(2) An individual in a changing room has a reasonable expectation of privacy, satisfying the privacy element of the [~~offense of voyeurism in Section 76-9-702.7.~~] following offenses:

(a) voyeurism, as described in Section 76-12-306; and

(b) recorded or photographed voyeurism, as described in Section 76-12-307.

(3) An individual who knowingly enters a changing room in violation of Subsection (1) commits the offense of criminal trespass under Section 76-6-206 if the individual enters or remains in the changing room under circumstances which a reasonable person would expect to likely cause affront or alarm to, on, or in the presence of another individual.

(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an individual from the offense of lewdness related to genitalia under Subsection [~~76-9-702(3)~~] 76-5-419(6) or [~~76-9-702.5(4)~~] 76-5-420(5).

(5) An individual may use the following evidence as a defense against an allegation that the individual is not eligible to access and use a sex-designated changing room under Subsection (1):

(a) for an individual whose birth sex corresponds with the sex designation of the changing room:

(i) an individual's unamended birth certificate that corresponds with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; or

(ii) documentation of a medical treatment or procedure that is consistent only with the sex designation of the changing room; or

(b) for an individual whose birth sex does not correspond with the sex designation of the changing room:

(i) the individual's amended birth certificate, which may be supported with a review

of any amendment history obtained under Section 26B-8-125; and

(ii) documentation that demonstrates that the individual has undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102.

(6) Subsection (1) does not apply to:

(a) a unisex or single-occupant facility;

(b) a changing room that is not open to the general public; or

(c) an intersex individual.

Section 124. Section **63G-31-304** is amended to read:

63G-31-304 . Government entity facility compliance.

(1) Except as provided under Section 53G-8-211, a government entity shall contact law enforcement if the entity receives a complaint or allegation regarding the following within a privacy space in a facility that is open to the general public:

(a) an offense of lewdness [~~under~~] as described in Section [~~76-9-702~~] 76-5-419;

(b) an offense of lewdness involving a child [~~under~~] as described in Section [~~76-9-702.5~~] 76-5-420;

(c) voyeurism [~~under~~] as described in Section [~~76-9-702.7~~] 76-12-306;

(d) recorded or photographed voyeurism as described in Section 76-12-307;

(e) distribution of images obtained through voyeurism as described in Section 76-12-308;

[~~(d)~~] (f) loitering in a privacy space [~~under~~] as described in Section [~~76-9-702.8~~] 76-12-309; or

[~~(e)~~] (g) for a changing room described in Section 63G-31-302, an offense of criminal trespass under Subsection 63G-31-302(2).

(2) To preserve the individual privacy of males and females in privacy spaces:

(a) a government entity shall adopt a privacy compliance plan to address compliance with the government entity's duties under this chapter;

(b) for construction of a new facility, a government entity shall ensure that the new construction includes a single-occupant facility; and

(c) for existing privacy spaces, a government entity:

(i) shall consider the feasibility of retrofitting or remodeling to include:

(A) floor-to-ceiling walls and doors or similar privacy protections;

(B) curtains; or

(C) other methods of improving individual privacy within the facility that are comparable to the methods described in Subsections (2)(a)(i) and (ii); and

(ii) may reduce the number of fixtures that state law requires by up to 20% to provide

adequate space for the retrofitting or remodeling described in Subsection (2)(a).

(3) A government entity shall ensure sufficient sex-designated privacy spaces through compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.

Section 125. Section **63I-1-276** is amended to read:

63I-1-276 . Repeal dates: Title 76.

(1) Subsection 76-7-313(6), regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.

(2) Section [~~76-10-526.1~~] 53-5a-303, Information check before private sale of firearm, is repealed July 1, 2025.

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

Section 126. Section **63I-2-276** is amended to read:

63I-2-276 . Repeal dates: Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee of a health facility, is repealed January 1, 2027.

(2) Subsection [~~76-10-529(9)~~] 76-11-215(10), regarding data collection requirements for a law enforcement agency that issues a written warning, citation, or referral, is repealed December 31, 2031.

Section 127. Section **63M-7-502** is amended to read:

63M-7-502 . Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the claimant has received, or that is readily available to the claimant from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the claimant for the loss the claimant sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(7)(a) "Confidential record" means a record in the custody of the office that relates to a claimant's eligibility for a reparations award.

(b) "Confidential record" includes:

(i) a reparations claim;

(ii) any correspondence regarding:

(A) the approval or denial of a reparations claim; or

(B) the payment of a reparations award;

(iii) a document submitted to the office in support of a reparations award;

(iv) a medical or mental health treatment plan; and

(v) an investigative report provided to the office by a law enforcement agency.

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

(9)(a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle,

aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(10)(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15)(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

(17) "Fraudulent claim" means a filed reparations based on material misrepresentation of

fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19)(a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

(20) "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision of this state.

(21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(22)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(27) "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information

(28) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(29) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(30) "Offense" means a violation of Title 76, Utah Criminal Code.

(31) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(32) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(33) "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.

(34)(a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section 53B-28-201.

(35) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(36) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(37)(a) "Reparations officer" means an individual employed by the office to investigate a claimant's request for reparations and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(38) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(39)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

(40) "Restitution" means the same as that term is defined in Section 77-38b-102.

(41)(a) "Restitution record" means a record documenting payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

(b) "Restitution record" includes:

(i) a notice of restitution;

(ii) an itemized list of payments;

(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and

(iv) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

(42) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Service provider" means an individual or agency who provides a service to a claimant for a monetary fee, except attorneys as provided in Section 63M-7-524.

(44) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

(45)(a) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual assault" does not include criminal conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness; or

(iv) Section 76-5-420, lewdness involving a child.

(46) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director of a rape crisis and services center or the director's designee.

(47) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

(48) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

(49)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(50) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 128. Section **64-13-41** is amended to read:

64-13-41 . Limitations on offender access to sexually explicit material.

(1) As used in this section:

(a)(i) "Commercially published information or material" means any book, booklet, pamphlet, magazine, periodical, newsletter, or similar document, including stationery and greeting cards, and video and audio tapes, disks, or other recording, that is distributed or made available through any means or media for a commercial purpose.

(ii) "Commercially published information or material" includes an extraction, photocopy, clipping, or electronically created copy made from any of the items under Subsection (1)(a)(i).

(b)(i) "Features nudity" means the information or material:

(A) that, in the case of a one-time publication or issue, promotes itself based upon depictions of nudity or sexually explicit conduct; or

(B) that, in the case of information or material other than under Subsection (1)(b)(i)(A), contains depictions of nudity or sexually explicit conduct on a routine or regular basis.

(ii) The department may by rule, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exclude from the definition in Subsection (1)(b)(i) information or material containing nudity that is illustrative of medical, educational, or anthropological content.

(c) "Nudity" means a pictorial depiction where genitalia or female breasts are exposed.

(d) "Offender" means any person who has been convicted of a crime and is housed in a prison, jail, youth detention facility, or community correctional center.

(e) "Sexually explicit" means a pictorial depiction of actual or simulated sexual acts, including sexual intercourse, sodomy, or masturbation.

(f) "State funds" means state or local funding provided to the department, and includes legislative appropriations to the department, dedicated credits, grants, and money for jail reimbursement to county correctional facilities under Title 64, Chapter 13, Department of Corrections - State Prison, private providers, and contractors.

(2) State funds may not be used to distribute or make available any commercially published information or material to an offender when the state employee, contractor, or private provider who has the authority to expend the funds knows that the commercially published information or material is sexually explicit or features nudity.

(3)(a) When the department rejects commercially published information or material for distribution to an offender under this section, the department shall advise the publisher or sender that it may request reconsideration by the department of the decision to reject the material. However, the department need advise the publisher or sender only once in the case of information or material that on a routine or regular basis either depicts sexually explicit material or features nudity.

(b) The department shall make rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish an administrative reconsideration process.

(c) For purposes of extraordinary relief under Rule 65B, Utah Rules of Civil Procedure, this administrative reconsideration process is a plain, speedy, and adequate legal remedy that must be exhausted before extraordinary relief is available.

(d) There is no right to judicial review of the department's decision under this section to reject material for distribution.

(4) This section does not apply to sexually explicit material used under [~~Section 76-10-1207.5~~] Subsection 76-5c-110(1) for the assessment or treatment of an offender.

Section 129. Section **67-5-22.7** is amended to read:

67-5-22.7 . Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.

(1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.

(2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive,

multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.

(3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.

(4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:

(a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes;

(b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state; and

(c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).

(5)(a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."

(b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.

(c) Subject to appropriations from the Legislature, beginning on the program start date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-11-215 or 76-6-1102[~~ or 76-10-1801~~].

(d) To obtain payment from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-11-215 or 76-6-1102 [~~or 76-10-1801~~]for the theft of the identity of the person filing the claim.

(e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:

(i) that the person is the victim of identity theft described in Subsection (5)(d); and

(ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.

(f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity Theft Victims Restricted Account:

(i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);

(ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and

(iii) to the extent that it there is money in the Identity Theft Victims Restricted Account.

(g) If there is insufficient money in the Identity Theft Victims Restrict Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim in the order that the claims are filed.

(6) The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

Section 130. Section **67-5-40**, which is renumbered from Section 76-10-3114 is renumbered and amended to read:

[~~76-10-3114~~] 67-5-40 . Attorney General Litigation Fund.

(1)(a) There is created an expendable special revenue fund known as the Attorney General Litigation Fund for the purpose of providing funds to pay for:

(i) [~~any~~]costs and expenses incurred by the state attorney general in relation to actions under state or federal antitrust, criminal laws, or civil proceedings under Title 13, Chapter 44, Protection of Personal Information Act; and

(ii) citizen education and outreach related to any item described in Subsection (1)(a)(i).

(b) The funds described in Subsection (1)(a) are in addition to other funds as may be appropriated by the Legislature to the attorney general for the administration and enforcement of the laws of this state.

(c) At the close of any fiscal year, any balance in the fund in excess of $4,000,000 shall be transferred to the General Fund.

(d) The attorney general may expend money from the Attorney General Litigation Fund for the purposes in Subsection (1)(a).

(2)(a) All money received by the state or [~~its~~] the state's agencies by reason of [~~any~~] a judgment, settlement, or compromise as the result of [~~any~~] an action commenced, investigated, or prosecuted by the attorney general, after payment of any fines,

restitution, payments, costs, or fees allocated by the court, shall be deposited [~~in~~] into the Attorney General Litigation Fund, except as provided in Subsection (2)(b).

(b)(i) Any expenses advanced by the attorney general in any of the actions under Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.

(ii) Any money recovered by the attorney general on behalf of [~~any~~] a private person or public body other than the state shall be paid to those persons or bodies from funds remaining after payment of expenses under Subsection (2)(b)(i).

Section 131. Section **72-10-901** is amended to read:

72-10-901 . Definitions.

As used in this part, "weapon" means:

(1) a firearm as that term is defined in Section [~~76-10-501~~] 76-11-101; or

(2) an object that in the manner of the object's use or intended use is capable of causing death, bodily injury, or damage to property, as determined according to the following factors:

(a) the location and circumstances in which the object is used or possessed;

(b) the primary purpose for which the object is made;

(c) the character of the damage, if any, the object is likely to cause;

(d) the manner in which the object is used;

(e) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(f) the lawful purposes for which the object may be used.

Section 132. Section **73-2-27** is amended to read:

73-2-27 . Criminal penalties.

(1) This section applies to offenses committed under:

(a) Section 73-1-14;

(b) Section 73-1-15;

(c) Section 73-2-20;

(d) Section 73-3-3;

(e) Section 73-3-26;

(f) Section 73-3-29;

(g) Section 73-5-9;

(h) Section [~~76-10-201~~] 76-9-1202;

(i) Section [~~76-10-202~~] 76-9-1203; and

(j) Section [~~76-10-203~~] 76-9-1204.

(2) Under circumstances not amounting to an offense with a greater penalty under Subsection 76-6-106(2)(a)(ii), Section 76-6-106.3, or Section 76-6-404, violation of a provision listed in Subsection (1) is punishable:

(a) as a felony of the third degree if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; and

(ii) the person violating the provision has previously been convicted of violating the same provision;

(b) as a class A misdemeanor if:

(i) the value of the water diverted or property damaged or taken is $2,500 or greater; or

(ii) the person violating the provision has previously been convicted of violating the same provision; or

(c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

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

Section 133. Section **73-29-102** is amended to read:

73-29-102 . Definitions.

As used in this chapter:

(1) "Division" means the Division of Wildlife Resources.

(2) "Floating access" means the right to access public water flowing over private property for floating and fishing while floating upon the water.

(3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages the flow or depth of water, including connecting channels.

(4) "Navigable water" means a water course that in its natural state without the aid of artificial means is useful for commerce and has a useful capacity as a public highway of transportation.

(5) "Private property to which access is restricted" means privately owned real property:

(a) that is cultivated land, as defined in Section 23A-5-317;

(b) that is:

(i) properly posted, as defined in Section 23A-5-317;

(ii) posted as described in Subsection 76-6-206(2)(b)(iii); or

(iii) posted as described in Subsection 76-6-206.3(2)(c);

(c) that is fenced or enclosed as described in:

(i) Subsection 76-6-206(2)(b)(ii); or

(ii) Subsection 76-6-206.3(2)(b); or

(d) that the owner or a person authorized to act on the owner's behalf has requested a person to leave as provided by:

(i) Section 23A-5-317;

(ii) Subsection 76-6-206(2)(b)(i); or

(iii) Subsection 76-6-206.3(2)(a).

(6) "Public access area" means the limited part of privately owned property that:

(a) lies beneath or within three feet of a public water or that is the most direct, least invasive, and closest means of portage around an obstruction in a public water; and

(b) is open to public recreational access under Section 73-29-203; and

(c) can be accessed from an adjoining public assess area or public right-of-way.

(7) "Public recreational access" means the right to engage in recreational access established in accordance with Section 73-29-203.

(8)(a) "Public water" means water:

(i) described in Section 73-1-1; and

(ii) flowing or collecting on the surface:

(A) within a natural or realigned channel; or

(B) in a natural lake, pond, or reservoir on a natural or realigned channel.

(b) "Public water" does not include water flowing or collecting:

(i) on impounded wetland;

(ii) on a migratory bird production area, as defined in Section 23A-13-101;

(iii) on private property in a manmade:

(A) irrigation canal;

(B) irrigation ditch; or

(C) impoundment or reservoir constructed outside of a natural or realigned channel; or

(iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.

(9)(a) "Recreational access" means to use a public water and to touch a public access area incidental to the use of the public water for:

(i) floating;

(ii) fishing; or

(iii) waterfowl hunting conducted:

(A) in compliance with applicable law or rule, including Sections 23A-5-314,

73-29-203, and [~~76-10-508~~] 76-11-207; and

(B) so that the individual who engages in the waterfowl hunting shoots a firearm only while within a public access area and no closer than 600 feet of any dwelling.

(b) "Recreational access" does not include:

(i) hunting, except as provided in Subsection (9)(a)(iii);

(ii) wading without engaging in activity described in Subsection (9)(a); or

(iii) any other activity.

Section 134. Section **76-1-301** is amended to read:

76-1-301 . Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

(a) an offense classified as a capital felony under Section 76-3-103;

(b) aggravated murder under Section 76-5-202;

(c) murder under Section 76-5-203;

(d) manslaughter under Section 76-5-205;

(e) child abuse homicide under Section 76-5-208;

(f) aggravated kidnapping under Section 76-5-302;

(g) child kidnapping under Section 76-5-301.1;

(h) rape under Section 76-5-402;

(i) rape of a child under Section 76-5-402.1;

(j) object rape under Section 76-5-402.2;

(k) object rape of a child under Section 76-5-402.3;

(l) forcible sodomy under Section 76-5-403;

(m) sodomy on a child under Section 76-5-403.1;

(n) sexual abuse of a child under Section 76-5-404.1;

(o) aggravated sexual abuse of a child under Section 76-5-404.3;

(p) aggravated sexual assault under Section 76-5-405;

(q) any predicate offense to a murder or aggravating offense to an aggravated murder;

(r) aggravated human trafficking under Section 76-5-310;

(s) aggravated human smuggling under Section 76-5-310.1;

[~~(t) aggravated exploitation of prostitution involving a child under Section 76-10-1306; or~~]

[~~(u)~~] (t) human trafficking of a child under Section 76-5-308.5[~~.~~] ; or

(u) aggravated exploitation of prostitution involving a child under Section 76-5d-208.

Section 135. Section **76-2-304.5** is amended to read:

76-2-304.5 . Mistake as to victim's age not a defense.

(1) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) child kidnapping, Section 76-5-301.1;

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

(c) object rape of a child, Section 76-5-402.3;

(d) sodomy on a child, Section 76-5-403.1;

(e) sexual abuse of a child, Section 76-5-404.1;

(f) aggravated sexual abuse of a child, Section 76-5-404.3;

(g) unlawful kissing of a child, Section 76-5-416.2; or

(h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).

(2) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) unlawful sexual activity with a minor, Section 76-5-401;

(b) sexual abuse of a minor, Section 76-5-401.1; or

(c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

(3) It is not a defense to the following offenses that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) human trafficking of a child, Section 76-5-308.5;

(b) aggravated human trafficking, Section 76-5-310;

(c) aggravated human smuggling, Section 76-5-310.1;

(d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

(e) patronizing a [~~prostitute~~] child involved in prostitution, Section [~~76-10-1303~~] 76-5d-204;

(f) aggravated exploitation of prostitution, Section [~~76-10-1306~~] 76-5d-208; or

(g) sexual solicitation of a child, Section [~~76-10-1313~~] 76-5d-210.

Section 136. Section **76-2-306** is amended to read:

76-2-306 . Voluntary intoxication.

(1) Voluntary intoxication is not a defense to a criminal charge unless such intoxication negates the existence of the mental state which is an element of the offense. If recklessness or criminal negligence establishes an element of an offense and the actor is unaware of the risk because of voluntary intoxication, his unawareness is immaterial in a prosecution for that offense.

(2) Voluntary intoxication is not a defense to sexual offenses, as [~~defined~~] described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

Section 137. Section **76-3-203.1** is amended to read:

76-3-203.1 . Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as described in Section 76-6-106;

(ii) property damage or destruction as described in Section 76-6-106.1; and

(iii) defacement by graffiti as described in Section 76-6-107.

(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness under Section 76-8-508;

(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;

(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vii) any weapons offense under [~~Chapter 10, Part 5, Weapons~~] Chapter 11, Weapons; and

(viii) any violation of [~~Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity.

(6)(a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses, other than enticing a minor under Section 76-5-417, lewdness under Section 76-5-419, or lewdness involving a child under Section 76-5-420;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

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

Section 138. Section **76-3-203.3** is amended to read:

76-3-203.3 . Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2)(a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b)(i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical

safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Chapter 6, Offenses Against Property;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses, other than Section 76-9-105.5, 76-9-105.6, 76-9-110, 76-9-111, 76-9-112, 76-9-113, or 76-9-114;

(h) any telephone abuse offense under [~~Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse~~] Sections 76-12-202, 76-12-203, 76-12-204, and 76-12-206;

(i) any cruelty to animals offense under [~~Section 76-9-301~~] Sections 76-13-202, 76-13-203, and 76-13-204;

(j) any weapons offense under Section [~~76-10-506~~] 76-11-205; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

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

Section 139. Section **76-3-203.5** is amended to read:

76-3-203.5 . Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the

United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) arson as described in Section 76-6-102;

(B) causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

(C) criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

(E) assault by prisoner as described in Section 76-5-102.5;

(F) disarming a police officer as described in Section 76-5-102.8;

(G) aggravated assault as described in Section 76-5-103;

(H) aggravated assault by prisoner as described in Section 76-5-103.5;

(I) mayhem as described in Section 76-5-105;

(J) stalking as described in Subsection 76-5-106.5(2);

(K) threat of terrorism as described in Section 76-5-107.3;

(L) aggravated child abuse as described in Subsection 76-5-109.2(3)(a) or (b);

(M) commission of domestic violence in the presence of a child as described in Section 76-5-114;

(N) abuse or neglect of a child with a disability as described in Section 76-5-110;

(O) abuse or exploitation of a vulnerable adult as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(P) endangerment of a child or vulnerable adult as described in Section 76-5-112.5;

(Q) an offense described in Chapter 5, Part 2, Criminal Homicide;

(R) kidnapping as described in Section 76-5-301;

(S) child kidnapping as described in Section 76-5-301.1;

(T) aggravated kidnapping as described in Section 76-5-302;

(U) rape as described in Section 76-5-402;

(V) rape of a child as described in Section 76-5-402.1;

(W) object rape as described in Section 76-5-402.2;

(X) object rape of a child as described in Section 76-5-402.3;

(Y) forcible sodomy as described in Section 76-5-403;

(Z) sodomy on a child as described in Section 76-5-403.1;

(AA) forcible sexual abuse as described in Section 76-5-404;

(BB) sexual abuse of a child as described in Section 76-5-404.1;

(CC) aggravated sexual abuse of a child as described in Section 76-5-404.3;

(DD) aggravated sexual assault as described in Section 76-5-405;

(EE) sexual exploitation of a minor as described in Section 76-5b-201;

(FF) aggravated sexual exploitation of a minor as described in Section 76-5b-201.1;

(GG) sexual exploitation of a vulnerable adult as described in Section 76-5b-202;

(HH) aggravated exploitation of prostitution as described in Subsection 76-5d-208(2)(a);

[~~(HH)~~] (II) burglary as described in Subsection 76-6-202(3)(b);

[~~(II)~~] (JJ) aggravated burglary as described in Section 76-6-203;

[~~(JJ)~~] (KK) robbery as described in Section 76-6-301;

[~~(KK)~~] (LL) aggravated robbery as described in Section 76-6-302;

[~~(LL)~~] (MM) theft by extortion as described in Subsection 76-6-406(1)(a)(i) or (1)(a)(ii);

[~~(MM)~~] (NN) tampering with a witness as described in Section 76-8-508;

[~~(NN)~~] (OO) retaliation against a witness, victim, or informant as described in Section 76-8-508.3;

[~~(OO)~~] (PP) tampering or retaliating against a juror as described in Subsection 76-8-508.5(2)(a)(iii);

[~~(PP)~~] (QQ) extortion to dismiss a criminal proceeding as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

[~~(QQ) possession, use, or removal of explosive, chemical, or incendiary devices as described in Subsections 76-10-306(3) through (6);~~]

(RR) bus hijacking as described in Section 76-9-1502;

(SS) assault with intent to commit bus hijacking as described in Section 76-9-1503;

(TT) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-11-302;

[~~(RR)~~] (UU) unlawful delivery of explosive, chemical, or incendiary devices as

described in Section [~~76-10-307~~] 76-15-209;

(VV) unlawful conduct involving an explosive, chemical, or incendiary device as described in Section 76-15-210;

(WW) unlawful conduct involving an explosive, chemical, or incendiary part as described in Section 76-15-211; and

[~~(SS) purchase or possession of a dangerous weapon or handgun by a restricted person as described in Section 76-10-503;~~]

[~~(TT) aggravated exploitation of prostitution as described in Subsection 76-10-1306(1)(a);~~]

[~~(UU) bus hijacking as described in Section 76-10-1504; and~~]

[~~(VV)~~] (XX) [~~discharging firearms and hurling missiles~~] unlawful discharge of a firearm or hurling of a missile into a bus or terminal as described in Section [~~76-10-1505~~] 76-9-1504; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b)(i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c)(i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b)(i) Notwithstanding Subsection (5)(a)[,] and except as provided in Subsection (5)(b)(ii), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(ii) The "violent felony" offense defined in Subsection (1)(c) does not include any felony sexual offense violation of:

(A) enticing a minor, Section 76-5-417;

(B) lewdness, Section 76-5-419; or

(C) lewdness involving a child, Section 76-5-420.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 140. Section **76-3-203.12** is amended to read:

76-3-203.12 . Enhanced penalty for sexual offenses committed by a person with human immunodeficiency virus, acquired immunodeficiency virus, hepatitis B, or hepatitis C.

(1) As used in this section:

(a) "Sexual offense" means an offense described in Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual offense" does not include:

(i) enticing a minor, as described in Section 76-5-417;

(ii) sexual battery, as described in Section 76-5-418;

(iii) lewdness, as described in Section 76-5-419; or

(iv) lewdness involving a child, as described in Section 76-5-420.

[~~(1)~~] (2) A person convicted of a sexual offense [~~described in Chapter 5, Part 4, Sexual Offenses, ~~]is subject to an enhanced penalty if at the time of the sexual offense the person was infected with [~~Human Immunodeficiency Virus, Acquired~~

~~Immunodeficiency Virus~~] human immunodeficiency virus, acquired immunodeficiency virus, hepatitis B, or hepatitis C and the person knew of the infection.

[~~(2)~~] (3)(a) Except as provided in Subsection [~~(2)(b)~~] (3)(b), the enhancement of a penalty described in Subsection [~~(1)~~] (2) shall be an enhancement of one classification higher than the root offense for which the person was convicted.

(b) A felony of the first degree is not enhanced under this section.

Section 141. Section **76-3-209** is amended to read:

76-3-209 . Limitation on sentencing for crimes committed by juveniles.

[~~(1) As used in this section, "qualifying sexual offense" means:~~]

[~~(a) an offense described in Chapter 5, Part 4, Sexual Offenses;~~]

[~~(b) Section 76-9-702, lewdness;~~]

[~~(c) Section 76-9-702.1, sexual battery; or~~]

[~~(d) Section 76-9-702.5, lewdness involving a child.~~]

(1) As used in this section:

(a) "Qualifying sexual offense" means an offense described in Chapter 5, Part 4, Sexual Offenses.

(b) "Qualifying sexual offense" does not include enticing a minor as described in Section 76-5-417.

(2)(a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, an individual may not be sentenced to life without parole if:

(i) the individual is convicted of a crime punishable by life without parole; and

(ii) at the time the individual committed the crime, the individual was under 18 years old.

(c) The maximum punishment that may be imposed on an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life.

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

(a) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

(b) the district court may not impose incarceration unless the court enters specific

written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

(i) the time that elapsed after the individual committed the offense;

(ii) the age of the individual at the time of the offense;

(iii) the age of the victim at the time of the offense;

(iv) the criminal history of the individual after the individual committed the offense;

(v) any treatment assessments or validated risk tools; and

(vi) public safety concerns.

(4) Subsection (3) does not apply if:

(a) before the individual described in Subsection (3) is convicted of the qualifying sexual offense, the individual is convicted of a qualifying sexual offense that the individual committed when the individual was 18 years old or older;

(b) the individual is convicted in district court, before the victim is 18 years old, of a violation of Section 76-5-405, aggravated sexual assault; or

(c) the conviction occurred in district court after the individual was:

(i) charged by criminal information in the juvenile court for the qualifying sexual offense in accordance with Section 80-6-503; and

(ii) bound over to the district court for the qualifying sexual offense in accordance with Section 80-6-504.

(5) If the district court imposes incarceration under Subsection (3)(b), the term of incarceration may not exceed:

(a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

(b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-419, or 76-5-420; or

(c) the maximum sentence described in Section 76-3-204 for[~~:~~]

[~~(i)~~] a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses[~~;~~] , other than Section 76-5-417.

[~~(ii) a violation of Section 76-9-702, lewdness;~~]

[~~(iii) a violation of Section 76-9-702.1, sexual battery; or~~]

[~~(iv) a violation of Section 76-9-702.5, lewdness involving a child.~~]

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

Section 142. Section **76-3-402** is amended to read:

76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c)(i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

(E) a youth program, as that term is defined in Section 26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

[~~(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or~~]

[~~(B)~~] (A) the purchase or possession of a dangerous weapon or handgun by a

restricted person under Section [~~76-10-503.~~] 76-11-302;

(B) unlawful conduct involving an explosive, chemical, or incendiary device under Subsection 76-15-210(2)(a); or

(C) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b)(i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is

in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

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

(b) the court may consider:

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

(ii) the defendant's criminal history;

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

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8)(a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to

demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10)(a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 44, Chapter 40A, Expungement of Criminal Records.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

Section 143. Section **76-3-407** is amended to read:

76-3-407 . Repeat and habitual sex offenders -- Additional prison term for prior felony convictions.

(1) As used in this section:

(a)(i) "Prior sexual offense" means:

[~~(i)~~] (A) a felony offense described in Chapter 5, Part 4, Sexual Offenses;

[~~(ii)~~] (B) sexual exploitation of a minor, Section 76-5b-201;

[~~(iii)~~] (C) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(iv) a felony offense of enticing a minor, Section 76-4-401;~~]

[~~(v)~~] (D) a felony attempt to commit an offense described in Subsections [~~(1)(a)(i) through (iv)~~] (1)(a)(i)(A) through (C); or

[~~(vi)~~] (E) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections [~~(1)(a)(i) through (v)~~] (1)(a)(i)(A) through (D).

(ii) "Prior sexual offense" does not include:

(A) lewdness, as described in Section 76-5-419; or

(B) lewdness involving a child, as described in Section 76-5-420.

(b)(i) "Sexual offense" means:

[~~(i)~~] (A) an offense that is a felony of the second or third degree, or an attempted offense, which attempt is a felony of the second or third degree, described in Chapter 5, Part 4, Sexual Offenses;

[~~(ii)~~] (B) sexual exploitation of a minor, Section 76-5b-201;

[~~(iii)~~] (C) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(iv) a felony offense of enticing a minor, Section 76-4-401;~~]

[~~(v)~~] (D) a felony attempt to commit an offense described in Subsections [~~(1)(b)(ii) through (iv);~~] (1)(b)(i)(B) and (C); or

[~~(vi)~~] (E) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections [~~(1)(b)(i) through (v).~~] (1)(b)(i)(A) through (D).

(ii) "Sexual offense" does not include:

(A) lewdness, as described in Section 76-5-419; or

(B) lewdness involving a child, as described in Section 76-5-420.

(2) Notwithstanding any other provision of law, the maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:

(a) the defendant was convicted of a prior sexual offense; and

(b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a) before the defendant was convicted of the sexual offense for which the defendant is being sentenced.

(3) The increased maximum term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.

Section 144. Section **76-4-102** is amended to read:

76-4-102 . Attempt -- Classification of offenses.

(1) Criminal attempt to commit:

(a)(i) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(ii) except as provided in Subsection (2), an attempt to commit aggravated murder, Section 76-5-202, which results in serious bodily injury, is punishable by imprisonment for an indeterminate term of not fewer than 15 years and which may be for life;

(b) except as provided in Subsection (1)(c) or (d), a first degree felony is a second degree felony;

(c) any of the following offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:

(i) murder, Subsection 76-5-203(2)(a);

(ii) child kidnapping, Section 76-5-301.1; or

(iii) except as provided in Subsection (1)(d), any of the felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, that are first degree felonies;

(d) except as provided in Subsection (3), any of the following offenses is a first degree felony, punishable by a term of imprisonment of not less than 15 years and which may be for life:

(i) rape of a child, Section 76-5-402.1;

(ii) object rape of a child, Section 76-5-402.3; or

(iii) sodomy on a child, Section 76-5-403.1;

(e) a second degree felony is a third degree felony;

(f) a third degree felony is a class A misdemeanor;

(g) a class A misdemeanor is a class B misdemeanor;

(h) a class B misdemeanor is a class C misdemeanor; and

(i) a class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

(2) If, when imposing a sentence under Subsection (1)(a)(ii), a court finds that a lesser term than the term described in Subsection (1)(a)(ii) is in the interests of justice and the court

states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(3) If, when imposing a sentence under Subsection (1)(d), a court finds that a lesser term than the term described in Subsection (1)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life;

(b) six years and which may be for life; or

(c) three years and which may be for life.

Section 145. Section **76-4-202** is amended to read:

76-4-202 . Conspiracy -- Classification of offenses.

Conspiracy to commit:

(1) a capital felony is a first degree felony;

(2) a first degree felony is a second degree felony[~~;~~] , except that conspiracy to commit child kidnaping, in violation of Section 76-5-301.1 or to commit any of those felonies described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, which are first degree felonies, is a first degree felony punishable by imprisonment for an indeterminate term of not less than three years and which may be for life;

(3) a second degree felony is a third degree felony;

(4) a third degree felony is a class A misdemeanor;

(5) a class A misdemeanor is a class B misdemeanor;

(6) a class B misdemeanor is a class C misdemeanor;

(7) A class C misdemeanor is punishable by a penalty not exceeding one half the penalty for a class C misdemeanor.

Section 146. Section **76-4-203** is amended to read:

76-4-203 . Criminal solicitation of an adult.

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

(i) "Adult" means an individual who is 18 years old or older.

(ii) "Solicit" means to ask, command, encourage, importune, offer to hire, or request.

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

(2) An actor commits criminal solicitation of an adult if, with the intent that a felony offense be committed, the actor solicits an adult to engage in specific conduct that, under

the circumstances as the actor believes the circumstances to be, would be a felony offense or would cause the adult to be a party to the commission of a felony offense.

(3) A violation of Subsection (2) where the actor solicits the adult to commit:

(a) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(b) except as provided in Subsection (3)(c) or (d), a first degree felony is a second degree felony;

(c) any of the following felony offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:

(i) murder, as described in Subsection 76-5-203(2)(a);

(ii) child kidnapping, as described in Section 76-5-301.1; or

(iii) except as provided in Subsection (3)(d), an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, that is a first degree felony;

(d) except as provided in Subsection (4), any of the following felony offenses is a first degree felony punishable by a term of imprisonment of not less than 15 years and which may be for life:

(i) rape of a child, Section 76-5-402.1;

(ii) object rape of a child, Section 76-5-402.3; or

(iii) sodomy on a child, Section 76-5-403.1;

(e) a second degree felony is a third degree felony; and

(f) a third degree felony is a class A misdemeanor.

(4) If a court finds that a lesser term than the term described in Subsection (3)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life;

(b) six years and which may be for life; or

(c) three years and which may be for life.

(5) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.

(6) It is not a defense to a violation of this section that:

(a) the adult solicited by the actor:

(i) does not agree to act upon the solicitation;

(ii) does not commit an overt act;

(iii) does not engage in conduct constituting a substantial step toward the commission of any offense;

(iv) is not criminally responsible for the felony offense solicited;

(v) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or

(vi) is immune from prosecution; or

(b) the actor:

(i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or

(ii) fails to communicate with the adult that the actor solicits to commit an offense if the intent of the actor's conduct was to effect the communication.

(7) Nothing in this section prevents an actor who otherwise solicits an adult to engage, or intentionally aids an adult in engaging, in conduct that constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the adult actually commits the offense.

Section 147. Section **76-5-102.8** is amended to read:

76-5-102.8 . Disarming a peace officer -- Penalties.

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

(i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

(ii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

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

(2) An actor commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from an individual or immediate presence of an individual who the actor knows is a peace officer:

(a) without the consent of the peace officer; and

(b) while the peace officer is acting within the scope of the peace officer's authority as a peace officer.

(3)(a) A violation of Subsection (2) regarding a firearm is a first degree felony.

(b) A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

Section 148. Section **76-5-104** is amended to read:

76-5-104 . Consensual altercation.

(1) As used in this section, "ultimate fighting match" means the same as that term is defined in Section [~~76-9-705~~] 76-9-112.

(2) In any prosecution for criminal homicide under Part 2, Criminal Homicide, or assault as that offense is described in Section 76-5-102, it is no defense to the prosecution that the defendant was a party to any duel, mutual combat, or other consensual altercation if during the course of the duel, combat, or altercation:

(a) any dangerous weapon was used; or

(b) the defendant was engaged in an ultimate fighting match.

Section 149. Section **76-5-106.5** is amended to read:

76-5-106.5 . Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

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

(i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:

(A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property:

(I) directly, indirectly, or through any third party; and

(II) by any action, method, device, or means; or

(B) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(I) approaches or confronts an individual;

(II) appears at the individual's workplace or contacts the individual's employer or coworker;

(III) appears at an individual's residence or contacts an individual's neighbor, or enters property owned, leased, or occupied by an individual;

(IV) sends material by any means to the individual or for the purpose of obtaining or disseminating information about or communicating with the individual to a member of the individual's family or household, employer, coworker, friend, or associate of the individual;

(V) places an object on or delivers an object to property owned, leased, or occupied by an individual, or to the individual's place of employment with the intent that the object be delivered to the individual; or

(VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

(ii)(A) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

(B) "Emotional distress" includes significant mental or psychological suffering resulting from harm to an animal.

(iii) "Immediate family" means a spouse, parent, child, sibling, or any other individual who regularly resides in the household or who regularly resided in the household within the prior six months.

(iv) "Private investigator" means the same as that term is defined in Section [~~76-9-408~~] 76-12-305.

(v) "Reasonable person" means a reasonable person in the victim's circumstances.

(vi) "Stalking" means an offense as described in Subsection (2).

(vii) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another individual's telephone or computer by addressing the communication to the recipient's telephone number.

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

(2) An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific individual and knows or is reckless as to whether the course of conduct would cause a reasonable person:

(i) to fear for the individual's own safety or the safety of a third individual; or

(ii) to suffer other emotional distress; or

(b) violates:

(i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(3)(a) A violation of Subsection (2) is a class A misdemeanor:

(i) upon the actor's first violation of Subsection (2); or

(ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree

felony if the actor:

(i) has been previously convicted of an offense of stalking;

(ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

(v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor:

(i) used a dangerous weapon or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(ii) has been previously convicted two or more times of the offense of stalking;

(iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(iv) has been convicted two or more times, in any combination, of offenses under Subsection (3)(b)(i), (ii), or (iii);

(v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).

(4) In a prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6)(a) Except as provided in Subsection (6)(b), an actor does not violate this section if the actor is acting:

(i) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and

(ii) for a legitimate official or business purpose.

(b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.

(7)(a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(8)(a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

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

(ii) confiscating the weapon or weapons involved in the alleged stalking;

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

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

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (8)(b).

(b)(i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate

community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 150. Section **76-5-107** is amended to read:

76-5-107 . Threat of violence.

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

(2) An actor commits a threat of violence if the actor:

(a)(i) threatens to commit an offense:

(A) under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(B) involving bodily injury, death, or substantial property damage; and

(ii) acts with intent to place an individual in fear:

(A) that the actor will imminently commit an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, against the individual; or

(B) of imminent serious bodily injury, substantial bodily injury, or death; or

(b) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to an individual.

(3)(a) A violation of Subsection (2) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(4) It is not a defense under this section that the actor did not attempt to or was incapable of carrying out the threat.

(5) A threat under Subsection (2) may be express or implied.

Section 151. Section **76-5-107.1** is amended to read:

76-5-107.1 . Threats against schools.

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

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~] 76-15-301.

(ii) "School" means a preschool or a public or private elementary or secondary school.

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

(2) An actor is guilty of making a threat against a school if the actor threatens, with real intent or as an intentional hoax, to commit an offense involving bodily injury, death, or substantial property damage and the actor:

(a) threatens the use of a firearm or weapon or hoax weapon of mass destruction;

(b) acts with intent to:

(i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;

(ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or

(iii) intimidate or coerce students or employees of the school; or

(c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.

(3)(a)(i) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a third degree felony.

(ii) A violation of Subsection (2)(b)(ii) is a class A misdemeanor.

(iii) A violation of Subsection (2)(c) is a class B misdemeanor.

(b)(i) In addition to another penalty authorized by law, a court shall order an actor convicted under this section to pay restitution to a federal, state, or local unit of government, or a private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(ii) Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Section 80-6-710.

(4) It is not a defense to this section that the actor did not attempt to carry out the threat or was incapable of carrying out the threat.

(5) A violation of this section shall be reported to the local law enforcement agency.

(6) Counseling for a minor alleged to have violated this section and the minor's family may be made available through state and local health department programs.

Section 152. Section **76-5-107.3** is amended to read:

76-5-107.3 . Threat of terrorism -- Penalty.

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

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~] 76-15-301.

(ii) "Weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~] 76-15-301.

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

(2)(a) An actor commits a threat of terrorism if the actor threatens to commit an offense involving bodily injury, death, or substantial property damage and the actor:

(i)(A) threatens the use of a weapon of mass destruction; or

(B) threatens the use of a hoax weapon of mass destruction; or

(ii) acts with intent to:

(A) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;

(B) prevent or interrupt the occupation of a building or a portion of the building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier; or

(C) cause an official or volunteer agency organized to deal with emergencies to take action due to the actor's conduct posing a serious and substantial risk to the general public.

(b) A threat under this section may be express or implied.

(3)(a)(i) A violation of Subsection (2)(a)(i) or (2)(a)(ii)(A) is a second degree felony.

(ii) A violation of Subsection (2)(a)(ii)(B) is a third degree felony.

(iii) A violation of Subsection (2)(a)(ii)(C) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(4) It is not a defense under this section that the actor did not attempt to carry out or was incapable of carrying out the threat.

Section 153. Section **76-5-109.3** is amended to read:

76-5-109.3 . Child abandonment.

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

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Enterprise" means the same as that term is defined in Section [~~76-10-1602~~] 76-17-401.

(iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

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

(2)(a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:

(i) is a parent or legal guardian of a child, and:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C)(I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or

(ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).

(b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, induces by misrepresentation, or causes another to violate Subsection (2)(a).

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

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:

(A) the child suffers a serious physical injury; or

(B) the actor or enterprise receives, directly or indirectly, any benefit.

(b)(i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (3)(b)(ii).

(ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture of Seized Property.

(4)(a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and

practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;

(ii) giving legal consent to a court order for termination of parental rights:

(A) in a legal adoption proceeding; or

(B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;

(iii) reasonable discipline or management of a child, including withholding privileges; or

(iv) conduct described in Section 76-2-401.

(c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed child abandonment due to:

(i) intimidation;

(ii) isolation;

(iii) harassment;

(iv) coercion;

(v) the actor's reasonable fear of bodily harm; or

(vi) the reasonable actions of the actor to protect the safety and welfare of the actor or another individual.

Section 154. Section **76-5-115**, which is renumbered from Section 76-10-2202 is renumbered and amended to read:

[~~76-10-2202~~] 76-5-115 . Leaving a child unattended in a motor vehicle.

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

[~~(a)~~] (i) "Child" means [~~a person~~] an individual who is younger than nine years old.

[~~(b)~~] (ii) "Enclosed compartment" means any enclosed area of a motor vehicle, including the passenger compartment, regardless of whether a door, window, or hatch is left open.

[~~(c)~~] (iii) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other self-propelled vehicle.

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

(2) [~~A person who is responsible for a child is guilty of a class C misdemeanor if~~] An actor commits leaving a child unattended in a motor vehicle if:

(a) the [~~person~~] actor intentionally[~~, recklessly~~], knowingly, recklessly, or with criminal negligence leaves [~~the~~] a child in an enclosed compartment of a motor vehicle;

(b) the motor vehicle is on:

(i) public property; or

(ii) private property that is open to the general public;

(c) the child is not supervised by [~~a person~~] an individual who is at least nine years old; and

(d) the conditions present a risk to the child of:

(i) hyperthermia;

(ii) hypothermia; or

(iii) dehydration.

(3) A violation of Subsection (2) is a class C misdemeanor.

(4) This section does not apply if the [~~person's~~] actor's conduct that constitutes a violation of this section is subject to a greater penalty under another provision of state law.

[~~(4)~~] (5) This section preempts enforcement of a local law or ordinance that makes it an infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under this section.

[~~(5)~~] (6) Notwithstanding any provision of state law to the contrary, a conviction under this section may not be used by a state or local government entity as grounds for revoking, refusing to grant, or refusing to renew, a license or permit, including a license or permit relating to the provision of day care or child care.

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

Section 155. Section **76-5-202** is amended to read:

76-5-202 . Aggravated murder -- Penalties -- Affirmative defense and special mitigation -- Separate offense.

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

(i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.

(iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

(iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(v) "Peace officer" means:

(A) a correctional officer, federal officer, law enforcement officer, or special

function officer; or

(B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(vi) "Special function officer" means the same as that term is defined in Section 53-13-105.

(vii) "Target a law enforcement officer" means an act:

(A) involving the unlawful use of force and violence against a law enforcement officer;

(B) that causes serious bodily injury or death; and

(C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.

(viii) "Weapon of mass destruction" means the same as that term is defined in Section [~~76-10-401~~] 76-15-301.

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

(2)(a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:

(i) the actor committed homicide while confined in a jail or other correctional institution;

(ii)(A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more individuals other than the actor were killed; or

(B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;

(iii) the actor knowingly created a great risk of death to another individual other than the deceased individual and the actor;

(iv) the actor committed homicide incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as described in Subsection 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;

(v) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as described in Subsection [~~76-9-704(2)(e)~~] 76-5-802(2)(d);

(vi) the actor committed homicide for the purpose of avoiding or preventing an arrest of the actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the actor's or another individual's escape from lawful custody;

(vii) the actor committed homicide for pecuniary gain;

(viii) the actor committed, engaged, or employed another person to commit the homicide subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;

(ix) the actor previously committed or was convicted of:

(A) aggravated murder under this section;

(B) attempted aggravated murder under this section;

(C) murder, under Section 76-5-203;

(D) attempted murder, under Section 76-5-203; or

(E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(ix);

(x) the actor was previously convicted of:

(A) aggravated assault, under Section 76-5-103;

(B) mayhem, under Section 76-5-105;

(C) kidnapping, under Section 76-5-301;

(D) child kidnapping, under Section 76-5-301.1;

(E) aggravated kidnapping, under Section 76-5-302;

(F) rape, under Section 76-5-402;

(G) rape of a child, under Section 76-5-402.1;

(H) object rape, under Section 76-5-402.2;

(I) object rape of a child, under Section 76-5-402.3;

(J) forcible sodomy, under Section 76-5-403;

(K) sodomy on a child, under Section 76-5-403.1;

(L) aggravated sexual abuse of a child, under Section 76-5-404.3;

(M) aggravated sexual assault, under Section 76-5-405;

(N) aggravated arson, under Section 76-6-103;

(O) aggravated burglary, under Section 76-6-203;

(P) aggravated robbery, under Section 76-6-302;

(Q) felony discharge of a firearm, under Section [~~76-10-508.1~~] 76-11-208; or

(R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection (2)(a)(x);

(xi) the actor committed homicide for the purpose of:

(A) preventing a witness from testifying;

(B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;

(C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or

(D) disrupting or hindering any lawful governmental function or enforcement of laws;

(xii) the deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;

(xiii) the deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the deceased individual's position, and the actor knew, or reasonably should have known, that the deceased individual holds or has held the position of:

(A) a peace officer;

(B) an executive officer, prosecuting officer, jailer, or prison official;

(C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder;

(D) a judge or other court official, juror, probation officer, or parole officer; or

(E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;

(xiv) the actor committed homicide:

(A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;

(B) by means of any weapon of mass destruction; or

(C) to target a law enforcement officer;

(xv) the actor committed homicide during the act of unlawfully assuming control of an aircraft, train, or other public conveyance by use of threats or force with intent to:

(A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard;

(B) direct the route or movement of the public conveyance; or

(C) otherwise exert control over the public conveyance;

(xvi) the actor committed homicide by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;

(xvii) the deceased individual was held or otherwise detained as a shield, hostage, or for ransom;

(xviii) the actor committed homicide in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the deceased individual before death;

(xix) the actor dismembers, mutilates, or disfigures the deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or

(xx) the deceased individual, at the time of the death of the deceased individual:

(A) was younger than 14 years old; and

(B) was not an unborn child.

(b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:

(i) aggravated child abuse, punishable as a felony of the second degree under Subsection 76-5-109.2(3)(a);

(ii) child kidnapping, under Section 76-5-301.1;

(iii) rape of a child, under Section 76-5-402.1;

(iv) object rape of a child, under Section 76-5-402.3;

(v) sodomy on a child, under Section 76-5-403.1; or

(vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.

(3)(a) If a notice of intent to seek the death penalty has been filed, a violation of

Subsection (2) is a capital felony.

(b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(c)(i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.

(ii) The notice shall be served on the defendant or defense counsel and filed with the court.

(iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.

(d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

(e) If the defendant was younger than 18 years old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(4)(a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(5)(a) Any aggravating circumstance described in Subsection (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

(b) An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

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

Section 156. Section **76-5-203** is amended to read:

76-5-203 . Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1)(a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.3; or

(xxiv) a felony violation of Section [~~76-10-508 or 76-10-508.1~~] 76-11-207 or 76-11-208 regarding discharge of a firearm or dangerous weapon.

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

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d)(i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is

reduced in accordance with Subsection 76-5-202(4).

(3)(a)(i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4)(a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5)(a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 157. Section **76-5-302** is amended to read:

76-5-302 . Aggravated kidnapping.

(1)(a) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(i) Section 76-5-301, kidnapping; or

(ii) Section 76-5-304, unlawful detention.

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

(2) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) uses or threatens to use a dangerous weapon; or

(b) acts with the intent to:

(i) hold the victim for ransom or reward, as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) hinder or delay the discovery of or reporting of a felony;

(iv) inflict bodily injury on or to terrorize the victim or another individual;

(v) interfere with the performance of any governmental or political function; or

(vi) commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(3)(a) A violation of Subsection (2) in the course of committing unlawful detention is a third degree felony.

(b) A violation of Subsection (2) in the course of committing kidnapping is a first degree felony.

(4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to imprisonment of:

(a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the

aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(6) The provisions of Subsection (5) do not apply when a defendant is sentenced under Subsection (4)(c).

(7) Subsections (4)(b) and (c) do not apply if the actor was younger than 18 years old at the time of the offense.

(8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

Section 158. Section **76-5-415** is amended to read:

76-5-415 . Educator's license subject to action for violation of this part.

Commission of any offense under this Title 76, Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, by an educator as defined in Section 53E-6-102, is grounds under Section 53E-6-604 for disciplinary action against the educator, including revocation of the educator's license.

Section 159. Section **76-5-417**, which is renumbered from Section 76-4-401 is renumbered and amended to read:

[~~76-4-401~~] 76-5-417 . Enticing a minorto engage in sexual activity.

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

(i) "Minor" means an individual who is under 18 years old.

(ii) "Electronic communication" means the same as that term is defined in Section [~~76-9-201~~] 76-12-201.

(iii) "Electronic communication device" means the same as that term is defined in Section [~~76-9-201~~] 76-12-201.

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

(2) An actor commits [~~enticement of~~] enticing a minor to engage in sexual activity if the actor knowingly:

(a) uses an electronic communication or an electronic communication device to:

(i) solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in sexual activity that is a violation of state criminal law; or

(ii)(A) initiate contact with a minor or a person the actor believes to be a minor; and

(B) subsequent to the action described in Subsection (2)(a)(ii)(A), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in sexual activity that is a violation of state criminal law; or

(b) develops a relationship of trust with the minor or the minor's parent or guardian with the intent to solicit, seduce, lure, or entice, or attempt to solicit, seduce, lure, or entice the minor to engage in sexual activity that is a violation of state criminal law.

[~~(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.~~]

[~~(4)~~] (3) [~~Enticement of a minor under~~] A violation of Subsection (2) is punishable as follows:

(a) enticement to engage in sexual activity that would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection [~~(4)(a)~~] (3)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection [~~(4)(a)~~] (3)(a);

(b) enticement to engage in sexual activity that would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity that would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity that would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity that would be a class B misdemeanor for the actor is a class C misdemeanor.

(4) It is not a defense to a violation, or attempted violation, of Subsection (2) that a law

enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.

(5)(a) When an actor who commits a felony violation of this section has [~~been~~] previously been convicted of an offense [~~under~~] described in Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

[~~(i) Section 76-4-401, enticing a minor;~~]

[~~(ii)~~] (i) [~~Section 76-5-301.1, ~~]child kidnapping as described in Section 76-5-301.1;

(ii) human trafficking of a child as described in Section 76-5-308.5;

(iii) [~~Section 76-5-402, ~~]rape as described in Section 76-5-402;

(iv) [~~Section 76-5-402.1, ~~]rape of a child as described in Section 76-5-402.1;

(v) [~~Section 76-5-402.2, ~~]object rape as described in Section 76-5-402.2;

(vi) [~~Section 76-5-402.3, ~~]object rape of a child as described in Section 76-5-402.3;

(vii) [~~Section 76-5-403, ~~]forcible sodomy as described in Section 76-5-403;

(viii) [~~Section 76-5-403.1, ~~]sodomy on a child as described in Section 76-5-403.1;

(ix) [~~Section 76-5-404, ~~]forcible sexual abuse as described in Section 76-5-404;

(x) [~~Section 76-5-404.1, ~~]sexual abuse of a child as described in Section 76-5-404.1;

(xi) [~~ and Section 76-5-404.3, ~~]aggravated sexual abuse of a child as described in Section 76-5-404.3;

[~~(xi)~~] (xii) [~~Section 76-5-405, ~~]aggravated sexual assault as described in Section 76-5-405;

[~~(xii) Section 76-5-308.5, human trafficking of a child;~~]

(xiii) enticing a minor to engage in sexual activity as described in Section 76-5-417;

[~~(xiii)~~] (xiv) any offense in any other state or federal jurisdiction that constitutes or would constitute a crime in Subsections (5)(b)(i) through [~~(xii)~~] (xiii); or

[~~(xiv)~~] (xv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through [~~(xiii)~~] (xiv).

Section 160. Section **76-5-418**, which is renumbered from Section 76-9-702.1 is renumbered and amended to read:

[~~76-9-702.1~~] 76-5-418 . Sexual battery.

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

(2) An actor [~~is guilty of~~] commits sexual battery if[~~ the actor~~], under circumstances not amounting to an offense [~~under~~] described in Subsection [~~(2),~~] (4), the actor:

(a) intentionally touches, whether or not through clothing[~~,~~] :

(i) the anus, buttocks, or any part of the genitals of another individual[~~,~~] ;

(ii) or the breast of a female individual[~~,~~] ; and

(iii) the actor's conduct is under circumstances that the actor knows or should know will likely cause affront or alarm to the individual touched.

[~~(2)~~] (3) A violation of Subsection (2) is a class A misdemeanor.

(4) [~~Offenses~~] The offenses referred to in Subsection [~~(1)~~] (2) are:

(a) rape under Section 76-5-402;

(b) rape of a child under Section 76-5-402.1;

(c) object rape under Section 76-5-402.2;

(d) object rape of a child under Section 76-5-402.3;

(e) forcible sodomy under Subsection 76-5-403(2);

(f) sodomy on a child under Section 76-5-403.1;

(g) forcible sexual abuse under Section 76-5-404;

(h) sexual abuse of a child under Section 76-5-404.1;

(i) aggravated sexual abuse of a child under Section 76-5-404.3;

(j) aggravated sexual assault under Section 76-5-405; and

(k) an attempt to commit an offense under this Subsection (2).

[~~(3) Sexual battery is a class A misdemeanor.~~]

[~~(4)~~] (5)(a) For purposes of Subsection 77-41-102(19) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(b) This Subsection [~~(4)~~] (5) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 161. Section **76-5-419**, which is renumbered from Section 76-9-702 is renumbered and amended to read:

[~~76-9-702~~] 76-5-419 . Lewdness.

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

(i) "Common area of a privacy space" means any area of a privacy space other than:

(A) a toilet stall with a closed door;

(B) immediately in front of a urinal during use; or

(C) a shower stall with a closed door or other closed covering.

(ii) "Privacy space" means the same as that term is defined in Section 76-12-309.

(iii) "Sex-designated" means the same as that term is defined in Section 76-12-309.

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

[~~(1) A person is guilty of~~]

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits lewdness if[~~the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older~~]:

(a) the actor performs:

(i) an act of sexual intercourse or sodomy;

[~~(b) exposes his or her~~]

(ii) an act exposing the actor's:

(A) genitals[~~,~~] ;

(B) [~~the~~]female breast below the top of the areola[~~,~~] if the actor is female;

(C) [~~the~~]buttocks, [~~the~~]anus, or [~~the~~]pubic area;

[~~(c)~~] (iii) masturbates; or

[~~(d)~~] (iv) any other act of lewdness[~~.~~] ; and

(b) an action described in Subsection (2)(a) is undertaken:

(i) in a public place; or

(ii) under circumstances which the actor should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older.

[~~(2)~~] (3)(a) [~~A person convicted the first or second time of a~~] Except as provided in Subsection (3)(b), a violation of Subsection [~~(1)~~] (2) is [~~guilty of~~]a class B misdemeanor[~~, except under Subsection (2)(b)~~].

(b) [~~A person convicted of a~~] A violation of Subsection [~~(1)~~] (2) is [~~guilty of~~]a third

degree felony if at the time of the violation:

(i) the [~~person~~] actor is a sex offender as defined in Section 77-27-21.7;

(ii) the [~~person~~] actor has [~~been~~]previously been convicted two or more times of [~~violating~~] a violation of Subsection [~~(1);~~] (2);

(iii) the [~~person~~] actor has previously been convicted of:

(A) [~~-~~]a violation of Subsection [~~(1)~~] (2); and

(B) [~~has also previously been convicted of~~]a violation of Section [~~76-9-702.5~~] 76-5-420;

(iv) the [~~person commits the offense of lewdness while~~] actor also [~~committing~~] commits the offense of:

(A) criminal trespass [~~in a~~] resulting from unlawfully entering a sex-designated changing room [~~under~~] as described in Subsection 76-6-206(2)(d);

(B) lewdness involving a child [~~under~~] as described in Section [~~76-9-702.5~~] 76-5-420;

(C) voyeurism [~~under~~] as described in Section [~~76-9-702.7~~] 76-12-306;

(D) recorded or photographed voyeurism as described in Section 76-12-307;

(E) distribution of images obtained through voyeurism as described in Section 76-12-308; or

[~~(D)~~] (F) loitering in a privacy space [~~under~~] as described in Section [~~76-9-702.8~~] 76-12-309; or

(v) the [~~person commits the offense of lewdness~~] actor is in a sex-designated privacy space,[~~as defined in Section 76-9-702.8,~~] that is not designated for individuals of the actor's sex.

[~~(c)(i) For purposes of this Subsection (2) and Subsection 77-41-102(19), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.~~]

[~~(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.~~]

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

(a) unlawful sexual conduct with a 16 or 17 year old as described in Section 76-5-401.2;

(b) rape as described in Section 76-5-402;

(c) object rape as described in Section 76-5-402.2;

(d) forcible sodomy as described in Section 76-5-403;

(e) forcible sexual abuse as described in Section 76-5-404;

(f) sexual abuse of a child as described in Section 76-5-404.1;

(g) aggravated sexual assault as described in Section 76-5-405;

(h) custodial sexual relations as described in Section 76-5-412;

(i) custodial sexual misconduct as described in Section 76-5-412.2;

(j) custodial sexual relations with youth receiving state services as described in Section 76-5-413;

(k) custodial sexual misconduct with youth receiving state services as described in Section 76-5-413.2; or

(l) an attempt to commit an offense described in Subsection (4)(a) through (k).

(5)(a) For purposes of Subsection (3) and Subsection 77-41-102(19), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(b) Subsection (5)(a) also applies if the charge under Subsection (3) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

[~~(3)(a) As used in this Subsection (3):~~]

[~~(i) "Common area of a privacy space" means any area of a privacy space other than:~~]

[~~(A) a toilet stall with a closed door;~~]

[~~(B) immediately in front of a urinal during use; or~~]

[~~(C) a shower stall with a closed door or other closed covering.~~]

[~~(ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.~~]

[~~(b)~~] (6)(a) The common area of a privacy space constitutes a public place or circumstance described in Subsection [~~(1)~~] (2) where an act or an attempted act described in Subsection [~~(1)~~] (2) constitutes lewdness.

[~~(c)~~] (b) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection [~~(1)~~] (2) that constitutes lewdness.

[~~(4)~~] (7) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 162. Section **76-5-420**, which is renumbered from Section 76-9-702.5 is renumbered and amended to read:

[~~76-9-702.5~~] 76-5-420 . Lewdness involving a child.

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

[~~(a) "In the presence of" includes within visual contact through an electronic device.~~]

[~~(b)~~] (i) "Child" means an individual younger than 14 years old.

(ii) "Common area of a privacy space" means the same as that term is defined in Section [~~76-9-702~~] 76-5-419.

(iii) "In the presence of" includes within visual contact through an electronic device.

[~~(c)~~] (iv) "Privacy space" means the same as that term is defined in Section [~~76-9-702.8~~] 76-12-309.

(v) "Sex-designated" means the same as that term is defined in Section 76-12-309.

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

(2) An actor commits lewdness involving a child if:

(a) the actor, under circumstances not amounting to [~~rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses~~] an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child[~~who is under 14 years old~~]:

(i) performs an act of sexual intercourse or sodomy;

(ii) exposes the actor's genitals, female breast below the top of the areola, buttocks, anus, or pubic area:

(A) in a public place; or

(B) in a private place under circumstances the actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child; or

(iii) masturbates;

(b) the actor is 18 years old or older and, under circumstances not amounting to [~~rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses~~] an offense listed in Subsection (4), intentionally or knowingly does any of the following in the presence of a child[~~who is under 14 years old~~] with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child:

(i) simulates masturbation;

(ii) performs an act of simulated intercourse or sodomy;

(iii) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered;

(iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex or how the breast was developed or created; or

(v) involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of:

(A) simulated intercourse or sodomy; or

(B) simulated masturbation;

(c) the actor, under circumstances not amounting to sexual exploitation of a [~~child~~] minor under Section 76-5b-201 or aggravated sexual exploitation of a [~~child~~] minor under Section 76-5b-201.1, intentionally or knowingly causes a child[~~ under 14 years old~~] to expose the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or

(d) the actor performs any other act of lewdness.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:

(i) is a sex offender as defined in Section 77-27-21.7;

(ii) previously has been convicted of a violation of this section;

(iii) commits the violation of Subsection (2) while also committing the offense of:

(A) lewdness as described in Section 76-5-419;

(B) criminal trespass [~~in a~~] resulting from unlawfully entering a sex-designated changing room [~~under~~] as described in Subsection 76-6-206(2)(d);

[~~(B) lewdness under Section 76-9-702;~~]

(C) voyeurism [~~under Section 76-9-702.7~~] as described in Section 76-12-306;

(D) recorded or photographed voyeurism as described in Section 76-12-307;

(E) distribution of images obtained through voyeurism as described in Section 76-12-308; or

[~~(D)~~] (F) loitering in a privacy space [~~under Section 76-9-702.8~~] as described in Section 76-12-309; or

(iv) [~~commits the violation of Subsection (2) ~~] is in a sex-designated privacy space[~~,~~

~~as defined in Section 76-9-702.8~~], that is not designated for individuals of the actor's sex.

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

(a) rape of a child as described in Section 76-5-402.1;

(b) object rape of a child as described in Section 76-5-402.3;

(c) sodomy on a child as described in Section 76-5-403.1;

(d) sexual abuse of a child as described in Section 76-5-404.1;

(e) aggravated sexual abuse of a child as described in Section 76-5-404.3; or

(f) an attempt to commit an offense described in Subsections (4)(a) through (e).

[~~(4)~~] (5)(a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (2) where an act or an attempted act described in Subsection (2) constitutes [~~lewdness involving a child~~] a violation of Subsection (2).

(b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (2) that constitutes lewdness involving a child.

Section 163. Section **76-5-801** is enacted to read:

Part 8. Offenses Committed Against the Deceased

76-5-801 . Definitions.

As used in this part, "ancient human remains" means the same as that term is defined in Section 9-8a-302.

Section 164. Section **76-5-802**, which is renumbered from Section 76-9-704 is renumbered and amended to read:

[~~76-9-704~~] 76-5-802 . Abuse or desecration of a dead human body.

[~~(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section 9-8a-302.~~]

(1)(a) As used in this section, "sexual penetration" means the penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of a dead human body.

(b) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

(2) [~~A person is guilty of~~] An actor commits abuse or desecration of a dead human body if the [~~person~~] actor intentionally and unlawfully:

[~~(a) fails to report the finding of a dead human body to a local law enforcement agency;~~]

[~~(b)~~] (a) disturbs, moves, removes, conceals, or destroys a dead human body or any part of [~~it~~] the dead human body;

[~~(c)~~] (b) disinters a buried or otherwise interred dead human body, without authority of a court order;

[~~(d)~~] (c) dismembers a dead human body to any extent, or damages or detaches any part or portion of a dead human body; or

[~~(e)~~] (d)[~~(i)~~] commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body[~~; and~~] .

[~~(ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.~~]

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

[~~(3)~~] (4) [~~A person~~] An actor does not violate this section if when [~~that person~~] the actor directs or carries out procedures regarding a dead human body, [~~that person~~] the actor complies with:

(a) Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

[~~(4)(a) Failure to report the finding of a dead human body as required under Subsection (2)(a) is a class B misdemeanor.~~]

[~~(b) Abuse or desecration of a dead human body as described in Subsections (2)(b) through (e) is a third degree felony.~~]

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 165. Section **76-5-803** is enacted to read:

76-5-803 . Failure to report the finding of a dead human body.

(1) Terms defined in Sections 76-1-101.5 and 76-5-801 apply to this section.

(2) An actor commits failure to report the finding of a dead human body if the actor:

(a) finds a dead human body; and

(b) intentionally fails to report the finding of the dead human body to a local law enforcement agency.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) An actor does not violate this section if when the actor directs or carries out procedures regarding a dead human body, the actor complies with:

(a) Title 9, Chapter 8a, Part 3, Antiquities;

(b) Title 26B, Chapter 8, Part 2, Utah Medical Examiner;

(c) Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

(e) Title 58, Chapter 9, Funeral Services Licensing Act; or

(f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to practice medicine.

(5) For purposes of this section, a dead human body includes any part of a human body in any stage of decomposition, including ancient human remains.

Section 166. Section **76-5b-201** is amended to read:

76-5b-201 . Sexual exploitation of a minor -- Offenses.

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

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses or intentionally views child sexual abuse material.

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

(b) It is a separate offense under this section:

(i) for each minor depicted in the child sexual abuse material; and

(ii) for each time the same minor is depicted in different child sexual abuse material.

(4) For a charge of violating this section, it is an affirmative defense that:

(a) the defendant:

(i) did not solicit the child sexual abuse material from the minor depicted in the child sexual abuse material;

(ii) is not more than two years older than the minor depicted in the child sexual abuse material; and

(iii) upon request of a law enforcement agent or the minor depicted in the child

sexual abuse material, removes from an electronic device or destroys the child sexual abuse material and all copies of the child sexual abuse material in the defendant's possession; and

(b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses, other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; or

(g) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 167. Section **76-5b-203** is amended to read:

76-5b-203 . Distribution of an intimate image -- Penalty.

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

(i) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image, picture, or video, whether

made or produced by electronic, mechanical, or other means, that depicts:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct.

(ii) "Sexually explicit conduct" means actual or simulated:

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between individuals of the same or opposite sex;

(B) masturbation;

(C) bestiality;

(D) sadistic or masochistic activities;

(E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(F) visual depiction of nudity or partial nudity;

(G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(H) explicit representation of the defecation or urination functions.

(iii) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(iv) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

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

(2)(a) An actor commits the offense of distribution of an intimate image if:

(i) the actor knowingly or intentionally distributes to a third party, or knowingly duplicates or copies an intimate image of an individual who is 18 years old or older and knows or should know that the distribution, duplication or copying would cause a reasonable person to suffer emotional distress or harm;

(ii) the actor has not received consent from the individual depicted in the image to distribute the intimate image;

(iii) the intimate image was created by or provided to the actor under circumstances in which the individual depicted in the image has a reasonable expectation of privacy; and

(iv) except as provided in Subsection (2)(b), actual emotional distress or harm is caused to the individual depicted in the image as a result of the distribution.

(b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a) if:

(i) the individual depicted in the intimate image was the victim of a crime;

(ii) the intimate image was provided to law enforcement as part of an investigation or prosecution of a crime committed against the victim;

(iii) the intimate image was distributed without a legitimate law enforcement or investigative purpose by an individual who had access to the intimate image due to the individual's association with the investigation or prosecution described in Subsection (2)(b)(ii); and

(iv) the victim is incapacitated or deceased.

(3)(a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(4) This section does not apply to:

(a) except as provided in Section 76-5b-203.5:

(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

(5)(a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only

incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section [~~76-10-1230~~] 76-5c-401, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section [~~76-10-1230~~] 76-5c-401, is not negligent under this section if it complies with Section [~~76-10-1231~~] 76-5c-402.

Section 168. Section **76-5b-205** is amended to read:

76-5b-205 . Unlawful distribution of a counterfeit intimate image -- Penalty.

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

(i) "Child" means an individual under 18 years old.

(ii) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image , picture, or video, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, generated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

(iii) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(iv) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(v) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

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

(2)(a) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(i) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(ii) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(b) An actor who is 18 years old or older commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2)(a), the individual depicted in the counterfeit intimate image is a child.

(3)(a)(i) A violation of Subsection (2)(a) that is knowing or intentional is a class A misdemeanor.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2)(a) that is knowing or intentional is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(b)(i) A violation of Subsection (2)(b) that is knowing or intentional is a third degree felony.

(ii) Notwithstanding Subsection (3)(b)(i), a violation of Subsection (2)(b) that is knowing or intentional is a second degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(c) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor.

(4) This section does not apply to:

(a)(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual depicted in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5)(a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section [~~76-10-1230~~] 76-5c-401, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section [~~76-10-1230~~] 76-5c-401, is not negligent under this section if it complies with Section [~~76-10-1231~~] 76-5c-402.

Section 169. Section **76-5b-206**, which is renumbered from Section 76-10-1204.5 is renumbered and amended to read:

[~~76-10-1204.5~~] 76-5b-206 . Failure to report child sexual abuse material by a computer technician.

[~~(1) As used in this section:~~]

[~~(a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.~~]

[~~(b) "Computer technician" or "technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.~~]

[~~(c) "Image" means an image of child sexual abuse material or an image that a computer technician reasonably believes is child sexual abuse material.~~]

[~~(2)(a) A computer technician who in the course of employment for compensation views an image on a computer or other electronic device that is or appears to be child sexual abuse material shall immediately report the finding of the image to:~~]

[~~(i) a state or local law enforcement agency, or the Cyber Tip Line at the National Center for Missing and Exploited Children; or~~]

[~~(ii) an employee designated by the employer of the computer technician in accordance with Subsection (3).~~]

[~~(b) A computer technician who willfully does not report an image as required under Subsection (2)(a) is guilty of a class B misdemeanor.~~]

[~~(c) The identity of the computer technician who reports an image shall be confidential, except as necessary for the criminal investigation and the judicial process.~~]

[~~(d)(i) If the computer technician makes or does not make a report under this section in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.~~]

[~~(ii) In this Subsection (2)(d), good faith may be presumed from an employee's or employer's previous course of conduct when the employee or employer has made appropriate reports.~~]

[~~(e) It is a defense to prosecution under this section that the computer technician did not report the image because the technician reasonably believed the image did not depict a person younger than 18 years old.~~]

(1)(a) As used in this section, "computer technician" means an individual who in the course and scope of the individual's employment for compensation installs, maintains, troubleshoots, upgrades, or repairs computer hardware, software, personal computer networks, or peripheral equipment.

(b) Terms defined in Sections 76-1-101.5 and 76-5b-103 apply to this section.

(2) An actor commits failure to report child sexual abuse material by a computer technician if:

(a) the actor is a computer technician;

(b) in the actor's course of employment for compensation the actor views an image on a computer or other electronic device that:

(i) is child sexual abuse material;

(ii) appears to be child sexual abuse material; or

(iii) the actor reasonably believes is child sexual abuse material; and

(c) the actor willfully fails to immediately report the finding of the image to:

(i) a state or local law enforcement agency;

(ii) the Cyber Tip Line at the National Center for Missing and Exploited Children; or

(iii) an employee designated by the employer of the computer technician in accordance with Subsection (7).

(3) A violation of Subsection (2) a class B misdemeanor.

(4) The identity of the computer technician who reports an image that is or appears to be child sexual abuse material shall be confidential, except as necessary for the criminal

investigation and the judicial process.

(5)(a) If a computer technician makes or does not make a report under this section and is acting in good faith, the technician is immune from any criminal or civil liability related to reporting or not reporting the image.

(b) Good faith described in Subsection (5)(a) may be presumed from a computer technician's previous course of conduct when the computer technician has made appropriate reports.

(6) It is a defense to prosecution under this section that the computer technician did not report the image because the computer technician reasonably believed the image did not depict an individual younger than 18 years old.

[~~(3)~~] (7)(a) An employer of a computer technician may implement a procedure that requires:

(i) the computer technician report an image as is required under Subsection [~~(2)(a)~~] (2) to an employee designated by the employer to receive the report of the image; and

(ii) the designated employee to immediately forward the report provided by the computer technician to an agency [~~under Subsection (2)(a)(i)~~] described in Subsection (2)(c)(i).

(b) Compliance by the computer technician and the designated employee with the reporting process under Subsection [~~(3)(a)~~] (7)(a) is compliance with the reporting requirement of [~~this section~~] Subsection (2)(c) and establishes immunity under Subsection [~~(2)(d)~~] (5)(a).

[~~(4)~~] (8) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if the provider reports the image in compliance with 18 U.S.C. 2258A or a successor federal statute that requires reporting by a provider of an image of child sexual abuse material.

Section 170. Section **76-5c-101**, which is renumbered from Section 76-10-1201 is renumbered and amended to read:

CHAPTER 5c. PORNOGRAPHIC AND HARMFUL MATERIALS AND

PERFORMANCES

Part 1. General Provisions

[~~76-10-1201~~] 76-5c-101 . Definitions.

[~~For the purpose of~~] As used in this [~~part~~] chapter:

(1) "Blinder rack" means an opaque cover that covers the lower 2/3 of a material so that the lower 2/3 of the material is concealed from view.

(2) "Constructive awareness" means that:

(a) a reasonable inspection or observation by an individual under the circumstances would have disclosed the nature of the subject matter; and

(b) a failure to inspect or observe by the individual is either for the purpose of avoiding the disclosure or the individual is criminally negligent.

[~~(2)~~] (3) "Contemporary community standards" means those current standards in the vicinage where an offense alleged under this part has occurred, is occurring, or will occur.

(4) "Criminally negligent" means the same as that term is defined in Section 76-2-103.

[~~(3)~~] (5) "Distribute" means to transfer possession of [~~materials whether~~] a material with or without consideration.

[~~(4)~~] (6) "Exhibit" means to show.

[~~(5)~~] (7)(a) "Harmful to minors" means that quality of any description or representation, in whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it:

(i) taken as a whole, appeals to the prurient interest in sex of minors;

(ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(iii) taken as a whole, does not have serious value for minors.

(b) Serious value includes only serious literary, artistic, political, or scientific value for minors.

[~~(6)~~] (8)[~~(a)~~] "Knowingly," regarding material or a performance, means an awareness, whether actual awareness or constructive awareness, of the character of the material or performance.

[~~(b) As used in this Subsection (6), a person has constructive knowledge if a reasonable inspection or observation under the circumstances would have disclosed the nature of the subject matter and if a failure to inspect or observe is either for the purpose of~~

~~avoiding the disclosure or is criminally negligent as described in Section 76-2-103.~~]

[~~(7)~~] (9)(a) "Material" means anything printed or written or any picture, drawing, photograph, motion picture, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or may be used as a means of communication.

(b) "Material" includes undeveloped photographs, molds, printing plates, and other latent representational objects.

[~~(8)~~] (10) "Minor" means [~~any person less~~] an individual younger than 18 years [~~of age~~] old.

[~~(9)~~] (11) "Negligently" means simple negligence, the failure to exercise that degree of care that a reasonable and prudent person would exercise under like or similar circumstances.

[~~(10)~~] (12) "Nudity" means:

(a) the showing of the human male or female genitals, pubic area, or buttocks, with less than an opaque covering;

(b) the showing of a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(c) the depiction of covered male genitals in a discernibly turgid state.

[~~(11)~~] (13) "Performance" means any physical human bodily activity, whether engaged in alone or with other [~~persons~~] individuals, including singing, speaking, dancing, acting, simulating, or pantomiming.

(14) "Pornographic" means:

(a) the average individual, applying contemporary community standards, finds that, taken as a whole, the material or performance appeals to prurient interest in sex;

(b) the material or performance is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

(c) taken as a whole the material or performance does not have serious literary, artistic, political, or scientific value.

[~~(12)~~] (15) "Public place" includes a place to which admission is gained by payment of a membership or admission fee, however designated, notwithstanding its being designated a private club or by words of like import.

[~~(13)~~] (16) "Sadomasochistic abuse" means:

(a) flagellation or torture by or upon a person who is nude or clad in undergarments, a mask, or in a revealing or bizarre costume; or

(b) the condition of being fettered, bound, or otherwise physically restrained on the part of [~~a person~~] an individual clothed as described in Subsection [~~(13)(a).~~] (14)(a).

[~~(14)~~] (17) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of [~~a person's~~] an individual's clothed or unclothed genitals, pubic area, buttocks, or, if the [~~person~~] individual is a female, breast, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent or actual sexual stimulation or gratification.

[~~(15)~~] (18) "Sexual excitement" means a condition of human male or female genitals when in a state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

Section 171. Section **76-5c-102**, which is renumbered from Section 76-10-1203 is renumbered and amended to read:

[~~76-10-1203~~] 76-5c-102 . Evidence related to a material's or performance's literary, artistic, political, or scientific value.

[~~(1) Any material or performance is pornographic if:~~]

[~~(a) The average person, applying contemporary community standards, finds that, taken as a whole, it appeals to prurient interest in sex;~~]

[~~(b) It is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and~~]

[~~(c) Taken as a whole it does not have serious literary, artistic, political or scientific value.~~]

[~~(2)~~] (1) In [~~prosecutions~~] a prosecution under this [~~part~~] chapter, where circumstances of production, presentation, sale, dissemination, distribution, exhibition, or publicity indicate that the matter is being commercially exploited by the [~~defendant~~] actor for the sake of [~~its~~] the matter's prurient appeal, this evidence is probative with respect to the nature of the matter and can justify the conclusion that, in the context in which [~~it~~] the matter is used, the matter has no serious literary, artistic, political, or scientific value.

[~~(3)~~] (2) [~~Neither the prosecution nor the defense shall be~~] In a prosecution under this chapter neither the prosecution or the defense is required to introduce expert witness testimony to testify as to whether [~~the~~] a material or performance is or is not harmful to adults or minors or is or is not pornographic, or as to any element of the definition of pornographic, including contemporary community standards.

Section 172. Section **76-5c-103**, which is renumbered from Section 76-10-1210 is renumbered and amended to read:

[~~76-10-1210~~] 76-5c-103 . Relation to other state and local laws.

(1)[~~(a) It is not the intent of this part to prescribe or limit the regulation of pornographic~~

~~materials or materials harmful to minors, and counties, cities, and other political subdivisions are specifically given the right to further regulate the materials.~~]

[~~(b)~~] (a) A county, city, or other political subdivision has the right to regulate pornographic materials or materials harmful to minors as this chapter does not proscribe or limit the regulation of pornographic materials or materials harmful to minors by a county, city, or other political subdivision.

(b) Without limitation, a political subdivision may further regulate pornographic materials or materials harmful to minors by ordinances relating to:

(i) zoning;

(ii) licensing;

(iii) public nuisances;

(iv) a specific type of business such as adult bookstores or drive-in movies; or

(v) use of blinder racks.

(2) [~~It is not the intent of this part to~~] This chapter does not preclude the application of other laws of this state to pornographic materials or materials harmful to minors[~~. Specifically~~] and, without limitation, this [~~part~~] chapter is not in derogation of [~~Sections 76-10-803~~] Subsection 76-9-1301(2) and [~~76-10-806~~] Section 76-9-1306.

(3)(a) The commission of a crime under this [~~part shall be considered to offend~~] chapter offends public decency under [~~Section 76-10-803~~] Subsection 76-9-1301(2).

(b) It is the intent of this [~~part~~] chapter to give the broadest meaning permissible under the [~~federal and state constitutions~~] United States Constitution and the Utah Constitution to the words "offends public decency" in [~~Section 76-10-803~~] Subsection 76-9-1301(2).

Section 173. Section **76-5c-104**, which is renumbered from Section 76-10-1209 is renumbered and amended to read:

[~~76-10-1209~~] 76-5c-104 . Injunctive relief -- Jurisdiction -- Consent to be sued.

(1)(a) [~~The district courts of this state shall have~~] Subject to Subsections (1)(b), (c), (d), and (e), a district court has full power, authority, and jurisdiction, upon application by any county attorney or city attorney within [~~their~~] the county attorney's or city attorney's respective jurisdictions or the attorney general, to issue any and all proper restraining orders, preliminary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this [~~part~~] chapter.

(b) No restraining order or injunction, however, shall issue except upon notice to the person sought to be enjoined.

(c) [~~That~~] The person [~~shall be~~] sought to be enjoined is entitled to a trial of the issues commencing within three days after [~~filing of an~~] the day on which the answer to the complaint is filed and a decision [~~shall be rendered by the court~~] by the court is required to be rendered within two days after the conclusion of the trial.

(d) If a final order or judgment of injunction is entered against the person sought to be enjoined, this final order or judgment shall contain a provision directing the person to surrender to the sheriff of the county in which the action was brought any pornographic material in the person's possession which is subject to the injunction[~~;~~ ~~and the~~] .

(e) The sheriff receiving the material described in Subsection (1)(d) shall be directed to seize and destroy [~~this~~] the material.

(2) Any person not qualified to do business in the state who sends or brings any pornographic material into the state with the intent to distribute or exhibit [~~it~~] the pornographic material to others in this state consents that the person may be sued in any proceedings commenced under this section.

Section 174. Section **76-5c-105**, which is renumbered from Section 76-10-1207 is renumbered and amended to read:

[~~76-10-1207~~] 76-5c-105 . Lease void if property used for conduct prohibited by chapter.

(1) If a tenant or occupant of real property uses [~~this~~] the real property for an activity for which [~~he or his~~] the tenant or occupant or tenant's or occupant's employee is convicted under any provision of this [~~part~~] chapter, the conviction makes void the lease or other title under which [~~he~~] the tenant or occupant holds at the option of the fee owner or any intermediate lessor[~~;~~] .

(2) [~~and 10~~] Subject to Subsection (3), ten days after the day on which the fee owner or [~~any~~] intermediate lessor gives notice in writing to the tenant or occupant that [~~he~~] the fee owner or intermediate lessor is exercising the option to void the lease or other title as described in Subsection (1), the right of possession to the property reverts [~~in~~] to the [~~person~~] fee owner or intermediate lessor exercising the option.

(3) [~~This~~] The fee owner's or intermediate lessor's option described in Subsection (2) does not arise until all avenues of direct appeal from the conviction have been exhausted or abandoned by the tenant or occupant, or [~~his~~] the tenant's or occupant's employee.

[~~(2) It shall be unlawful for a fee owner or intermediate lessor of real property to knowingly allow this property to be used for the purpose of distributing or exhibiting pornographic~~

~~materials, or for pornographic performances, by a tenant or occupant if the tenant or occupant, or his employee, has been convicted under any provision of this part of an offense occurring on the same property and all avenues of direct appeal from the conviction have been exhausted or abandoned.~~]

[~~(a) "Allow" under this subsection (2) means a failure to exercise the option arising under subsection (1) within 10 days after the fee owner or lessor receives notice in writing from the county attorney of the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited by this subsection (2).~~]

[~~(b) A willful violation of this subsection (2) is a class A misdemeanor and any fine assessed, if not paid within 30 days after judgment, shall become a lien upon the property.~~]

[~~(3) Any tenant or occupant who receives a notice in writing that the fee owner or intermediate lessor is exercising the option provided by subsection (1) and who does not quit the premises within 10 days after the giving of that notice is guilty of a class A misdemeanor.~~]

Section 175. Section **76-5c-106**, which is renumbered from Section 76-10-1213 is renumbered and amended to read:

[~~76-10-1213~~] 76-5c-106 . Corporate defendants -- Summons -- Subpoena duces tecum.

(1)(a) The attendance in court [~~of~~] by a corporation for purposes of commencing or prosecuting a criminal action against [~~it~~] the corporation under this [~~part~~] chapter may be accomplished by the issuance and service of a summons[~~. A summons shall be~~] issued by a magistrate if [~~he~~] the magistrate finds probable cause that material in the possession of the corporation [~~against which the summons is sought~~]is pornographic or harmful to minors, which finding shall be upon affidavit describing with specificity the material alleged to be pornographic or harmful to minors or by another manner or means the magistrate finds necessary.

(b) Where practical, the material alleged to be pornographic or harmful to minors shall be attached to the affidavit [~~so as~~] described in Subsection (1)(a) to [~~afford~~] provide the magistrate with the opportunity to examine [~~this~~] the material.

(c) The summons must be served upon the corporation by delivery of [~~it~~] the summons to an officer, director, managing or general agent, or cashier, or assistant cashier of the corporation.

(2) The production of material alleged to be pornographic or harmful to minors in any proceedings under this [~~part~~] chapter against a corporation may be compelled by the issuance and service of a subpoena duces tecum.

(3) This section does not prohibit or limit the use of a subpoena duces tecum in proceedings against [~~natural persons~~] individuals under this [~~part~~] chapter.

Section 176. Section **76-5c-107**, which is renumbered from Section 76-10-1212 is renumbered and amended to read:

[~~76-10-1212~~] 76-5c-107 . Search and seizure -- Affidavit -- Issuance of warrant -- Hearing upon claim that material seized not pornographic or harmful to minors -- Procedures cumulative.

(1)(a) An affidavit for a search warrant shall be filed with [~~the~~] a magistrate describing with specificity the material sought to be seized.

(b) Where practical, the material alleged to be pornographic or harmful to minors shall be attached to the affidavit for a search warrant described in Subsection (1)(a) to [~~afford~~] provide the magistrate with the opportunity to examine [~~this~~] the material.

(2)(a) Upon the filing of an affidavit for a search warrant under Subsection (1), the magistrate shall determine, by examination of the material sought to be seized if attached, by examination of the affidavit describing the material, or by [~~other~~] another manner or means that [~~he~~] the magistrate finds necessary, whether probable cause exists to believe that the material is pornographic or harmful to minors and whether probable cause exists for the immediate issuance of a search warrant.

(b) Upon making [~~this~~] the determination[~~, he~~] that probable cause exists under Subsection (2)(a), the magistrate shall issue a search warrant ordering the seizure of the material described in the affidavit for a search warrant according to the provisions of the Utah Rules of Criminal Procedure.

(3)(a) If a search warrant is issued under Subsection (2) and the material alleged to be pornographic or harmful to minors is seized under the provisions of this section, any person claiming to be in possession of this material or claiming ownership of [~~it~~] the material at the time of [~~its~~] the material's seizure may file a notice in writing with the magistrate within 10 days after the [~~date of the seizure, alleging~~] day on which the material was seized, to assert that the material is not pornographic or harmful to minors.

(b) The magistrate shall set a hearing within seven days after the filing of [~~this notice~~] the notice described in Subsection (3)(a), or at another time [~~to which~~] with the consent of

the claimant[~~ might agree. At this hearing~~] , at which evidence may be presented [~~as to~~] regarding whether there is probable cause to believe that the material seized is pornographic or harmful to minors[~~, and at the conclusion of the hearing the magistrate shall make a further determination of whether probable cause exists to believe that the material is pornographic or harmful to minors~~].

(c)(i) [~~A~~] At the conclusion of the hearing described in Subsection (3)(b), the magistrate shall make a further determination of whether probable cause exists to believe that the material is pornographic or harmful to minors.

(ii) [~~decision as to whether there is probable cause to believe the seized material is pornographic or harmful to minors~~] The magistrate's determination described in Subsection (3)(c)(i) shall be rendered by the court within two days after [~~the conclusion of the hearing~~] the day on which the hearing described in Subsection (3)(b) concludes.

(d) If at the hearing described in Subsection (3)(b) the magistrate finds that no probable cause exists to believe that the material is pornographic or harmful to minors,[~~ then~~] the material shall be returned to the person[~~ or persons~~] from whom it was seized.

(e) If the material seized is a film, and the claimant demonstrates that no other copy of the film is available to [~~him~~] the claimant, the court shall allow the film to be copied at the claimant's expense pending the hearing described in Subsection (3)(b).

(4) If a motion to suppress the evidence is granted on the grounds of an unlawful seizure, the property shall be restored unless it is subject to confiscation as contraband, in which case [~~it~~] the property may not be returned.

(5)(a) Procedures under this section for the seizure of allegedly pornographic material or material harmful to minors are cumulative of all other lawful means of obtaining evidence as provided by the laws of this state.

(b) This section does not prevent the obtaining of allegedly pornographic material or material harmful to minors by purchase, subpoena duces tecum, or under injunction proceedings as authorized by this act or by any other provision of law of the state.

Section 177. Section **76-5c-108**, which is renumbered from Section 76-10-1215 is renumbered and amended to read:

[~~76-10-1215~~] 76-5c-108 . Prosecution by county, district, or city attorney.

(1) [~~Prosecution~~] Subject to Subsection (2), a prosecution for a violation [~~of any section of~~] of this [~~part~~] chapter, including for a felony violation, shall be brought by the county attorney or, if within a prosecution district, the district attorney of the county where the

violation occurs.

(2) If [~~the~~] a violation occurs[~~, however,~~] in a city of the first or second class, a prosecution may be brought by [~~either~~]the county attorney, district attorney, or city attorney, notwithstanding any provision of law limiting the powers of a city [~~attorneys.~~] attorney.

(3) [~~-~~]All fines imposed for [~~the~~] a violation of this [~~part~~] chapter shall be paid to the county or city [~~of~~] where the prosecuting attorney[~~, as the case may be~~] is located.

Section 178. Section **76-5c-109**, which is renumbered from Section 76-10-1208 is renumbered and amended to read:

[~~76-10-1208~~] 76-5c-109 . Affirmative defenses.

(1) It is an affirmative defense to a prosecution under this [~~part~~] chapter that the distribution of pornographic material is restricted to institutions or persons having scientific, educational, governmental, or other similar justification for possessing pornographic material.

(2) It is not a defense to a prosecution under this [~~part~~] chapter that the actor is a motion picture projectionist, usher, ticket-taker, bookstore employee, or otherwise is required to violate this [~~part~~] chapter incident to the [~~person's~~] actor's employment.

[~~(3) It is an affirmative defense to prosecution under Section 76-10-1206, 76-10-1227, or 76-10-1228 for displaying or exhibiting an outer portion of material, that the material is:~~]

[~~(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;~~]

[~~(b) placed behind a blinder rack; or~~]

[~~(c) displayed in an area from which a minor is physically excluded if the material cannot be viewed by the minor from an area in which a minor is allowed.~~]

Section 179. Section **76-5c-110**, which is renumbered from Section 76-10-1207.5 is renumbered and amended to read:

[~~76-10-1207.5~~] 76-5c-110 . Exemptions to chapter.

(1) This [~~part~~] chapter does not apply to the Department of Corrections or any treatment program by or under contract with the [~~department~~] Department of Corrections when the use of [~~sexually explicit~~]material that is pornographic is limited to the assessment or treatment of an offender as defined [~~under~~] in Section 64-13-1.

(2) A woman breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a violation of this chapter, irrespective of whether the woman's breast is covered during or incidental to feeding.

Section 180. Section **76-5c-111**, which is renumbered from Section 76-10-1211 is renumbered and amended to read:

[~~76-10-1211~~] 76-5c-111 . Severability clause.

[~~If any clause, sentence, paragraph, or part of this part or its application to any person or circumstance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder of this part or its application to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph, persons, or circumstances, or part thereof directly involved in the controversy in which the judgment shall have been rendered.~~]

(1) If any provision, part, section, or subsection of this chapter or the application of any provision, part, section, or subsection to any person or circumstance is held invalid by a final decision of a court, the remainder of this chapter shall be given effect without the invalid provision, part, section, or subsection or application.

(2) The provisions of this chapter are severable.

Section 181. Section **76-5c-201** is enacted to read:

Part 2. General Offenses

76-5c-201 . Definitions.

As used in this part:

(1) "Hosting company" means the same as that term is defined in Section 76-5c-401.

(2) "Internet service provider" means the same as that term is defined in Section 76-5c-401.

Section 182. Section **76-5c-202**, which is renumbered from Section 76-10-1204 is renumbered and amended to read:

[~~76-10-1204~~] 76-5c-202 . Distributing pornographic material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

[~~(1)~~] (2) [~~A person is guilty of~~] An actor commits distributing pornographic material [~~when the person~~] if the actor knowingly:

(a) sends or brings [~~any~~]pornographic material into the state with intent to distribute or exhibit [~~it~~] the pornographic material to [~~others~~] another individual;

(b) prepares, publishes, prints, or possesses [~~any~~]pornographic material with intent to distribute or exhibit [~~it~~] the pornographic material to [~~others~~] another individual;

(c) distributes or offers to distribute, or exhibits or offers to exhibit, [~~any~~]pornographic material to [~~others~~] another individual;

(d) writes, creates, or solicits the publication or advertising of pornographic material;

(e) promotes the distribution or exhibition of material the [~~person~~] actor represents to be

pornographic; or

(f) presents or directs a pornographic performance in [~~any~~] a public place or [~~any~~] a place exposed to public view or participates in that portion of the performance which makes [~~it~~] the performance pornographic.

[~~(2) Each distributing of pornographic material as defined in Subsection (1) is a separate offense.~~]

[~~(3) It is a separate offense under this section for:~~]

[~~(a) each day's exhibition of any pornographic motion picture film; and~~]

[~~(b) each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.~~]

[~~(4)~~] (3)(a) [~~An offense under this section committed by a person~~] Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony if the actor is 18 years old or older [~~is a third degree felony punishable by~~] and is subject to:

(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) [~~An offense under this section committed by a person~~] Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor is 16 or 17 years old[~~, is a class A misdemeanor~~].

(c) [~~An offense under this section committed by a person~~] A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 16 years old[~~, is a class B misdemeanor~~].

[~~(d) Subsection (4)(a) supersedes Section 77-18-105.~~]

[~~(5) A person 18 years old or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years old to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree felony and is subject to the penalties under Subsection (4)(a).~~]

(4) It is a separate offense under this section for:

(a) each day's exhibition of a pornographic motion picture film;

(b) each day in which a pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit the publication to another individual; or

(c) each act of distributing of pornographic material described in Subsection (2).

[~~(6)~~] (5)(a) This section does not apply to an Internet service provider[~~, as defined in~~

~~Section 76-10-1230,~~] if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company[~~, as defined in Section 76-10-1230,~~] if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

(6) Subsection (3)(a) supersedes Section 77-18-105.

Section 183. Section **76-5c-203** is enacted to read:

76-5c-203 . Aiding or abetting a minor in distributing pornographic material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits aiding or abetting a minor in distributing pornographic material if the actor:

(a) is 18 years old or older; and

(b) knowingly solicits, requests, commands, encourages, or intentionally aids a minor in:

(i) sending or bringing pornographic material into the state with intent to distribute or exhibit the pornographic material to another individual;

(ii) preparing, publishing, printing, or possessing pornographic material with intent to distribute or exhibit the pornographic material to another individual;

(iii) distributing or offering to distribute, or exhibiting or offering to exhibit, pornographic material to another individual;

(iv) writing, creating, or soliciting the publication or advertising of pornographic material;

(v) promoting the distribution or exhibition of material the minor represents to be pornographic; or

(vi) presenting or directing a pornographic performance in a public place or a place exposed to public view or participates in that portion of the performance which makes the performance pornographic.

(3) A violation of Subsection (2) is a third degree felony subject to:

(a) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(4)(a) Each act of distributing pornographic material described in Subsection (2) is a separate offense.

(b) It is a separate offense under this section for:

(i) each day's exhibition of any pornographic motion picture film; and

(ii) each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit the publication to another individual.

(5)(a) This section does not apply to an Internet service provider if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution

of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

(6) Subsection (3) supersedes Section 77-18-105.

Section 184. Section **76-5c-204**, which is renumbered from Section 76-10-1205 is renumbered and amended to read:

[~~76-10-1205~~] 76-5c-204 . Inducing acceptance of pornographic material.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

[~~(1)~~] (2) [~~A person is guilty of~~] An actor commits inducing acceptance of pornographic material [~~when he~~] if the actor knowingly:

(a) requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or

(b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.

[~~(2)~~] (3)[~~(a) An offense under this section~~] A violation of Subsection (2) is a third degree felony [~~punishable by~~] subject to:

[~~(i)~~] (a) a minimum mandatory fine of not less than $1,000 plus $10 for each article exhibited up to the maximum allowed by law; and

[~~(ii)~~] (b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

[~~(b) This Subsection (2) supersedes Section 77-18-105.~~]

[~~(3)~~] (4)(a) This section does not apply to an Internet service provider[~~, as defined in Section 76-10-1230,~~] if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company[~~, as defined in Section 76-10-1230,~~] if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

(5) Subsection (3) supersedes Section 77-18-105.

Section 185. Section **76-5c-205**, which is renumbered from Section 76-10-1206 is renumbered and amended to read:

[~~76-10-1206~~] 76-5c-205 . Distributing material harmful to minors.

[~~(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that an individual is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:~~]

[~~(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an individual whom the person believes to be a minor, any material harmful to minors;~~]

[~~(b) produces, performs, or directs any performance, before a minor or an individual whom the person believes to be a minor, that is harmful to minors; or~~]

[~~(c) participates in any performance, before a minor or an individual whom the person believes to be a minor, that is harmful to minors.~~]

[~~(2)(a) Except as provided in Subsection (2)(b), each separate offense under this section committed by a person 18 years old or older is a third degree felony punishable by:~~]

[~~(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and~~]

[~~(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.~~]

[~~(b) Each separate offense under this section committed by a person 18 years old or older against a minor 16 years old or older, but younger than 18 years old, is a class A misdemeanor if the person is less than seven years older than the minor at the time~~

~~of the offense.~~]

[~~(c) Each separate offense under this section committed by a person 16 or 17 years old is a class A misdemeanor.~~]

[~~(d) Each separate offense under this section committed by a person younger than 16 years old is a class B misdemeanor.~~]

[~~(e) Subsection (2)(a) supersedes Section 77-18-105.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits distributing material harmful to minors if the actor:

(a)(i) intentionally distributes or offers to distribute, or exhibits or offers to exhibit, material harmful to minors to an individual;

(ii) intentionally produces, performs, or directs any performance, before an individual that is harmful to minors; or

(iii) intentionally participates in a performance before an individual that is harmful to minors; and

(b)(i) knows or believes the individual described in Subsection (2)(a) is a minor; or

(ii) negligently fails to determine if the individual described in Subsection (2)(a) is a minor and the individual is a minor.

(3)(a) Except as provided in Subsection (3)(b), (c), (d), or (e), a violation of Subsection (2) is a second degree felony if the actor is 18 years old or older and has previously been convicted or adjudicated of a violation of Subsection (2) and is subject to:

(i) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) Except as provided in Subsection (3)(c), (d), or (e), a violation of Subsection (2) is a third degree felony if:

(i) the actor is 18 years old or older and is subject to:

(A) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(B) incarceration, without suspension of sentence, for a term of not less than 14 days; or

(ii) the actor is younger than 18 years old and has previously been convicted of a violation of Subsection (2).

(c) Except as provided in Subsection (3)(d) or (e), a violation of Subsection (2) is a class A misdemeanor if the actor is 18 years old or older and the minor described in

Subsection (2) is 16 years old or older, but younger than 18 years old, and the actor is less than seven years older than the minor at the time of the offense.

(d) Except as provided in Subsection (3)(e), a violation of Subsection (2) is a class A misdemeanor if the actor is 16 years old or 17 years old.

(e) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 16 years old.

[~~(3)(a) Except for a defendant described in Subsection (2)(b), if a defendant 18 years old or older has been previously convicted or adjudicated by the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:~~]

[~~(i) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and~~]

[~~(ii) incarceration, without suspension of sentence, for a term of not less than one year.~~]

[~~(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years old has been previously convicted or adjudicated by the juvenile court under this section, each separate subsequent offense is a third degree felony.~~]

[~~(c) Subsection (3)(a) supersedes Section 77-18-105.~~]

[~~(d)~~(i)]

(4)(a) This section does not apply to an Internet service provider[~~, as defined in Section 76-10-1230~~], a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

[~~(A)~~] (i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

[~~(I)~~] (A) transmitting or routing data from one person to another person; or

[~~(II)~~] (B) providing a connection between one person and another person;

[~~(B)~~] (ii) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

[~~(C)~~] (iii) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the

pornographic material.

[~~(ii)~~] (b) This section does not apply to a hosting company[~~, as defined in Section 76-10-1230,~~] if:

[~~(A)~~] (i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

[~~(B)~~] (ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

[~~(C)~~] (iii) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

[~~(4) A service provider, as defined in Section 76-10-1230,~~]

(5) An Internet service provider is not negligent under this section if the Internet service provider complies with Section [~~76-10-1231~~] 76-5c-402.

[~~(5) A person 18 years old or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years old to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).~~]

(6) It is an affirmative defense to a prosecution for a violation of this section if the violation arises from displaying or exhibiting an outer portion of material that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c)(i) displayed in an area from which a minor is physically excluded; and

(ii) the material cannot be viewed by the minor from an area where the minor is allowed.

(7) Subsections (3)(a) and (3)(b)(i) supersede Section 77-18-105.

Section 186. Section **76-5c-206** is enacted to read:

76-5c-206 . Aiding or abetting a minor in distributing material harmful to minors.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits aiding or abetting a minor in distributing material harmful to minors if:

(a) the actor is 18 years old or older; and

(b) the actor knowingly solicits, requests, commands, encourages, or intentionally aids a minor to:

(i) intentionally distribute or offer to distribute, or exhibit or offer to exhibit, material harmful to minors to an individual;

(ii) intentionally produce, perform, or direct any performance, before an individual that is harmful to minors; or

(iii) intentionally participate in any performance, before an individual that is harmful to minors; and

(c)(i) the minor described in Subsection (2)(b) knows or believes the individual described in Subsections (2)(b)(i) through (iii) is a minor; or

(ii) the minor described in Subsection (2)(b) negligently fails to determine if the individual described in Subsections (2)(b)(i) through (iii) is a minor and the individual is a minor.

(3) A violation of Subsection (2) is a third degree felony subject to:

(a) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(b) incarceration, without suspension of sentence, for a term of not less than one year.

(4)(a) This section does not apply to an Internet service provider, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(5) An Internet service provider is not negligent under this section if the Internet service provider complies with Section 76-5c-402.

(6) It is an affirmative defense to prosecution for a violation of this section if the violation arises from displaying or exhibiting an outer portion of material that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c)(i) displayed in an area from which a minor is physically excluded; and

(ii) the material cannot be viewed by the minor from an area where the minor is allowed.

(7) Subsection (3) supersedes Section 77-18-105.

Section 187. Section **76-5c-207**, which is renumbered from Section 76-10-1228 is renumbered and amended to read:

[~~76-10-1228~~] 76-5c-207 . Indecent public display in the presence of a minor.

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

(i) "Description or depiction of illicit sex or sexual immorality" means:

(A) human genitals in a state of sexual stimulation or arousal;

(B) acts of human masturbation, sexual intercourse, or sodomy;

(C) fondling or other erotic touching of human genitals or pubic region; or

(D) fondling or other erotic touching of the human buttock or female breast.

(ii) "Serious value" means having serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.

(iii) "Nude or partially denuded figure" means:

(A) less than completely and opaquely covering human:

(I) genitals;

(II) pubic regions;

(III) buttocks; or

(IV) female breasts below a point immediately above the top of the areola; or

(B) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

[~~(1) Subject to the affirmative defense in Subsection 76-10-1208(3), a person is guilty of a class A misdemeanor who~~]

(2) An actor commits indecent public display in the presence of a minor if the actor willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to a minor or has in the [~~person's~~] actor's possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to a minor any material with:

(i) a description or depiction of illicit sex or sexual immorality; or

(ii) a nude or partially denuded figure; or

(b) publicly displays at [~~newsstands~~] a newsstand or [~~any other~~] another establishment frequented by minors, or where the minors are or may be invited as a part of the general public[~~,~~] :

(i)(A) [~~any~~] a motion picture[~~, or~~] ;

(B) [~~any~~] a live, taped, or recorded performance[~~, or~~] ;

(C) [~~any~~] a still picture or photograph[~~,~~] ; or

(D) [~~any~~] a book, pocket book, pamphlet, or magazine[~~ the cover or content of which:~~] ; and

[~~(i)~~] (ii) the cover or content of the items described in Subsection (2)(b)(i):

(A) exploits, is devoted to, or is principally made up of [~~one or more descriptions or depictions~~] a description or depiction of illicit sex or sexual immorality; or

[~~(ii)~~] (B) consists of [~~one or more pictures~~] a picture of nude or partially denuded figures.

[~~(2)~~] (3)[~~(a)~~] A violation of this section is [~~punishable by~~] a class A misdemeanor subject to:

[~~(i)~~] (a) a minimum mandatory fine of not less than $500; and

[~~(ii)~~] (b) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

[~~(b) This section supersedes Section 77-18-105.~~]

(4) It is an affirmative defense to prosecution for a violation of this section if the violation arises from displaying or exhibiting an outer portion of material that the material is:

(a) in a sealed opaque wrapper that covers at least the lower 2/3 of the material so that the lower 2/3 of the material is concealed from view;

(b) placed behind a blinder rack; or

(c)(i) displayed in an area from which a minor is physically excluded; and

(ii) the material cannot be viewed by the minor from an area where the minor is allowed.

(5) This section does not apply to any material which, when taken as a whole, has serious value for minors, however, a description or depiction of illicit sex or sexual immorality has no serious value for minors.

(6) This section supersedes Section 77-18-105.

Section 188. Section **76-5c-208**, which is renumbered from Section 76-10-1235 is renumbered and amended to read:

[~~76-10-1235~~] 76-5c-208 . Creating, viewing, or accessing pornographic or indecent material on school property.

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

(i) "Description or depiction of illicit sex or sexual immorality" means the same as that term is defined in Section 76-5c-207.

(ii) "Nude or partially denuded figure" means the same as that term is defined in Section 76-5c-207.

[~~(a)~~] (iii) "Pornographic or indecent material" means any material that:

[~~(i)~~] (A) [~~defined as~~] is harmful to minors[~~ in Section 76-10-1201~~];

[~~(ii)~~] (B) [~~described as~~] is pornographic[~~ in Section 76-10-1203; or~~] ;

[~~(iii) described in Section 76-10-1227~~]

(C) is a description of or depiction of illicit sex or sexual immorality; or

(D) contains a nude or partially denuded figure.

[~~(b)~~] (iv) "School property" means property, including land and improvements, that a school district or charter school owns, leases, or occupies.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) [~~Except as provided in Subsection (3), a person is guilty of~~] Under circumstances not amounting to an offense listed in Subsection (4), an actor commits creating, viewing, or accessing pornographic or indecent material on school property [~~when~~] if the [~~person~~] actor willfully or knowingly creates, views, or otherwise gains access to pornographic or indecent material while present on school property[~~, under circumstances not amounting to an attempted or actual violation of:~~] .

[~~(a) distributing pornographic material as specified in Section 76-10-1204;~~]

[~~(b) inducing acceptance of pornographic material as specified in Section 76-10-1205;~~]

[~~(c) dealing in material harmful to a minor as specified in Section 76-10-1206; or~~]

[~~(d) indecent public displays as specified in Section 76-10-1228.~~]

[~~(3) This section does not apply to school or law enforcement personnel when the access to pornographic or indecent material on school property is limited to:~~]

[~~(a) investigation of a violation of this section; or~~]

[~~(b) enforcement of this section.~~]

[~~(4) Each separate offense under this section is:~~]

[~~(a) a class A misdemeanor if the person is 18 years of age or older; and~~]

[~~(b) a class B misdemeanor if the person is under 18 years of age.~~]

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor if the actor is 18 years old or older.

(b) A violation of Subsection (2) is a class B misdemeanor if the actor is younger than 18 years old.

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

(a) distributing pornographic material as described in Section 76-5c-202;

(b) aiding or abetting a minor in distributing pornographic material as described in Section 76-5c-203;

(c) inducing acceptance of pornographic material as described in Section 76-5c-204;

(d) distributing material harmful to minors as described in Section 76-5c-205;

(e) aiding or abetting a minor in distributing material harmful to minors as described in Section 76-5c-206; or

(f) indecent public display in the presence of a minor as described in Section 76-5c-207.

(5) This section does not:

(a) prohibit disciplinary action for actions that violate this section[~~.~~] ; or

(b) apply to school or law enforcement personnel when the school or law enforcement personnel views or otherwise gains access to pornographic or indecent material while

on school property for the limited purpose of:

(i) investigating a violation of this section; or

(ii) enforcing this section.

Section 189. Section **76-5c-209**, which is renumbered from Section 76-10-1236 is renumbered and amended to read:

[~~76-10-1236~~] 76-5c-209 . Possession of a child sex doll.

(1)(a) As used in this section, "child sex doll" means a doll, mannequin, or robot:

[~~(a)~~] (i) [~~an~~] that is anatomically correct[~~, doll, mannequin, or robot~~], with the features of, or with features that resemble those of, a minor; and

[~~(b)~~] (ii) that is intended for use in sexual acts.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits [~~the offense of~~]possession of a child sex doll if the actor knowingly or intentionally possesses a child sex doll.

(3) A violation of Subsection (2) is a class A misdemeanor, with a mandatory fine of not less than $2,500.

Section 190. Section **76-5c-210**, which is renumbered from Section 76-10-1237 is renumbered and amended to read:

[~~76-10-1237~~] 76-5c-210 . Distributing or purchasing a child sex doll.

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

[~~(a)~~] (i) "Child sex doll" means the same as that term is defined in Section [~~76-10-1236~~] 76-5c-209.

[~~(b)~~] (ii) "Distribute" means to sell, or with or without consideration, offer to sell, advertise, provide, ship, deliver for shipment, offer to deliver for shipment, or transfer.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits [~~the offense of~~]distributing or purchasing a child sex doll if the actor knowingly, intentionally, or recklessly distributes, purchases, or offers to purchase a child sex doll.

(3) A violation of Subsection (2) is a third degree felony, with a mandatory fine of not less than $10,000.

Section 191. Section **76-5c-211**, which is renumbered from Section 76-10-1238 is renumbered and amended to read:

[~~76-10-1238~~] 76-5c-211 . Deactivation of a pornography device filter on a minor's device.

[~~(1)(a) An adult individual, other than the parent or legal guardian of the minor in possession of a device, who intentionally disables the filter required under Section 78B-6-2602 on a device in possession of a minor for the purpose of disseminating pornography to the minor, commits a class A misdemeanor.~~]

[~~(b) For each offense of Subsection (1)(a), the violator is subject to a fine in an amount not to exceed $2,500.~~]

[~~(2) A person who has a prior conviction under this section, who commits a subsequent violation of Subsection (1)(a), is guilty of a third degree felony and shall, for each separate offense, be fined in an amount not to exceed $5,000 and may be imprisoned for zero to five years.~~]

(1)(a) As used in this section, "device" means the same as that term is defined in 78B-6-2601.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits deactivation of a pornography device filter on a minor's device if the actor:

(a) is 18 years old or older;

(b) intentionally disables the filter required under Section 78B-6-2602 that is on a device in the possession of a minor;

(c) disabled the filter for the purpose of disseminating pornography to the minor described in Subsection (2)(b); and

(d) is not the parent or legal guardian of the minor described in Subsection (2)(b).

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor subject to a fine of not more than $2,500.

(b) A violation of Subsection (2) is a third degree felony subject to a fine of not more than $5,000 if the actor has previously been convicted of a violation of Subsection (2).

Section 192. Section **76-5c-212** is enacted to read:

76-5c-212 . Fee owner or intermediate lessor allowing real property to be used for illicit pornographic purposes.

(1)(a) As used in this section, "allow" means a failure to exercise the option to void the lease or other title described in Section 76-5c-105 within 10 days after the day on which the fee owner or lessor receives notice in writing from the county attorney of

the county where the property is situated, or if situated in a city of the first or second class, from the city attorney of that city, that the property is being used for a purpose prohibited under this chapter.

(b) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits fee owner or intermediate lessor allowing real property to be used for pornographic purposes if:

(a) the actor is a fee owner or intermediate lessor of real property;

(b) the actor knowingly allows the real property described in Subsection (2)(a) to be used by a tenant or occupant, or a tenant's or occupant's employee, for the purpose of distributing or exhibiting pornographic materials, or for pornographic performances; and

(c) the tenant or occupant, or the tenant's or occupant's employee, has been convicted of a violation of this chapter for an offense that occurred on the property and all avenues of direct appeal from the conviction have been exhausted or abandoned.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Any fine assessed for a conviction under this section becomes a lien upon the real property described in Subsection (2)(a), if the fine is not paid within 30 days after the day on which the judgment is entered.

Section 193. Section **76-5c-213** is enacted to read:

76-5c-213 . Tenant or occupant failing to exit real property after using the property for pornographic purposes.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits tenant or occupant failing to exit real property after using the property for pornographic purposes if the actor:

(a) is a tenant or occupant of real property;

(b) received notice in writing that the fee owner or intermediate lessor of the real property is exercising the option to void the lease or other title described in Section 76-5c-105; and

(c) does not permanently exit the premises within 10 days after the day on which the actor received the notice described in Subsection (2)(b).

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 194. Section **76-5c-214**, which is renumbered from Section 76-10-1214 is renumbered and amended to read:

[~~76-10-1214~~] 76-5c-214 . Conspiracy to commit a pornographic or harmful materials violation.

[~~(1)(a) A conspiracy of two or more persons to commit any offense proscribed by this part is a third degree felony punishable for each separate offense by a minimum mandatory fine of not less than $1,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than 60 days.~~]

[~~(b) This subsection supersedes Section 77-18-105.~~]

[~~(2)(a) If a defendant has already been convicted once under this section, each separate further offense is a second degree felony punishable by a minimum mandatory fine of not less than $5,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than one year.~~]

[~~(b) This subsection supersedes Section 77-18-105.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-201 apply to this section.

(2) An actor commits conspiracy to commit a pornographic or harmful materials violation if the actor conspires with two or more persons to commit a violation of this chapter.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony subject to:

(i) a minimum mandatory fine of not less than $1,000; and

(ii) incarceration, without suspension of the sentence in any way, for a term of not less than 60 days.

(b) A violation of Subsection (2) is a second degree felony if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a minimum mandatory fine of not less than $5,000; and

(ii) incarceration, without suspension of the sentence in any way, for a term of not less than one year.

(4) Subsection (3) supersedes Section 77-18-105.

Section 195. Section **76-5c-301**, which is renumbered from Section 76-10-1216 is renumbered and amended to read:

Part 3. Distribution and Exhibition of Motion Picture Films

[~~76-10-1216~~] 76-5c-301 . Definitions.

As used in this [~~act~~] part:

(1) "Exhibit" means to show in a public place or in a place where the public is admitted, whether or not an admission fee is charged.

(2)(a) "Distributor" means [~~any~~] a person from which a film is acquired by sale, lease,

loan, or any other means, directly or indirectly, for the purpose of exhibiting [~~it~~] the film in this state or elsewhere.

(b) [~~but shall~~] "Distributor" does not include [~~any~~] a person whose function with respect to [~~any~~] a film is limited to the transportation or storage [~~thereof~~] of the film.

(3) "Film" means what is usually known as a motion picture film and [~~which~~] that is intended to be shown commercially for profit by devices of any kind whatsoever.

(4) "Person" includes [~~a natural person~~] an individual, firm, association, partnership, or corporation.

(5) "Public place" includes [~~any~~] a place [~~to which~~] that admission is gained by payment of a membership or admission fee, however designated, notwithstanding it is designated as a private club or by words of like import.

Section 196. Section **76-5c-302**, which is renumbered from Section 76-10-1217 is renumbered and amended to read:

[~~76-10-1217~~] 76-5c-302 . Intent of part -- Exemptions from part.

(1) It is the intent of this [~~act~~] part to prevent the commercial distribution and exhibition of films in this state which are pornographic.[–]

(2) [~~There~~] The Legislature finds that there is substantial evidence that elements of organized crime have engaged to an increasing degree in the production and distribution of [~~such~~] pornographic films and, therefore, it is the further intent of this [~~act~~] part to facilitate the criminal prosecution of distributors of pornographic films.

[~~(2)~~] (3) It is not the intent of this [~~act~~] part to:

(a) [-]limit the regulation of films by counties, cities, towns, and other political subdivisions [~~within~~] of the state, [~~and these~~] as these political subdivisions are specifically given the right by this [~~act~~] part to further regulate films[~~. Nor is it the intent of this act to~~] ; or

(b) limit or abridge the power to otherwise prosecute violations of any other provisions of law including[~~, but not limited to,~~] those provisions of [~~Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances~~] this chapter.

(4) This part does not apply to a film:

(a) distributed to or exhibited by any accredited university, college, school, library, or other educational institution, church, or museum, if there is scientific, religious, or educational justification for the exhibition of the film; or

(b) exhibited by the Department of Corrections or exhibited as part of any treatment program operated by or under contract with the department if the exhibition of the

film is solely for the assessment or treatment of an offender as defined under Section 64-13-1.

Section 197. Section **76-5c-303**, which is renumbered from Section 76-10-1219 is renumbered and amended to read:

[~~76-10-1219~~] 76-5c-303 . Qualification for distribution of films.

(1) A distributor [~~which~~] that is a corporation shall be qualified to distribute films within this state if:

(a) [~~it~~] the corporation is a domestic corporation in good standing or a foreign corporation authorized to transact business in this state; and

(b) [~~it~~] the corporation submits [~~itself~~] the corporation to the jurisdiction and laws of this state relating to being a distributor in this state.

(2) A distributor which is not a corporation shall be qualified to distribute films within this state if:

(a) [~~it~~] the distributor has and continuously maintains a registered office in this state; and

(b) [~~it~~] the distributor has a registered agent whose business address is at that registered office and which is either an individual residing and domiciled in this state, a domestic corporation in good standing, or a foreign corporation authorized to transact business in this state.

(3) This section [~~shall~~] does not affect the right to serve [~~any~~]process, a notice, or a demand, required or permitted by law to be served upon a distributor, in any other manner provided by law.

Section 198. Section **76-5c-304**, which is renumbered from Section 76-10-1220 is renumbered and amended to read:

[~~76-10-1220~~] 76-5c-304 . Change of registered office or agent by film distributor -- Service of process, notice, or demand on registered agent.

(1) A distributor qualified to distribute films in this state may change [~~its~~] the distributor's registered office or registered agent in accordance with Title 16, Chapter 17, Model Registered Agents Act.

(2) Any process, notice, or demand required or permitted by law to be served upon the distributor may be served upon the registered agent of that distributor.

Section 199. Section **76-5c-305**, which is renumbered from Section 76-10-1222 is renumbered and amended to read:

[~~76-10-1222~~] 76-5c-305 . Distribution of a pornographic film for exhibition.

[~~(1) Any person who knowingly or by criminal negligence distributes for exhibition within~~

~~this state a film which is pornographic as that term is defined in the Utah criminal code shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined not less than $1,000 and imprisoned, without suspension of sentence in any way, for a term of not less than 60 days.~~]

[~~(2) Any person convicted of a violation of this section who has been convicted before of a violation of this section, shall be guilty of a felony of the third degree and shall, for each separate offense, be fined not less than $5,000 and imprisoned, without suspension of sentence in any way, for a term of not less than six months.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

(2) An actor commits distribution of a pornographic film for exhibition if the actor knowingly or with criminal negligence distributes a film for exhibition that is pornographic.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor subject to:

(i) a fine not less than $1,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 60 days.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a fine not less than $5,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than six months.

(4) It is an affirmative defense to a prosecution under this section that the distribution or exhibition of a film is exempt from the restrictions of this part described in Section 76-5c-302.

(5) It is not a defense to a prosecution under this section that the actor was a motion picture projectionist or was otherwise required by the actor's employment to commit the violation.

[~~(3)~~] (6) Each copy of a pornographic film distributed for exhibition [~~within this state~~]in violation of this section [~~shall constitute~~] is a separate offense.

Section 200. Section **76-5c-306**, which is renumbered from Section 76-10-1223 is renumbered and amended to read:

[~~76-10-1223~~] 76-5c-306 . Distributing a film without being qualified.

[~~(1) Any person who knowingly distributes any film for exhibition within this state without~~

~~being qualified to do so, or who knowingly exhibits a film in this state which has not been acquired from a distributor qualified to distribute films in this state is guilty of a class B misdemeanor and shall, for each separate offense, be fined not less than $299 and imprisoned, without suspension of sentence in any way, for a term of not less than 30 days.~~]

[~~(2) Any person convicted of a violation of this section, who has been convicted before of a violation of this section, shall be guilty of a class A misdemeanor and shall, for each separate offense, be fined not less than $1,000 and imprisoned, without suspension of sentence in any way, for a term of not less than 60 days.~~]

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

(2) An actor commits distributing a film without being qualified if the actor knowingly:

(a) distributes a film for exhibition; and

(b) is not qualified to distribute a film for exhibition.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor subject to:

(i) a fine not less than $299; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a fine not less than $1,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 60 days.

(4) It is an affirmative defense to a prosecution under this section that the distribution of a film is exempt from the restrictions of this part described in Section 76-5c-302.

(5) It is not a defense to a prosecution under this section that the actor was a motion picture projectionist or was otherwise required by the actor's employment to commit the violation.

[~~(3)~~] (6) Each day's exhibition of [~~such~~]a film, and each copy of a film distributed for exhibition [~~within this state, shall constitute~~] in violation of this section is a separate offense.

Section 201. Section **76-5c-307** is enacted to read:

76-5c-307 . Improperly exhibiting a film.

(1) Terms defined in Sections 76-1-101.5, 76-5c-101, and 76-5c-301 apply to this section.

(2) An actor commits improperly exhibiting a film if the actor knowingly:

(a) exhibits a film; and

(b) did not acquire the film from a distributor qualified to distribute a film.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor subject to:

(i) a fine not less than $299; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2) and is subject to:

(i) a fine not less than $1,000; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 60 days.

(4) It is an affirmative defense to a prosecution under this section that the distribution or exhibition of a film is exempt from the restrictions of this part described in Section 76-5c-302.

(5) It is not a defense to a prosecution under this section that the actor was a motion picture projectionist or was otherwise required by the actor's employment to commit the violation.

(6) Each day's exhibition of a film exhibited in violation of this section is a separate offense.

Section 202. Section **76-5c-401**, which is renumbered from Section 76-10-1230 is renumbered and amended to read:

Part 4. Requirements and Penalties for Content and Internet Providers

[~~76-10-1230~~] 76-5c-401 . Definitions.

As used in [~~Sections 76-10-1231 and 76-10-1233~~] this part:

(1) "Consumer" means an individual residing in this state who subscribes to a service provided by a service provider for personal or residential use.

(2) "Content provider" means a person domiciled in Utah or that generates or hosts content in Utah, and that creates, collects, acquires, or organizes electronic data for electronic delivery to a consumer with the intent of making a profit.

(3)(a) "Hosting company" means a person that provides services or facilities for storing or distributing content over the Internet without editorial or creative alteration of the content.

(b) A hosting company may have policies concerning acceptable use without becoming

a content provider under Subsection (2).

(4) "Internet service provider" means a person engaged in the business of providing broadband Internet access service, with the intent of making a profit, to consumers in Utah.

(5) "Properly rated" means content using a labeling system to label material harmful to minors provided by the content provider in a way that:

(a) accurately apprises a consumer of the presence of material harmful to minors; and

(b) allows the consumer the ability to control access to material harmful to minors based on the material's rating by use of reasonably priced commercially available software, including software in the public domain.

(6) "Restrict" means to limit access to material harmful to minors by:

(a) properly rating content; or

(b) any other reasonable measures feasible under available technology.

(7)(a) [~~Except as provided in Subsection (7)(b), "service provider"~~] "Service provider" means an Internet service provider.

(b) "Service provider" does not include a person who does not terminate a service in this state, but merely transmits data through:

(i) a wire;

(ii) a cable; or

(iii) an antenna.

(c) "Service provider," notwithstanding Subsection (7)(b), includes a person who [~~meets the requirements of Subsection (7)(a) and~~]leases or rents a wire or cable for the transmission of data.

Section 203. Section **76-5c-402**, which is renumbered from Section 76-10-1231 is renumbered and amended to read:

[~~76-10-1231~~] 76-5c-402 . Data service providers -- Internet content harmful to minors.

(1)(a) Upon request by a consumer, a service provider shall filter content to prevent the transmission of material harmful to minors to the consumer.

(b) A service provider complies with Subsection (1)(a) if the service provider makes a good faith effort to apply a generally accepted and commercially reasonable method of filtering.

(c) At the time of a consumer's subscription to a service provider's service, the service provider shall notify the consumer in a conspicuous manner that the consumer may

request to have material harmful to minors blocked under Subsection (1)(a).

(2) The Division of Consumer Protection within the Department of Commerce shall:

(a) every other year request from each service provider information on how the service provider complies with Subsection (1)(a);

(b) publish on the division's website a compilation of the information the division receives under Subsection (2)(a); and

(c) update the compilation described in Subsection (2)(b) every other year.

(3)(a) A service provider may comply with Subsection (1)(a) by providing in-network filtering to prevent the receipt of material harmful to minors, provided that the filtering does not affect or interfere with access to Internet content for consumers who do not request filtering under Subsection (1)(a).

(b) A service provider may comply with Subsection (1)(a) by engaging a third party to provide or referring a consumer to a third party that provides a commercially reasonable method of filtering to block the receipt of material harmful to minors.

(c) A service provider may charge a consumer a commercially reasonable fee for providing filtering under this Subsection (3).

(4) If the attorney general determines that a service provider violates Subsection (1), the attorney general shall:

(a) notify the service provider that the service provider is in violation of Subsection (1); and

(b) notify the service provider that the service provider has 90 days to comply with the provision being violated or be subject to the civil penalties described in Subsection (5).

(5)(a) A service provider that intentionally or knowingly violates Subsection (1)(a) is subject to a civil fine of $2,500 for each separate violation of Subsection (1)(a), up to $15,000 per day.

(b) A service provider that intentionally or knowingly violates Subsection (1)(c) is subject to a civil fine up to $10,000.

(6) A proceeding to impose a civil fine under Subsection (5) may only be brought by the attorney general[~~ in a court of competent jurisdiction~~].

Section 204. Section **76-5c-403**, which is renumbered from Section 76-10-1233 is renumbered and amended to read:

[~~76-10-1233~~] 76-5c-403 . Content providers -- Material harmful to minors.

(1) A content provider that is domiciled in Utah, or generates or hosts content in Utah, shall restrict access to material harmful to minors.

(2) If the attorney general determines that a content provider violates Subsection (1), the attorney general shall:

(a) notify the content provider that the content provider is in violation of Subsection (1); and

(b) notify the content provider that the content provider has 30 days to comply with Subsection (1) or be subject to the civil penalties described in Subsection (3).

(3)(a) If a content provider intentionally or knowingly violates this section more than 30 days after receiving the notice provided under Subsection (2), the content provider is subject to a civil fine of $2,500 for each separate violation of Subsection (1), up to $10,000 per day.

(b) A proceeding to impose the civil fine under this section may be brought only by the [~~state~~]attorney general[~~and shall be brought in a court of competent jurisdiction~~].

(4) The Division of Consumer Protection shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish acceptable rating methods to be implemented by a content provider under Subsection (1).

Section 205. Section **76-5d-101**, which is renumbered from Section 76-10-1301 is renumbered and amended to read:

CHAPTER 5d. PROSTITUTION

Part 1. General Provisions

[~~76-10-1301~~] 76-5d-101 . Definitions.

As used in this [~~part~~] chapter:

(1) "Child" is an individual younger than 18 years old.

(2) "HIV infection" means an indication of a Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive confirmatory test, such as Western blot with an interpretation based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors or another confirmatory test approved by the Utah State Health Laboratory;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(3) "HIV positive individual" means an individual who has an HIV infection.

(4) "Local law enforcement agency" means the agency responsible for investigation of the

violations of Sections 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, and 76-5d-210, the filing of charges which may lead to conviction, and the conducting of or obtaining the results of tests for HIV infection.

[~~(2) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another.~~]

(5) "Positive" means an indication of the HIV infection.

[~~(3) "Prostitute" or "prostituted individual" means an individual engaged in an activity described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f).~~]

[~~(4)~~] (6) "Public place" means a place to which the public or any substantial group of the public has access.

[~~(5)~~] (7) "Sexual activity" means, regardless of the gender of either participant:

(a) an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one individual and the mouth or anus of another individual; or

(b) the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

(8) "Test" means a test for HIV infection in accordance with standards recommended by the Department of Health and Human Services.

Section 206. Section **76-5d-102**, which is renumbered from Section 76-10-1307 is renumbered and amended to read:

[~~76-10-1307~~] 76-5d-102 . Local ordinance consistent with code provisions.

An ordinance adopted by a local authority governing prostitution or aiding prostitution [~~shall~~] that addresses the matters covered by this chapter is required to be consistent with the provisions of this [~~part~~] chapter which govern [~~those matters~~] prostitution or aiding prostitution.

Section 207. Section **76-5d-103**, which is renumbered from Section 76-10-1311 is renumbered and amended to read:

[~~76-10-1311~~] 76-5d-103 . Mandatory testing -- Retention of offender medical file -- Civil liability.

(1) [~~A person~~] An individual who has entered a plea of guilty, a plea of no contest, a plea of guilty with a mental condition, or been found guilty for violation of Section [~~76-10-1302, 76-10-1303, or 76-10-1313 shall be~~] 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 is required to submit to a mandatory test conducted before sentencing to determine if the [~~offender~~] individual is an HIV positive individual.[~~ The~~

~~mandatory test shall be required and conducted prior to sentencing.~~]

(2) If the mandatory test described in Subsection (1) has not been conducted [~~prior to~~] before sentencing, and the convicted [~~offender~~] actor is already confined in a county jail or state prison, [~~such person shall~~] the individual is required to be tested while in confinement.

(3) [~~The~~] For an individual described in Subsection (1) who is confined in a county jail the local law enforcement agency shall cause the blood specimen of the offender [~~as defined in Subsection (1) confined in county jail~~]to be taken and tested.

(4) [~~The~~] For an individual described in Subsection (1) who is confined in a state prison the Department of Corrections shall cause the blood specimen of the offender [~~defined in Subsection (1) confined in any state prison~~]to be taken and tested.

(5) The local law enforcement agency shall collect and retain in the [~~offender's~~] individual's medical file the following data:

(a) the HIV infection test results;

(b) a copy of the written notice as provided in Section [~~76-10-1312~~] 76-5d-104;

(c) photographic identification; and

(d) fingerprint identification.

(6) The local law enforcement agency shall classify the medical file as a private record pursuant to Subsection 63G-2-302(1)(b) or a controlled record pursuant to Section 63G-2-304.

(7)(a) [~~The person tested shall be~~] An individual required to be tested under this section is responsible for the costs of testing, unless the [~~person~~] individual is indigent.

(b) [~~The costs will then~~] If an individual is indigent the costs for the testing will be paid by the local law enforcement agency or the Department of Corrections from the General Fund.

(8)(a) The laboratory performing testing shall report test results to only designated officials in the Department of Corrections, the Department of Health and Human Services, and the local law enforcement agency submitting the blood specimen.

(b) Each department or agency shall designate those officials by written policy.

(c) Designated officials may release information identifying an [~~offender~~] individual under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~] 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who has tested HIV positive as provided under Subsection 63G-2-202(1) and for purposes of prosecution pursuant to Section [~~76-10-1309~~] 76-5d-211.

(9)(a) An employee of the local law enforcement agency, the Department of Corrections,

or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly liable except when disclosure constitutes fraud or willful misconduct [~~as provided in~~] under Section 63G-7-202.

(b) An employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services who discloses the HIV test results under this section is not civilly or criminally liable, except when disclosure constitutes a knowing violation of Section 63G-2-801.

(10) When [~~the~~] a medical file is released as provided in Section 63G-2-803, the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services or [~~its officers or employees~~] an officer or employee of the local law enforcement agency, the Department of Corrections, or the Department of Health and Human Services are not liable for damages for release of the medical file.

Section 208. Section **76-5d-104**, which is renumbered from Section 76-10-1312 is renumbered and amended to read:

[~~76-10-1312~~] 76-5d-104 . Notice to a convicted individual of HIV positive test results.

(1) [~~A person~~] An individual convicted under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~] 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210 who has tested positive for the HIV infection shall be notified of the test results in person by:

(a) the local law enforcement agency;

(b) the Department of Corrections, for offenders confined in [~~any~~] a state prison;

(c) the [~~state~~]Department of Health and Human Services; or

(d) an authorized representative of [~~any of the agencies~~] an agency listed in [~~this Subsection (1)~~] Subsections (1)(a) through (c).

(2) The notice [~~under~~] described in Subsection (1) shall contain the signature of the HIV positive [~~person~~] individual, indicating the [~~person's~~] individual's receipt of the notice, the name and signature of the [~~person~~] individual providing the notice, and:

(a) the date of the test;

(b) the positive test results;

(c) the name of the HIV positive individual; and

(d) the following language:

["~~A person~~] "An individual who has been convicted of prostitution under Section [~~76-10-1302~~] 76-5d-202, patronizing a [~~prostitute~~] prostituted individual under Section [~~76-10-1303, or~~] 76-5d-203, patronizing a child involved in prostitution under Section 76-5d-204,

entering or remaining in a place of prostitution under Section 76-5d-205, sexual solicitation under Section [~~76-10-1313~~] 76-5d-209, or sexual solicitation of a child under Section 76-5d-210 after being tested and diagnosed as an HIV positive individual and either had actual knowledge that the [~~person~~] individual is an HIV positive individual or the [~~person~~] individual has previously been convicted of any of the criminal offenses listed above is guilty of a third degree felony under Section [~~76-10-1309~~] 76-5d-211."

(3) Failure to provide [~~this notice~~] the notice described in Subsection (1), or to provide the notice in the manner or form prescribed under this section, does not:

(a) [~~-~~]create any civil liability[~~ and does not~~] ; or

(b) [~~-~~]create a defense to any prosecution under this [~~part~~] chapter.

(4) Upon conviction under Section [~~76-10-1309~~] 76-5d-211, and as a condition of probation, the [~~offender~~] actor shall receive treatment and counseling for HIV infection and drug abuse as provided in Title 26B, Chapter 5, Health Care - Substance Use and Mental Health.

Section 209. Section **76-5d-105**, which is renumbered from Section 76-10-1314 is renumbered and amended to read:

[~~76-10-1314~~] 76-5d-105 . Examination of testing procedures and results in legal proceedings.

(1) Employees of [~~the~~] a laboratory who conduct laboratory analysis of blood samples for presence of antibody to HIV provided pursuant to a request by a law enforcement agency or the Department of Corrections under Section [~~76-10-1311~~] 76-5d-103, may be examined in a legal proceeding of any kind or character as to:

(a) the nature of the testing;

(b) the validity of the testing;

(c) the results of the test;

(d) the HIV positivity or negativity of the [~~person~~] individual tested;

(e) the evidentiary chain of custody; and

(f) other factors relevant to the prosecution, subject to the court's ruling.

(2) This section applies only to the criminal investigation and prosecution under Section [~~76-10-1309~~] 76-5d-211 which permits enhanced penalties upon a subsequent conviction for:

(a) prostitution[~~,~~] as described in Section [~~76-10-1302~~] 76-5d-202;

(b) patronizing a [~~prostitute,~~] prostituted individual as described in Section [~~76-10-1303~~] 76-5d-203;[~~ or~~]

(c) patronizing a child involved in prostitution as described in Section 76-5d-204;

(d) entering or remaining in a place of prostitution as described in Section 76-5d-205;

[~~(c)~~] (e) sexual solicitation[~~,~~] as described in Section [~~76-10-1313~~] 76-5d-209; or

(f) sexual solicitation of a child as described in Section 76-5d-210.

Section 210. Section **76-5d-106**, which is renumbered from Section 76-10-1315 is renumbered and amended to read:

[~~76-10-1315~~] 76-5d-106 . Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee, or the functional equivalent of a fee, under Subsection [~~76-10-1313(1)(a)~~] 76-5d-209(2)(a), (c), (d), or (f).

(c) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(d) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.

(2) Upon encountering a child engaged in commercial sex or a child engaged in sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 80, Chapter 2, Child Welfare

Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

[~~(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sexual solicitation under Section 76-10-1313.~~]

Section 211. Section **76-5d-201** is enacted to read:

Part 2. General Offenses

76-5d-201 . Definitions.

As used in this part:

(1) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another individual.

(2) "Prostituted individual" means an individual engaged in a prohibited activity described in Section 76-5d-202 or Subsection 76-5d-209(2)(b)(i), (iii), (iv), or (vi).

Section 212. Section **76-5d-202**, which is renumbered from Section 76-10-1302 is renumbered and amended to read:

[~~76-10-1302~~] 76-5d-202 . Prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~] (2) An actor[~~, except for a child under Section 76-10-1315, is guilty of~~] commits prostitution if the actor[~~-~~] :

(a) is 18 years old or older; and

(b) engages in sexual activity with another individual for a fee, or the functional equivalent of a fee.

[~~(2)~~] (3)(a) Except as provided in Subsection [~~(2)(b) and Section 76-10-1309~~] (3)(b), a violation of Subsection [~~(1)~~] (2) is a class B misdemeanor.

(b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or~~] A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of:

(i) a violation of Subsection (2); or

(ii) [~~under~~]a local ordinance adopted [~~under~~] in accordance with Section [~~76-10-1307, is guilty of a class A misdemeanor~~] 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

[~~(3)~~] (4) A prosecutor may not prosecute an actor for a violation of Subsection [~~(1)~~] (2) if the actor engages in a violation of Subsection [~~(1)~~] (2) at or near the time the actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the

following offenses, and the actor reports the offense or attempt to law enforcement in good faith:

(a) assault[~~,~~] as described in Section 76-5-102;

(b) aggravated assault[~~,~~] as described in Section 76-5-103;

(c) mayhem[~~,~~] as described in Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault [~~under~~] as described in Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child [~~under~~] as described in Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape[~~,~~] as described in Section 76-5-402;

(g) rape of a child[~~,~~] as described in Section 76-5-402.1;

(h) object rape[~~,~~] as described in Section 76-5-402.2;

(i) object rape of a child[~~,~~] as described in Section 76-5-402.3;

(j) forcible sodomy[~~,~~] as described in Section 76-5-403;

(k) sodomy on a child[~~,~~] as described in Section 76-5-403.1;

(l) forcible sexual abuse[~~,~~] as described in Section 76-5-404;

(m) sexual abuse of a child[~~,~~] as described in Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(n) aggravated sexual assault[~~,~~] as described in Section 76-5-405;

(o) sexual exploitation of a minor[~~,~~] as described in Section 76-5b-201;

(p) aggravated sexual exploitation of a minor[~~,~~] as described in Section 76-5b-201.1;

(q) sexual exploitation of a vulnerable adult[~~,~~] as described in Section 76-5b-202;

(r) [~~aggravated burglary or~~]burglary of a dwelling [~~under Chapter 6, Part 2, Burglary and Criminal Trespass~~] as described in Subsection 76-6-202(3)(b);

(s) aggravated burglary as described in Section 76-6-203;

[~~(s)~~] (t) [~~aggravated robbery or~~]robbery [~~under Chapter 6, Part 3, Robbery~~] as described in Section 76-6-301;

(u) aggravated robbery as described in Section 76-6-302; or

[~~(t)~~] (v) theft by extortion [~~under~~] as described in Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii).

(5) A violation under this section that is a class A misdemeanor may be prosecuted by an

attorney of a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this section.

Section 213. Section **76-5d-203**, which is renumbered from Section 76-10-1303 is renumbered and amended to read:

[~~76-10-1303~~] 76-5d-203 . Patronizing a prostituted individual.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~] (2) An actor [~~is guilty of~~] commits patronizing a [~~prostitute if the actor~~] prostituted individual if:

(a) the actor pays[~~or~~] , offers to pay, or agrees to pay a [~~prostituted individual~~] prostituted individual, or an individual the actor believes to be a [~~prostituted individual~~] prostituted individual, a fee, or the functional equivalent of a fee[,] ; and

(b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the purpose of engaging in an act of sexual activity[~~; or~~] .

[~~(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.~~]

[~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) or Section 76-10-1309.~~]

[~~(3) A violation of this section that is preceded by a conviction under this section or a conviction under a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.~~]

[~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307 is a third degree felony.~~]

[~~(5)(a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under Subsection (1)(a) involves a child as the other individual, a violation of Subsection (1)(a) is a second degree felony.~~]

[~~(b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age.~~]

[~~(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the individual was 18 years old or older, is a violation of Subsection (5)(a).~~]

[~~(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a greater penalty under another provision of state law than is provided under Subsection (5)(a), this Subsection (5) does not prohibit prosecution and sentencing~~

~~for the more serious offense.~~]

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

[~~(6)~~] (4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the [~~defendant~~] actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 214. Section **76-5d-204** is enacted to read:

76-5d-204 . Patronizing a child involved in prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits patronizing a child involved in prostitution if:

(a) the actor pays, offers to pay, or agrees to pay a prostituted individual, or an individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee;

(b) the payment, offer of payment, or agreement for payment described in Subsection (2)(a) is for the purpose of engaging in an act of sexual activity; and

(c) the prostituted individual, or the individual the actor believes to be a prostituted individual, described in Subsection (2)(a) is:

(i) a child; or

(ii) believed by the actor to be a child.

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

(4) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under this section that the actor mistakenly believed the individual described in Subsection (2) to be 18 years old or older at the time of the offense or was unaware of the individual's true age.

(5) If the act committed under Subsection (2) amounts to an offense that is subject to a greater penalty under another provision of law this section does not prohibit prosecution and sentencing for the more serious offense.

(6) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 215. Section **76-5d-205** is enacted to read:

76-5d-205 . Entering or remaining in a place of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) An actor commits entering or remaining in a place of prostitution if the actor enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted two or more times of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

(4) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 216. Section **76-5d-206**, which is renumbered from Section 76-10-1304 is renumbered and amended to read:

[~~76-10-1304~~] 76-5d-206 . Aiding prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~] (2) An [~~individual is guilty of~~] actor commits aiding prostitution if the [~~individual~~] actor:

(a)(i) solicits an individual to patronize a [~~prostitute~~] prostituted individual, or to patronize an individual the actor believes to be a [~~prostitute~~] prostituted individual;

(ii) procures or attempts to procure a [~~prostitute~~] prostituted individual, or an individual the actor believes to be a [~~prostitute~~] prostituted individual, for a patron;

(iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in association with another individual, to be used for prostitution or the promotion of prostitution; or

(iv) provides [~~any~~] a service or commits [~~any~~] an act that enables another individual to commit a violation of [~~this Subsection (1)(a)~~] this Subsection (2) or facilitates

another individual's ability to commit [~~any~~] a violation of [~~this Subsection (1)(a)~~] this Subsection (2); or

(b) solicits, receives, or agrees to receive [~~any~~] a benefit for committing any of the acts prohibited by Subsection [~~(1)(a)~~] (2)(a).

[~~(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).~~]

[~~(3) An individual who is convicted a second time, and on all subsequent convictions, under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.~~]

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of:

(i) a violation of Subsection (2); or

(ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the same or similar type of violation to the violation described in Subsection (2).

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

(5) A violation under this section that is a class A misdemeanor may be prosecuted by an attorney of a city or a town as well as by prosecutors authorized in the code to prosecute a violation under this section.

Section 217. Section **76-5d-207**, which is renumbered from Section 76-10-1305 is renumbered and amended to read:

[~~76-10-1305~~] 76-5d-207 . Exploitation of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~] (2) An [~~individual is guilty of exploiting~~] actor commits exploitation of prostitution if the [~~individual~~] actor:

(a) procures an individual for a place of prostitution;

(b) encourages, induces, or otherwise purposely causes another individual to become or remain a [~~prostitute~~] prostituted individual;

(c) transports an individual into or within this state with [~~a~~] the purpose to promote [~~that~~] the individual's [~~engaging~~] engagement in prostitution;

(d) [~~or procuring or paying for~~] procures or pays for an individual's transportation with [~~that~~] the purpose of promoting the individual's engagement in prostitution;

[~~(d)~~] (e) not being a child or legal dependent of a [~~prostitute~~] prostituted individual, shares

the proceeds of prostitution with a [~~prostitute~~] prostituted individual, or an individual the actor believes to be a [~~prostitute~~] prostituted individual, pursuant to [~~their~~] the actor's and the prostituted individual's understanding that the actor is to share [~~therein~~] in the proceeds of the prostitution; or

[~~(e)~~] (f) owns, controls, manages, supervises, or otherwise keeps, alone or in association with another individual, a place of prostitution or a business where prostitution occurs or is arranged, encouraged, supported, or promoted.

[~~(2)~~] (3) [~~Exploiting prostitution is a felony of the~~] A violation of Subsection (2) is a third degree felony.

[~~(3)~~] (4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 218. Section **76-5d-208**, which is renumbered from Section 76-10-1306 is renumbered and amended to read:

[~~76-10-1306~~] 76-5d-208 . Aggravated exploitation of prostitution.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~] (2) [~~A person is guilty of~~] An actor commits aggravated exploitation of prostitution if:

(a) in committing an act of [~~exploiting~~] exploitation of prostitution[~~, as defined in~~] as described in Section [~~76-10-1305~~] 76-5d-207, the [~~person~~] actor uses any force, threat, or fear against any [~~person~~] individual;

(b) the [~~person~~] individual whom the actor procured, transported, or persuaded, or with whom the [~~person~~] actor shares the proceeds of prostitution, is a child or is the spouse of the actor; or

(c) in the course of committing an act of exploitation of prostitution[~~, a violation of Section 76-10-1305~~] as described in Section 76-5d-207, the [~~person~~] actor commits human trafficking or human smuggling[~~, a~~] in violation of Section 76-5-308, 76-5-308.1, 76-5-308.3, or 76-5-308.5.

[~~(2)~~] (3)(a) [~~Aggravated exploitation of prostitution~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony[~~, except under Subsection (3)~~].

[~~(3)~~] (b) [~~Aggravated exploitation of prostitution involving a child~~] A violation of Subsection (2) is a first degree felony if the violation involves a child.

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 219. Section **76-5d-209**, which is renumbered from Section 76-10-1313 is renumbered

and amended to read:

[~~76-10-1313~~] 76-5d-209 . Sexual solicitation.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

[~~(1)~~] (2) An [~~individual except for a child under Section 76-10-1315 is guilty of~~] actor commits sexual solicitation if the [~~individual~~] actor:

(a) is 18 years old or older; and

[~~(a)~~] (b)(i) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

[~~(b)~~] (ii) pays[~~ or~~] , offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to another individual to commit any sexual activity;

[~~(c)~~] (iii)(A) takes steps to arrange a meeting with another individual through any form of advertising or agreement to meet[~~, and~~] ;

(B) [~~-~~]meets the individual at an arranged place; and

(C) [~~-~~] arranged and met the individual for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

[~~(d)~~] (iv) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

[~~(e)~~] (v) with intent to pay another individual to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the [~~other~~]individual to engage in any of the following acts:

[~~(i)~~] (A) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

[~~(ii)~~] (B) masturbation;

[~~(iii)~~] (C) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

[~~(iv)~~] (D) any act of lewdness; or

[~~(f)~~] (vi) with intent to engage in sexual activity for a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in, an act described in [~~Subsection (1)(e)(i)~~] Subsections (2)(b)(v)(A) through [~~(iv)~~] (D).

[~~(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1) (e) or (f) under the totality of the existing circumstances.~~]

(3)(a) [~~Except as provided in Section 76-10-1309 and Subsections (4) and (5), a~~] A violation of Subsection [~~(1)(a)~~] (2)(a), (c), (d), or (f) or under a local ordinance adopted in compliance with Section [~~76-10-1307~~] 76-5d-102 is:

[~~(a)~~] (i) a class B misdemeanor on a first or second violation; [~~and~~] or

[~~(b)~~] (ii) a class A misdemeanor on a third or subsequent violation.

[~~(4)~~] (b) [~~Except as provided in Section 76-10-1309 and Subsections (5) and (8), a~~] A violation of Subsection [~~(1)(b)~~] (2)(b) or (e) or a local ordinance adopted under Section [~~76-10-1307~~] 76-5d-102 is:

[~~(a)~~] (i) a class A misdemeanor on the first or second violation; [~~and~~] or

[~~(b)~~] (ii) a third degree felony on a third or subsequent violation.

[~~(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and the individual solicited is a child, the offense is a second degree felony if the solicitation does not amount to a violation of:~~]

[~~(a) Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308 .3, human smuggling; or~~]

[~~(b) Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated human smuggling.~~]

(4) An intent to engage in sexual activity for a fee may be inferred from an actor engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (2)(e) or (f) under the totality of the existing circumstances.

[~~(6)~~] (5)(a) Upon encountering a child engaged in commercial sex or a child engaged in sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection [~~76-10-1315(2)~~] 76-5d-106(2).

(b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

[~~(7)~~] (6) A prosecutor may not prosecute an [~~individual~~] actor for a violation of Subsection [~~(1)~~] (2) if the [~~individual~~] actor engages in a violation of Subsection [~~(1)~~] (2) at or near the time the [~~individual~~] actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection [~~76-10-1302(3)~~] 76-5d-202(4), and the individual reports the offense or attempt to law enforcement in good faith.

[~~(8)~~] (7)(a) As part of a sentence imposed under Subsection [~~(3)~~] (3)(a), the court may lower, waive, or suspend a fine if the [~~defendant~~] actor completes a court-approved

program that provides information or services intended to help an individual no longer engage in prostitution.

(b) As part of a sentence imposed under Subsection [~~(4)~~] (3)(b), the court shall order the [~~defendant~~] actor to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 220. Section **76-5d-210** is enacted to read:

76-5d-210 . Sexual solicitation of a child.

(1) Terms defined in Sections 76-1-101.5, 76-5d-101, and 76-5d-201 apply to this section.

(2) Under circumstances not amounting to an offense described in Subsection (4), an actor commits sexual solicitation of a child if the actor:

(a) is 18 years old or older; and

(b)(i) offers or agrees to commit any sexual activity with a child for a fee, or the functional equivalent of a fee;

(ii) pays, offers to pay, or agrees to pay a fee, or the functional equivalent of a fee, to a child to commit any sexual activity;

(iii)(A) takes steps to arrange a meeting with a child through any form of advertising or agreement to meet;

(B) meets the child at an arranged place; and

(C) arranged and met the child for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

(iv) loiters in, or within view of, a public place for the purpose of being hired to engage in sexual activity with a child in exchange for a fee, or the functional equivalent of a fee;

(v) with intent to pay a child to commit any sexual activity for a fee, or the functional equivalent of a fee, requests or directs the child to engage in any of the following acts:

(A) exposure of the child's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(B) masturbation;

(C) touching of the child's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(D) any act of lewdness; or

(vi) with intent to engage in sexual activity with a child for a fee, or the functional equivalent of a fee, engages in, or offers or agrees to engage in, an act described in

Subsections (2)(b)(v)(A) through (D).

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

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

(a) human trafficking for labor as described in Section 76-5-308;

(b) human trafficking for sexual exploitation as described in Section 76-5-308.1;

(c) human smuggling as described in Section 76-5-308.3;

(d) human trafficking of a child as described in Section 76-5-308.5;

(e) aggravated human trafficking as described in Section 76-5-310; and

(f) aggravated human smuggling as described in Section 76-5-310.1.

(5)(a) Upon encountering a child engaged in commercial sex or a child engaged in sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-5d-106(2).

(b) A child engaged in commercial sex or a child engaged in sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

(6) A prosecutor may not prosecute an actor for a violation of Subsection (2) if the actor engages in a violation of Subsection (2) at or near the time the actor witnesses or is a victim of any of the offenses, or an attempt to commit any of the offenses, described in Subsection 76-5d-202(4), and the individual reports the offense or attempt to law enforcement in good faith.

(7) This section does not apply to a child under Section 76-5d-106.

Section 221. Section **76-5d-211**, which is renumbered from Section 76-10-1309 is renumbered and amended to read:

[~~76-10-1309~~] 76-5d-211 . Enhanced penalties for HIV positive actor.

[~~A person~~] An actor who is convicted of prostitution [~~under~~] as described in Section [~~76-10-1302~~] 76-5d-202, patronizing a [~~prostitute under~~] prostituted individual as described in Section [~~76-10-1303~~] 76-5d-203, patronizing a child involved in prostitution as described in Section 76-5d-204, entering or remaining in a place of prostitution as described in Section 76-5d-205, or sexual solicitation [~~under~~] as described in Section [~~76-10-1313~~] 76-5d-209 or 76-5d-210 is guilty of a third degree felony if at the time of the offense the [~~person~~] actor is an HIV positive individual, and the [~~person~~] actor:

(1) has actual knowledge [~~of the fact~~] that the actor is an HIV positive individual; or

(2) has previously been convicted under Section [~~76-10-1302, 76-10-1303, or 76-10-1313~~] 76-5d-202, 76-5d-203, 76-5d-204, 76-5d-205, 76-5d-209, or 76-5d-210.

Section 222. Section **76-6-105** is amended to read:

76-6-105 . Causing a catastrophe -- Penalties.

(1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits causing a catastrophe if the actor causes widespread injury or damage to persons or property by:

(a) use of a weapon of mass destruction as defined in Section [~~76-10-401~~] 76-15-301; or

(b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or destructive force or substance that is not a weapon of mass destruction.

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

(a) a first degree felony if the actor causes the catastrophe knowingly and by the use of a weapon of mass destruction;

(b) a second degree felony if the actor causes the catastrophe knowingly and by a means other than a weapon of mass destruction; and

(c) a class A misdemeanor if the actor causes the catastrophe recklessly.

(4) In addition to any other penalty authorized by law, a court shall order an actor convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Section 223. Section **76-6-206** is amended to read:

76-6-206 . Criminal trespass.

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

(i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

(ii) "Graffiti" means the same as that term is defined in Section 76-6-101.

(iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:

(A) the private property or any portion of the private property is not open to the public; and

(B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section [

~~76-10-2402~~] 76-9-113 regarding commercial obstruction or Section 76-9-114 regarding aggravated commercial obstruction:

(a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear for the safety of another;

(b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders;

(c) the actor enters a condominium unit in violation of Section 57-8-7(8); or

(d) the actor enters a sex-designated changing room in violation of Subsection 63G-31-302(3).

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) , (b), or (d) is a class B misdemeanor.

(b) The following is a class A misdemeanor:

(i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling;

(ii) if a violation of Subsection (2)(d) is committed while also committing the offense of:

(A) lewdness under Section [~~76-9-702~~] 76-5-419;

(B) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420;

(C) voyeurism under Section [~~76-9-702.7~~] 76-12-306;

(D) recorded or photographed voyeurism under Section 76-12-307;

(E) distribution of images obtained through voyeurism under Section 76-12-308; or

[~~(D)~~] (F) loitering in a privacy space under Section [~~76-9-702.8~~] 76-12-309; or

(iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section [~~76-9-702.8~~] 76-12-309, that is not designated for

individuals of the actor's sex.

(c) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 224. Section **76-6-207**, which is renumbered from Section 76-10-2002 is renumbered and amended to read:

[~~76-10-2002~~] 76-6-207 . Burglary of a research facility -- Penalties.

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

(i) "Building," in addition to its commonly-accepted meaning, means any watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of individuals or for carrying on business and includes:

(A) each separately secured or occupied portion of the building or vehicle; and

(B) each structure appurtenant or connected to the building or vehicle.

(ii) "Enter" means:

(A) an intrusion of any part of the body; or

(B) the intrusion of any physical object, sound wave, light ray, electronic signal, or other means of intrusion under the control of the actor.

(iii) "Research" means studious and serious inquiry, examination, investigation, or experimentation aimed at the discovery, examination, or accumulation of facts, data, devices, theories, technologies, or applications done for any public, governmental, proprietorial, or teaching purpose.

(iv) "Research facility" means a building, or separately secured yard, pad, pond, laboratory, pasture, pen, or corral which is not open to the public, the major use of which is to conduct research, to house research subjects, to store supplies, equipment, samples, specimens, records, data, prototypes, or other property used

in or generated from research.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

[~~(1)~~] (2) [~~A person is guilty of~~] An actor commits burglary of a research facility if [~~he~~] the actor enters or remains unlawfully in a research facility with the intent to:

(a) obtain unauthorized control over any property, sample, specimen, record, data, test result, or proprietary information in the facility;

(b) alter or eradicate any sample, specimen, record, data, test result, or proprietary information in the facility;

(c) damage, deface, or destroy any property in the facility;

(d) release from confinement or remove any animal or biological vector in the facility regardless of whether or not that animal or vector is dangerous;

(e) commit an assault on [~~any person~~] an individual;

(f) commit any other felony; or

(g) interfere with the personnel or operations of a research facility through [~~any~~]conduct that does not constitute an assault.

[~~(2) A person who violates Subsection (1)(g) is guilty of a class A misdemeanor. A person who violates any other provision in this section is guilty of a felony of the second degree.~~]

(3)(a) A violation of Subsection (2)(g) is a class A misdemeanor.

(b) A violation of Subsection (2)(a), (b), (c), (d), (e), or (f) is a second degree felony.

Section 225. Section **76-6-414** is amended to read:

76-6-414 . Theft resulting in economic interruption.

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

(i) "Business" means the same as that term is defined in Section 76-6-113.

(ii) "Governmental entity" means the same as that term is defined in Section 76-6-113.

(iii) "Economic interruption" means the same as that term is defined in Section 76-6-113.

(b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.

(2) An actor commits theft resulting in economic interruption if:

(a) the actor intentionally, knowingly, recklessly, or negligently obtains or exercises unauthorized control over a business's or governmental entity's property with the intent to deprive the business or governmental entity of the property; and

(b) the actor's actions under Subsection (2)(a) cause an economic interruption for the business or governmental entity.

[~~(3) A violation of Subsection (2) is a class A misdemeanor.~~]

(3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class A misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).

(c) A violation of Subsection (2) is a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).

(4) It is not a defense under this section that the actor did not know that the victim is a business or governmental entity.

[~~(5) If the trier of facts finds that the actor committed a violation of Subsection (2), the actor is guilty of:~~]

[~~(a) a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2); and~~]

[~~(b) a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).~~]

[~~(6)~~] (5) A prior conviction used for a penalty enhancement under Subsection [~~(5)~~] (3)(b) or (c) is a conviction that is from a separate criminal episode than:

(a) the most recent violation of Subsection (2); and

(b) any other prior conviction that is used to enhance the penalty for the most recent violation of Subsection (2).

[~~(7)~~] (6) The prosecuting attorney, or the grand jury if an indictment is returned, shall include notice in the information or indictment that the offense is subject to an enhancement under Subsection [~~(5)~~] (3)(b) or (c).

Section 226. Section **76-6-525**, which is renumbered from Section 76-10-1801 is renumbered and amended to read:

[~~76-10-1801~~] 76-6-525 . Communications fraud.

(1)(a) As used in this section, "sensitive personal identifying information" means information regarding an individual's:

(i) social security number;

(ii) driver license number or other government-issued identification number;

(iii) financial account number or credit or debit card number;

(iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;

(v) automated or electronic signature;

(vi) unique biometric data; or

(vii) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

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

(2) [~~Any person who~~] An actor commits communications fraud if the actor has devised any scheme or artifice to defraud another or to obtain from another money, property, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions, and who communicates directly or indirectly with any person by any means for the purpose of executing or concealing the scheme or artifice.

(3) [~~is guilty of~~] A violation of Subsection (2) is:

(a) a class B misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000;

(d) a second degree felony when the value of the property, money, or thing obtained or sought to be obtained is or exceeds $5,000; and

(e) a second degree felony when the object or purpose of the scheme or artifice to defraud is the obtaining of sensitive personal identifying information, regardless of the value.

[~~(2)~~] (4) The determination of the degree of [~~any~~] an offense under Subsection [~~(1) shall be~~] (2) is measured by the total value of all property, money, or things obtained or sought to be obtained by the scheme or artifice described in Subsection [~~(1)~~] (2) except as provided in Subsection [~~(1)(e)~~] (3)(e).

[~~(3)~~] (5)(a) Reliance on the part of any person is not a necessary element of the offense described in Subsection [~~(1)~~] (2).

[~~(4)~~] (b) An intent on the part of the [~~perpetrator~~] actor of any offense described in Subsection [~~(1)~~] (2) to permanently deprive any person of property, money, or thing of value is not a necessary element of the offense.

[~~(5)~~] (c) Each separate communication made for the purpose of executing or concealing a scheme or artifice described in Subsection [~~(1)~~] (2) is a separate act and offense of communication fraud.

(6)(a) To communicate as described in Subsection [~~(1)~~] (2) means to:

(i) bestow, convey, make known, recount, or impart;

(ii) give by way of information;

(iii) talk over; or

(iv) transmit information.

(b) Means of communication include use of the mail, telephone, telegraph, radio, television, newspaper, computer, and spoken and written communication.

(7) [~~A person~~] An actor may not be convicted under this section unless the pretenses, representations, promises, or material omissions made or omitted were made or omitted intentionally, knowingly, or with a reckless disregard for the truth.

[~~(8) As used in this section, "sensitive personal identifying information" means information regarding an individual's:~~]

[~~(a) Social Security number;~~]

[~~(b) driver's license number or other government issued identification number;~~]

[~~(c) financial account number or credit or debit card number;~~]

[~~(d) password or personal identification number or other identification required to gain access to a financial account or a secure website;~~]

[~~(e) automated or electronic signature;~~]

[~~(f) unique biometric data; or~~]

[~~(g) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.~~]

Section 227. Section **76-6-703.3** is amended to read:

76-6-703.3 . Unlawful use of technology to defraud.

(1)(a) As used in this section, "sensitive personal identifying information" means the same as that term is defined in Section [~~76-10-1801~~] 76-6-525.

(b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful use of technology to defraud if the actor uses or knowingly allows another person to use a computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property, a service, or other thing of value by a false pretense, promise, or representation.

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

(a) a class B misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony if the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(d) a second degree felony if:

(i) the value of the money, property, service, or thing obtained or sought to be obtained is or exceeds $5,000; or

(ii) the object or purpose of the artifice or scheme to defraud is the obtaining of sensitive personal identifying information, regardless of the value.

(4)(a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(b) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5)(a) An interactive computer service is not guilty of violating this section if a person violates this section using the interactive computer service and the interactive computer service did not knowingly assist the person to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 228. Section **76-6-703.7** is amended to read:

76-6-703.7 . Unlawful computer access.

(1) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

(2) An actor commits unlawful computer access if:

(a) the actor intentionally or knowingly, and without authorization, gains or attempts to gain access to a computer, computer network, computer property, or computer system; and

(b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense under Section 76-6-703, [~~76-6-703.1, ~~]76-6-703.3, [~~or~~]76-6-703.5, or 76-12-205.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4)(a) Notwithstanding Subsection (2), a retailer that uses an electronic product identification or tracking system, or other technology, to identify, track, or price goods is not guilty of a violation of this section if the equipment designed to read the electronic product identification or tracking system data and used by the retailer to identify, track, or price goods is located within the retailer's location.

(b) It is an affirmative defense to a violation under this section that the actor obtained access or attempted to obtain access:

(i) in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of computer technology whose security the actor is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose; or

(ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a search warrant.

(c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing in this section may be construed to impose liability or culpability on, an interactive computer service for content provided by another person.

(d) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5)(a) An interactive computer service is not guilty of violating this section if an actor violates this section using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.

(b) A service provider is not guilty of violating this section for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's

Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 229. Section **76-6-705** is amended to read:

76-6-705 . Reporting violations.

(1) Each person who has reason to believe that a provision of Section 76-6-703, [~~76-6-703.1, ~~]76-6-703.3, 76-6-703.5, [~~or~~]76-6-703.7, or 76-12-205 is being or has been violated shall report the suspected violation to:

(a) the attorney general, or county attorney, or, if within a prosecution district, the district attorney of the county or prosecution district in which part or all of the violation occurred; or

(b) a state or local law enforcement agency.

(2) Subsection (1) does not apply to the extent that the person is prohibited from reporting by a statutory or common law privilege.

Section 230. Section **76-6-1202** is amended to read:

76-6-1202 . Definitions.

As used in this part:

(1) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(2) "Mortgage loan":

(a) means a loan or agreement made to extend credit to a person when the loan is secured by a deed, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property; and

(b) includes the renewal or refinancing of any loan.

(3) "Pattern of unlawful activity" [~~has the same definition as~~] means the same as that term is defined in Section [~~76-10-1602~~] 76-17-401.

(4) "Sensitive personal identifying information" includes:

(a) the following information regarding an individual's:

(i) Social Security number;

(ii) driver license number or other government issued identification number;

(iii) financial account number or credit or debit card number;

(iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;

(v) automated or electronic signature; and

(vi) unique biometric data; and

(b) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

(5) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

Section 231. Section **76-7-101** is amended to read:

76-7-101 . Bigamy.

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection (4)(b)(xiii), a misdemeanor offense, in violation of one or more of the following:

(i) Section 76-5-109, child abuse;

(ii) Section 76-5-109.2, aggravated child abuse;

(iii) Section 76-5-109.3, child abandonment;

(iv) Section 76-5-111, abuse of a vulnerable adult;

(v) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(vi) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(vii) Section 76-5-111.4, financial exploitation of a vulnerable adult;

(viii) Chapter 5, Part 2, Criminal Homicide;

(ix) Section 76-5-208, child abuse homicide;

(x) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(xi) Chapter 5, Part 4, Sexual Offenses, other than:

(A) Section 76-5-417, enticing a minor;

(B) Section 76-5-419, lewdness; or

(C) Section 76-5-420, lewdness involving a child;

(xii) Section 76-7-201, criminal nonsupport;

[~~(xiii) Section 76-9-702.1, sexual battery;~~]

[~~(xiv)~~] (xiii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

[~~(xv)~~] (xiv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(5) It is a defense to prosecution under Subsection (2) that:

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

Section 232. Section **76-8-107** is amended to read:

76-8-107 . Alteration of proposed legislative bill or resolution.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits alteration of proposed legislative bill or resolution if the actor fraudulently alters the draft of a bill or resolution that has been presented to either of the houses composing the Legislature to be passed or adopted, with intent to procure the proposed legislative bill or resolution being passed or adopted by either house, or certified by the presiding officer of either house in language different from that intended by either house.

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

Section 233. Section **76-8-311.1** is amended to read:

76-8-311.1 . Establishment of secure areas -- Items prohibited -- References to

penalty provisions.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(iii) "Explosive" means the same as the term "explosive, chemical, or incendiary device" defined in Section [~~76-10-306~~] 76-15-210.

(iv) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(v) "Law enforcement facility" means a facility that is owned, leased, or operated by a law enforcement agency.

(vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(vii)(A) "Secure area" means an area created under this section into which certain persons are restricted from transporting a firearm or other dangerous weapon, ammunition, or explosive.

(B) A "secure area" may not include any area normally accessible to the public.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2)(a) The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, or explosive.

(b) Subsections (2)(a), (3), (4), and (5) apply to a higher education secure area hearing room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) An entity that creates a secure area under this section shall ensure that at least one notice is prominently displayed at each entrance to the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4)(a) An entity that creates a secure area under this section shall provide a secure weapons storage area so that an individual entering the secure area may store the individual's weapon before entering the secure area.

(b) The entity operating the facility shall be responsible for a weapon while the weapon is stored in the storage area described in Subsection (4)(a).

(5)(a) An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing

room created under this section may be punished under Section 76-8-311.2.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a secure area or a higher education secure area hearing room created under this section may be punished under Section [~~76-10-306~~] 76-15-210.

(c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.

Section 234. Section **76-8-311.2** is amended to read:

76-8-311.2 . Prohibited dangerous weapon or ammunition in a secure area.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(iii) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(iv) "Higher education secure area" means a higher education secure area hearing room created under Section 76-8-311.1.

(v) "Law enforcement facility" means the same as that term is defined in Section 76-8-311.1.

(vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the actor knowingly or intentionally transports a firearm or other dangerous weapon or ammunition into:

(a) a correctional facility;

(b) a secure area created by the State Tax Commission;

(c) a secure area in a law enforcement facility or a mental health facility; or

(d) a higher education secure area.

(3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of Subsection (2) is a third degree felony.

(4) It is a defense to a prosecution under this section that the actor acted in conformity with the facility's rule or policy established under Section 76-8-311.1.

Section 235. Section **76-8-311.3** is amended to read:

76-8-311.3 . Establishment of prohibited item policy in a correctional or mental

health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

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

(i) "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication, or another device that can be used to communicate electronically.

(ii) "Controlled substance" means a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(iii) "Correctional facility" means:

(A) a facility operated by or contracting with the Department of Corrections to house an offender in either a secure or nonsecure setting;

(B) a facility operated by a municipality or a county to house or detain an offender;

(C) a juvenile detention facility; or

(D) a building or grounds appurtenant to a facility or land granted to the state, municipality, or county for use as a correctional facility.

(iv) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(v) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(vi) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(vii) "Medicine" means a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include a controlled substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(viii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

(ix) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(x) "Offender" means an individual in custody at a correctional facility.

(xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(xii) "Tobacco product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2)(a) Notwithstanding Section [~~76-10-500~~] 53-5a-102, a correctional facility or mental health facility may prohibit a firearm, ammunition, a dangerous weapon, an

implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison from being:

(i) transported to or within a correctional facility or mental health facility;

(ii) sold or given away to an offender at a correctional facility or mental health facility; or

(iii) possessed by an offender or another individual at a correctional facility or mental health facility.

(b) A correctional facility may prohibit a communication device from being:

(i) transported within the correctional facility for the purpose of being sold to an offender in the correctional facility;

(ii) sold or given away to an offender in the correctional facility; or

(iii) possessed by an offender or another individual at the correctional facility.

(3) It is a defense to a prosecution related to this section that the actor, in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or 76-8-311.11 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section [~~76-10-306~~] 76-15-210 or 76-15-211.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Exemptions to a policy or rule created under this section may be granted for worship of Native American inmates in accordance with Section 64-13-40.

Section 236. Section **76-8-311.4** is amended to read:

76-8-311.4 . Prohibited item in correctional or mental health facility for use by offender or detainee.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited item in correctional or mental health facility for use by offender or detainee if the actor:

(a) transports a dangerous weapon, ammunition, or implement of escape to or within a correctional facility, or into a secure area of a mental health facility, with the intent to provide or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape; or

(b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

(i) an offender at a correctional facility; or

(ii) a detainee at a secure area of a mental health facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 237. Section **76-8-311.7** is amended to read:

76-8-311.7 . Possession of prohibited item in correctional facility or secure area of mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.

(3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 238. Section **76-8-411** is amended to read:

76-8-411 . Trafficking in warrants.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trafficking in warrants if the actor:

(a) is [~~a~~] an officer of the state, a county, a city, a town, or a district[~~ officer~~]; and

(b) directly or indirectly contracts for or purchases a warrant or order issued by the state, county, city, town, or district of which the actor is an officer, at any discount whatever upon the sum due on the warrant or order.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 239. Section **76-9-101** is amended to read:

CHAPTER 9. OFFENSES AGAINST PUBLIC ORDER, HEALTH, AND SAFETY

Part 1. Breaches of the Peace and Related Offenses

76-9-101 . Riot.

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

(2) [~~An individual is guilty of~~] An actor commits riot if the [~~individual~~] actor:

(a) simultaneously with two or more other individuals engages in violent conduct, knowingly or recklessly creating a substantial risk of causing public alarm;

(b) assembles with two or more other individuals with the purpose of engaging, soon thereafter, in violent conduct, knowing, that two or more other individuals in the assembly have the same purpose;[~~ or~~]

(c) assembles with two or more other individuals with the purpose of committing an offense against a person, or the property of another person who the [~~individual~~] actor supposes to be guilty of a violation of law, believing that two or more other

individuals in the assembly have the same purpose[~~.~~] ; or

[~~(2)~~] (d) [~~Any individual who~~]refuses to comply with a lawful order to withdraw prior to, during, or immediately following a violation of [~~Subsection (1) is guilty of riot. It is no defense to a prosecution under this Subsection (2) that withdrawal must take place over private property; provided, however, that an individual who withdraws in compliance with an order to withdraw may not incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.~~] Subsection (2)(a), (b), or (c).

(3)(a) Except as provided in Subsection [~~(4), riot~~] (3)(b), a violation of Subsection (2) is a class B misdemeanor.

[~~(4)~~] (b) [~~Riot~~] A violation of Subsection (2) is a third degree felony if, in the course of the [~~conduct~~] violation:

[~~(a)~~] (i) the [~~individual~~] actor causes substantial or serious bodily injury;

[~~(b)~~] (ii) the [~~individual~~] actor causes substantial property damage or commits arson; or

[~~(c)~~] (iii) the [~~individual~~] actor was in possession of a dangerous weapon[~~ as defined in Section 76-1-101.5~~].

(4) It is not a defense to a prosecution under Subsection (2)(d) that in order for an actor to comply with an order to withdraw the actor must enter or cross over private property.

(5) An actor is not criminally or civilly liable for actions that the actor takes that are reasonably necessary to comply with an order to withdraw under Subsection (2)(d).

[~~(5)~~] (6) An [~~individual~~] actor arrested for a violation of Subsection [~~(4)~~] (2) may not be released from custody before the [~~individual~~] actor appears before a magistrate or a judge.

[~~(6) The court shall order a defendant convicted under Subsection (4) to pay restitution in accordance with Section 77-38b-205.~~]

Section 240. Section **76-9-102** is amended to read:

76-9-102 . Disorderly conduct.

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

[~~(a)~~] (i) "Official meeting" means:

[~~(i)~~] (A) a meeting, as defined in Section 52-4-103;

[~~(ii)~~] (B) a meeting of the Legislature, the Utah Senate, the Utah House of Representatives, a legislative caucus, or any committee, task force, working group, or other organization in the state legislative branch; or

[~~(iii)~~] (C) a meeting of an entity created by the Utah Constitution, Utah Code, Utah administrative rule, legislative rule, or a written rule or policy of the

Legislative Management Committee.

[~~(b)~~] (ii) "Public place" means a place to which the public or a substantial group of the public has access, including:

[~~(i)~~] (A) streets or highways; and

[~~(ii)~~] (B) the common areas of schools, hospitals, apartment houses, office buildings, public buildings, public facilities, transport facilities, and shops.

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

(2) An [~~individual is guilty of~~] actor commits disorderly conduct if:

(a) the [~~individual~~] actor refuses to comply with the lawful order of a law enforcement officer to move from a public place or an official meeting, or knowingly creates a hazardous or physically offensive condition[~~,~~] by any act that serves no legitimate purpose; or

(b) intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk of public inconvenience, annoyance, or alarm, the [~~person~~] actor:

(i) engages in fighting or in violent, tumultuous, or threatening behavior;

(ii) makes unreasonable noises in a public place or an official meeting;

(iii) makes unreasonable noises in a private place [~~which~~] that can be heard in a public place or an official meeting; or

(iv) obstructs vehicular or pedestrian traffic in a public place or an official meeting.

[~~(3) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section. Nothing in this Subsection (3) may limit or prohibit a law enforcement officer from approaching or engaging any person in a voluntary conversation.~~]

[~~(4)~~] (3)(a) [~~An individual who violates this section is guilty of:~~] Except as provided in Subsection (3)(b), (c), or (d), a violation of Subsection (2) is an infraction.

[~~(a) except as provided in Subsection (4)(b), (c), or (d), an infraction;~~]

(b) [~~except~~] Except as provided in Subsection [~~(4)(c) or (d),~~] (3)(c) or (d), a violation of Subsection (2) is a class C misdemeanor[~~,~~] if the violation occurs after the [~~individual~~] actor has been asked to cease conduct prohibited under this section[~~;~~] .

(c) [~~except~~] Except as provided in Subsection [~~(4)(d)~~] (3)(d), a violation of Subsection (2) is a class B misdemeanor[~~,~~] if:

(i) the violation occurs after the [~~individual~~] actor has been asked to cease conduct

prohibited under this section; and

(ii) within five years before the day on which the [~~individual~~] actor violates this section, the [~~individual~~] actor was previously convicted of a violation of this section[~~; or~~] .

(d) A violation of Subsection (2) is a class A misdemeanor[~~,~~] if:

(i) the violation occurs after the [~~individual~~] actor has been asked to cease conduct prohibited under this section; and

(ii) within five years before the day on which the [~~individual~~] actor violates this section, the [~~individual~~] actor was previously convicted of two or more violations of this section.

(4)(a) The mere carrying or possession of a holstered or encased firearm, whether visible or concealed, without additional behavior or circumstances that would cause a reasonable person to believe the holstered or encased firearm was carried or possessed with criminal intent, does not constitute a violation of this section.

(b) Subsection (4)(a) does not limit or prohibit a law enforcement officer from approaching or engaging an individual in a voluntary conversation.

Section 241. Section **76-9-103** is amended to read:

76-9-103 . Disrupting a meeting or procession.

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

(2) [~~A person is guilty of~~] An actor commits disrupting a meeting or procession if[~~,~~ ~~intending to prevent or disrupt a lawful meeting, procession, or gathering,~~] the actor:

(a) [~~he~~]obstructs or interferes with [~~the~~] a lawful meeting, procession, or gathering by physical action, verbal utterance, or any other means; and

(b) intends the obstruction or disruption described in Subsection (2)(a) to prevent or disrupt the meeting, procession, or gathering.

[~~(2)~~] (3) [~~Disrupting a meeting or procession~~] A violation of Subsection (2) is a class B misdemeanor.

Section 242. Section **76-9-104** is amended to read:

76-9-104 . Failure to disperse.

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

(2) [~~A person is guilty of~~] An actor commits failure to disperse if the actor:

(a) [~~when he remains~~] is at the scene of a riot, disorderly conduct, or an unlawful assembly; and

(b) [~~,~~] remains at the scene of the riot, disorderly conduct, or unlawful assembly after

having been ordered to disperse by a peace officer.

[~~(2) This section shall not apply to a person who attempted to but was unable to leave the scene of the riot or unlawful assembly.~~]

(3) [~~Failure to disperse~~] A violation of Subsection (2) is a class C misdemeanor.

(4) This section does not apply to an actor who attempts to leave the scene of a riot, disorderly conduct, or unlawful assembly but is unsuccessful in leaving the scene.

Section 243. Section **76-9-105** is amended to read:

76-9-105 . Making a false alarm.

(1)(a) As used in this section, "weapon of mass destruction" means the same as that term is defined in Section 76-15-301.

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

(2) [~~A person is guilty of~~] An actor commits making a false alarm if [~~he~~] the actor:

(a) initiates or circulates a report or warning of [~~any~~] a fire, impending bombing, or other crime or catastrophe[~~,~~] ; and

(b) [~~knowing~~] knows that that the report or warning described in Subsection (2)(a) is:

(i) false or baseless[~~ and~~] ;

(ii) is likely to cause the evacuation of [~~any~~] a building, place of assembly, or facility of public transport[~~,~~] ; and

(iii) [~~to~~] likely to cause public inconvenience or alarm or action of any sort [~~by any~~] by an official or volunteer agency organized to deal with emergencies.

[~~(2)(a) A person is guilty of a second degree felony if the person makes a false alarm relating to a weapon of mass destruction as defined in Section 76-10-401.~~]

[~~(b) A person is guilty of a third degree felony if:~~]

[~~(i) the person makes a false alarm alleging on ongoing act or event, or an imminent threat; and~~]

[~~(ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or death to another person.~~]

[~~(c) Making a false alarm other than under Subsection (2)(a) or (b) is a class B misdemeanor.~~]

(3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class B misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third degree felony if:

(i) the actor makes a false alarm alleging an ongoing act or event, or an imminent

threat; and

(ii) the false alarm causes or threatens to cause bodily harm, serious bodily injury, or death to another individual.

(c) A violation of Subsection (2) is a second degree felony if the false alarm is regarding a weapon of mass destruction.

(4) In addition to any other penalty authorized by law, a court shall order [~~any person~~] an actor convicted of a felony violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the court finds the reimbursement would be inappropriate.

Section 244. Section **76-9-105.5**, which is renumbered from Section 76-9-202 is renumbered and amended to read:

[~~76-9-202~~] 76-9-105.5 . Emergency reporting abuse.

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

(i) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

(ii) "Party line" means a subscriber's line or telephone circuit:

(A) that consists of two or more connected main telephone stations; and

(B) where each telephone station has a distinctive ring or telephone number.

(iii) "Weapon of mass destruction" means the same as that term is defined in Section 76-15-301.

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

(2) An actor [~~is guilty of~~] commits emergency reporting abuse if the actor:

[~~(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another individual upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;~~]

[~~(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists;~~]

[~~(c)~~] (a) [~~except as provided in Subsection (2)(d),~~]reports an emergency or causes an emergency to be reported, through any means, to a public, private, or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when the actor knows the reported emergency does not exist;

[~~(d)~~] (b) makes a false report, or intentionally aids, abets, or causes another person to make a false report, through any means to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, if the false report claims that:

(i) an emergency exists or will exist;

(ii) the emergency described in Subsection [~~(2)(d)(i)~~] (2)(b)(i) involves an imminent or future threat of serious bodily injury, serious physical injury, or death; and

(iii) the emergency described in Subsection [~~(2)(d)(i)~~] (2)(b)(i) is occurring, or will occur, at a specified location; or

[~~(e)~~] (c) makes a false report after having previously made a false report, or intentionally aides, abets, or causes a third party to make a false report, to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, alleging a violation of Section 63G-31-302 regarding a sex-designated changing room.

[~~(3)(a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.~~]

[~~(b)~~] (3)(a) [~~A~~] Except as provided in Subsection (3)(b), a violation of Subsection [~~(2)(c)~~] (2)(a) is a class B misdemeanor[~~, except as provided under Subsection (3)(c)~~].

[~~(c)~~] (b) A violation of Subsection [~~(2)(c)~~] (2)(a) is a second degree felony if the report is regarding a weapon of mass destruction[~~, as defined in Section 76-10-401~~].

[~~(d)~~] (c) A violation of Subsection [~~(2)(d)~~] (2)(b) is a second degree felony[~~.~~].

[~~(e)~~] (d) A violation of Subsection [~~(2)(e)~~] (2)(c) is a class B misdemeanor.

(4)(a) In addition to another penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse a federal, state, or local unit of government, or a private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation.

(b) The court may order that the [~~defendant~~] actor pay less than the full amount of the costs described in Subsection (4)(a) only if the court states on the record the reasons why the reimbursement would be inappropriate.

Section 245. Section **76-9-105.6** is enacted to read:

76-9-105.6 . Prohibited use of a party line or public pay telephone in an emergency.

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

(i) "Emergency" means the same as that term is defined in Section 76-9-105.5.

(ii) "Party line" means the same as that term is defined in Section 76-9-105.5.

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

(2) An actor commits prohibited use of a party line or public pay telephone in an emergency if the actor:

(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another individual upon being informed that the party line or public pay telephone is needed to report a fire or summon police, medical, or other aid in case of an emergency; or

(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists.

(3) A violation of Subsection (2) is a class C misdemeanor.

(4) Subsection (2)(a) does not apply if the actor refuses to yield or surrender the use of the party line or public pay telephone because the actor is using the party line or public pay telephone to report an emergency.

(5)(a) In addition to another penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse a federal, state, or local unit of government, or a private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation.

(b) The court may order that the actor pay less than the full amount of the costs described in Subsection (5)(a) only if the court states on the record the reasons why the full reimbursement would be inappropriate.

Section 246. Section **76-9-106** is amended to read:

76-9-106 . Disrupting the operation of a school.

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

(2) [~~A person is guilty of~~] An actor commits disrupting the operation of a school if the [~~person,~~] actor:

(a) [~~after being asked to leave by a school official, remains~~] is on [~~school~~] the property of a private or public school, including property being used by the school for a school function;

(b) [~~for~~] has the purpose of encouraging or creating an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of [~~a public or private school~~] the school; and

(c) remains on the property after being requested to leave by a school official.

[~~(2) For purposes of this section, "school property" includes property being used by a public or private school for a school function.~~]

(3) [~~Disrupting the operation of a school~~] A violation of Subsection (2) is a class B misdemeanor.

Section 247. Section **76-9-107** is amended to read:

76-9-107 . Unauthorized entry onto a school bus.

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

[~~(a)~~] (i) "Driver" means the driver of [~~the~~] a school bus.

[~~(b)~~] (ii) "School bus" means [~~every~~] a publicly or privately owned motor vehicle designed for transporting 10 or more passengers and operated for the transportation of children to or from school or school activities.

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

(2) [~~A person is guilty of a class B misdemeanor if the person~~] An actor commits unauthorized entry onto a school bus if the actor:

(a) enters a school bus with the intent to commit a criminal offense;

(b) enters a school bus and disrupts or interferes with the driver; or

(c) enters a school bus and refuses to leave the school bus after being ordered to leave by the driver and the [~~person~~] actor:

[~~(i) is not a peace officer acting within the scope of his or her authority as a peace officer;~~]

[~~(ii) is not authorized by the school district to board the bus as a student or as an individual employed by the school district or volunteering as a participant in a school activity;~~]

[~~(iii)~~] (i) causes or attempts to cause a disruption or an annoyance to any passenger on the school bus; or

[~~(iv)~~] (ii) is reckless as to whether the [~~person's~~] actor's presence or behavior will cause fear [~~on the part of any~~] to a passenger on the school bus.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) Subsection (2)(c) does not apply:

(a) if the actor is a peace officer acting within the scope of the peace officer's authority; or

(b) the actor is authorized by the school district to board the school bus as:

(i) a student;

(ii) an individual employed by the school district; or

(iii) a volunteer participant in a school activity.

[~~(3)~~] (5) Each school district shall ensure that clearly legible signs [~~be~~] warning that

unauthorized entry onto a school bus is a violation of the law are placed on each school bus[~~,~~] and next to each entrance to the bus[~~, warning that unauthorized entry of a school bus is a violation of state law~~].

Section 248. Section **76-9-108** is amended to read:

76-9-108 . Disrupting a funeral or memorial service.

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

[~~(a)~~] (i) "Funeral procession" means a procession of two or more motor vehicles where:

[~~(i)~~] (A) the operators of the vehicles identify themselves as being part of the procession by having the lamps or lights of the vehicle on and by keeping in close formation with the other vehicles in the procession;

[~~(ii)~~] (B) at least one vehicle contains the body or remains of a deceased person being memorialized; and

[~~(iii)~~] (C) the vehicles are going to or from a memorial service.

[~~(b)~~] (ii) "Memorial service" means a wake, funeral, graveside service, burial, or other ceremony or rite held in connection with the burial or cremation of an individual.

[~~(c)~~] (iii) "Memorial site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, grave site, mausoleum, or other place at which a memorial service is conducted.

[~~(d)~~] (iv) "Disruptive activity" means:

[~~(i)~~] (A) a loud or disruptive oration or speech that is not part of the memorial service;

[~~(ii)~~] (B) the display of a placard, banner, poster, flag, or other item that is not part of the memorial service; or

[~~(iii)~~] (C) the distribution of any handbill, pamphlet, leaflet, or other written material or other item that is not part of the memorial service.

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

(2) [~~A person is guilty of a class B misdemeanor if the person,~~] An actor commits disrupting a funeral or memorial service if the actor:

(a) [~~with intent~~] intends to disrupt [~~the~~] a memorial service[~~,~~] ; and

(b) does any of the following during the period beginning 60 minutes immediately before the scheduled commencement of [~~a~~] the memorial service and ending 60 minutes after the conclusion of [~~a~~] the memorial service:

[~~(a)~~] (i) obstructs, hinders, impedes, or blocks another [~~person's~~] individual's entry to

or exit from the memorial site;

[~~(b)~~] (ii) obstructs, hinders, impedes, or blocks a funeral procession;

[~~(c)~~] (iii) makes unreasonable noise; or

[~~(d)~~] (iv) engages in a disruptive activity within 200 feet of the memorial service.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 249. Section **76-9-109** is amended to read:

76-9-109 . Targeted residential picketing.

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

[~~(a)~~] (i) "Picketing" means the stationing or posting of one or more individuals to apprise the public, vocally or by standing or marching with signs, banners, sound amplification devices, or other means, of an opinion or a message.

[~~(b)~~] (ii) "Residence" means any single-family, duplex, or multi-family dwelling unit that is not being used as a targeted occupant's sole place of business or as a place of public meeting.

[~~(c) "Targeted residential picketing" means picketing, with or without signs, that is specifically directed or focused toward a residence, or one or more occupants of the residence, and that takes place:~~]

[~~(i) on that portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the targeted residence; or~~]

[~~(ii) within 100 feet of the property line of the targeted residence.~~]

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

(2) [~~It is unlawful to engage in~~] An actor commits targeted residential picketing[~~.~~] if:

(a)(i) the actor engages in picketing, with or without signs, specifically directed or focused toward a residence, or one or more occupants of the residence; and

(ii) the actor's conduct described in Subsection (2)(a)(i) takes place:

(A) on a portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the targeted residence; or

(B) within 100 feet of the property line of the targeted residence; or

(b)(i) the actor publishes, posts, disseminates, or discloses another individual's residential address, or other information identifying the specific location of the individual's residence; and

(ii) the actor intends to cause another individual to engage in the conduct described in Subsection (2)(a) directed or focused toward the individual's residence.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3)~~] (4) This section does not apply to:

(a) an [~~individual~~] actor picketing at the [~~individual's~~] actor's own residence;

(b) the picketing of a meeting place or assembly area commonly used to discuss subjects of general public interest; or

(c) general picketing that proceeds through residential neighborhoods or that proceeds past residences.

[~~(4) It is unlawful to publish, post, disseminate, or disclose an individual's residential address, or other information identifying the specific location of an individual's residence, with the intent to cause another individual to engage in targeted residential picketing.~~]

[~~(5) Targeted residential picketing is a class B misdemeanor.~~]

[~~(6) A violation of Subsection (4) is a class B misdemeanor.~~]

Section 250. Section **76-9-110**, which is renumbered from Section 76-9-701 is renumbered and amended to read:

[~~76-9-701~~] 76-9-110 . Public intoxication.

(1)(a) As used in this section, "minor" means an individual who is younger than 21 years old.

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

(2) [~~A person is guilty of~~] An actor commits public intoxication if the [~~person~~] actor:

(a)(i) is in a public place; or

(ii) in a private place where the actor could unreasonably disturb other individuals;

(b) is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors[~~,~~] ; and

(c) [~~to a degree that the person~~] is under the influence to a degree that it may endanger the [~~person~~] actor or another[~~, in a public place or in a private place where the person unreasonably disturbs other persons~~] individual.

(3) A violation of Subsection (2) is a class C misdemeanor.

[~~(2)~~] (4)(a) A peace officer or a magistrate may release an actor from custody [~~a person~~] arrested under this section if the peace officer or magistrate believes [~~imprisonment~~] incarceration is unnecessary for the protection of the [~~person~~] actor or another individual.

(b) A peace officer may take the [~~arrested person~~] actor to a detoxification center or other special facility as an alternative to incarceration or release from custody.

[~~(3)~~] (5)(a) If a minor is found by a court to have [~~violated this section~~] committed a

violation of Subsection (2) and the violation is the minor's first violation of [~~this section~~] Subsection (2), the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated [~~this section~~] Subsection (2) and the violation is the minor's second or subsequent violation of [~~this section~~] Subsection (2), the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

[~~(4)~~] (6)(a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated [~~this section~~] Subsection (2), the court [~~hearing the case~~]shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection [~~(4)(a)~~] (6)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of [~~this section~~] Subsection (2); and

(ii)(A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding the requirement in Subsection [~~(4)(a)~~] (6)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of [~~this section~~] Subsection (2);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii)(A) the [~~person~~] minor is 18 years old or older and provides a sworn statement to the court that the [~~person~~] minor has not unlawfully consumed alcohol or

drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [~~(4)(a)~~] (6)(a); or

(B) the [~~person~~] minor is under 18 years old and has the [~~person's~~] minor's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the [~~person~~] minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [~~(4)(a)~~] (6)(a).

[~~(5)~~] (7) When a [~~person~~] minor who is younger than 18 years old is found by a court to have violated [~~this section~~] Subsection (2), the provisions regarding suspension of the driver's license under Section 80-6-707 apply to the violation.

[~~(6)~~] (8) Notwithstanding Subsections [~~(3)(a)~~] (5)(a) and (b), if a minor is adjudicated under Section 80-6-701, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention based on the results of a validated assessment.

[~~(7)~~] (9) When the court issues an order suspending [~~a person's~~] an actor's driving privileges for a violation of [~~this section~~] Subsection (2), the [~~person's~~] actor's driver license shall be suspended under Section 53-3-219.

[~~(8) An offense under this section is a class C misdemeanor.~~]

Section 251. Section **76-9-111**, which is renumbered from Section 76-9-702.3 is renumbered and amended to read:

[~~76-9-702.3~~] 76-9-111 . Public urination.

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

(2) [~~A person is guilty of~~] An actor commits public urination if the [~~person~~] actor urinates or defecates:

(a) in a public place, other than a public rest room; and

(b) under circumstances which the [~~person~~] actor should know will likely cause affront or alarm to another individual.

[~~(2)~~] (3) [~~Public urination~~] A violation of Subsection (2) is an infraction.

Section 252. Section **76-9-112**, which is renumbered from Section 76-9-705 is renumbered and amended to read:

[~~76-9-705~~] 76-9-112 . Participation in an ultimate fighting match.

[~~(1) For purposes of this section, "ultimate fighting match" means a live match in which:~~]

[~~(a) an admission fee is charged;~~]

[~~(b) match rules permit professional contestants to use a combination of boxing, kicking,~~

~~wrestling, hitting, punching, or other combative, contact techniques; and~~]

[~~(c) match rules do not:~~]

[~~(i) incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;~~]

[~~(ii) divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or~~]

[~~(iii) prohibit contestants from:~~]

[~~(A) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;~~]

[~~(B) striking a person who demonstrates an inability to protect himself from the advances of an opponent;~~]

[~~(C) biting; or~~]

[~~(D) direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the neck, and temple area of the head.~~]

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

(2) [~~Any person who~~] An actor commits participation in an ultimate fighting match if the actor publicizes, promotes, conducts, or engages in [~~an ultimate fighting~~] a live fighting match in which:

(a) an admission fee is charged;

(b) match rules permit professional contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative, contact techniques; and

(c) match rules do not:

(i) incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(ii) divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or

(iii) prohibit contestants from:

(A) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(B) striking an individual who demonstrates an inability to protect the individual's self from the advances of an opponent;

(C) biting; or

(D) using direct, intentional, and forceful strikes to the eyes, groin area, adam's apple area of the neck, or temple area of the head.

(3) [~~is guilty of~~] A violation of Subsection (2) is a class A misdemeanor.

Section 253. Section **76-9-113**, which is renumbered from Section 76-10-2402 is renumbered and amended to read:

[~~76-10-2402~~] 76-9-113 . Commercial obstruction.

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

(i)(A) "Building" means a watercraft, aircraft, trailer, sleeping car, or other structure or vehicle adapted for overnight accommodations of individuals or for carrying on business and includes:

(I) each separately secured or occupied portion of the building or vehicle; and

(II) each structure appurtenant or connected to the building or vehicle.

(B) "Building" includes the commonly accepted meaning of building.

(ii) "Business" means a retail business dealing in tangible personal property.

(iii) "Enter" means:

(A) an intrusion of any part of the body; or

(B) the intrusion of any physical object under the control of the actor.

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

[~~(1)(a) A person is guilty of a misdemeanor if the person~~]

(2) An actor commits commercial obstruction if the actor:

(a) enters or remains unlawfully on the premises of or in a building of any business; and

(b) [~~with the intent~~] intends to interfere with the employees, customers, personnel, or operations of [~~a~~] the business[~~ through any conduct that does not constitute an offense listed under Subsection (2)~~].

[~~(b)~~] (3) A violation of Subsection [~~(1)(a)~~] (2) is a class A misdemeanor.

[~~(2) A person is guilty of felony commercial obstruction if the person enters or remains unlawfully on the premises or in a building of any business with the intent to interfere with the employees, customers, personnel, or operations of a business and also with the intent to:~~]

[~~(a) obtain unauthorized control over any merchandise, property, records, data, or proprietary information of the business;~~]

[~~(b) alter, eradicate, or remove any merchandise, records, data, or proprietary information of the business;~~]

[~~(c) damage, deface, or destroy any property on the premises of the business;~~]

[~~(d) commit an assault on any person; or~~]

[~~(e) commit any other felony.~~]

[~~(3) A person who violates any provision in Subsection (2) is guilty of a second degree felony.~~]

(4) This section does not apply to:

(a) an action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.; or

[~~(5) This section does not apply to a person's~~]

(b) an individual's exercise of the rights under the First Amendment to the Constitution of the United States or under [~~Article I, Sec. 15 of the~~]Utah Constitution, Article I, Section 15.

Section 254. Section **76-9-114** is enacted to read:

76-9-114 . Aggravated commercial obstruction.

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

(i) "Building" means the same as that term is defined in Section 76-9-113.

(ii) "Business" means the same as that term is defined in Section 76-9-113.

(iii) "Enter" means the same as that term is defined in Section 76-9-113.

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

(2) An actor commits aggravated commercial obstruction if the actor:

(a) enters or remains unlawfully on the premises or in a building of any business;

(b) intends to interfere with the employees, customers, personnel, or operations of the business; and

(c) intends to:

(i) obtain unauthorized control over any merchandise, property, records, data, or proprietary information of the business;

(ii) alter, eradicate, or remove any merchandise, records, data, or proprietary information of the business;

(iii) damage, deface, or destroy any property on the premises of the business;

(iv) commit an assault on any person; or

(v) commit any other felony.

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

(4) This section does not apply to:

(a) an action protected by the National Labor Relations Act, 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq; or

(b) an individual's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution, Article I, Section 15.

Section 255. Section **76-9-601** is amended to read:

Part 6. Offenses Concerning the Military and the Flag

76-9-601 . Abuse of a flag.

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

[~~(1) A person is guilty of~~]

(2) An actor commits abuse of a flag if [~~he~~] the actor:

(a) [~~Intentionally~~] intentionally places any unauthorized inscription or other thing upon [~~any~~] a flag of the United States or of [~~any~~] a state of the United States;[~~ or~~]

(b) [~~Knowingly~~] knowingly exhibits [~~any such~~] a flag of the United States or of a state of the United States with an unauthorized inscription or other thing, knowing the inscription or other thing [~~to be~~] is unauthorized;[~~ or~~]

(c) [~~For purposes of advertising a product or service for sale or for distribution, ~~]affixes a representation of the flag of the United States or of a state of the United States to [~~the~~] a product or on [~~any~~] a display whereon the product or service is advertised for the purpose of advertising a product or service for sale or for distribution; or

(d) [~~Knowingly~~] knowingly casts contempt upon the flag of the United States or of any state of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon [~~it~~] the flag.

[~~(2) Abuse of a flag~~]

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 256. Section **76-9-602**, which is renumbered from Section 76-9-706 is renumbered and amended to read:

[~~76-9-706~~] 76-9-602 . False representation of the military.

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

[~~(a)~~] (i) "Military related organization" means a public or private society, order, or organization that:

[~~(i)~~] (A) only accepts as a member, [~~a person~~] an individual, or the relative of [~~a person~~] an individual, who is:

[~~(A)~~] (I) a member of the military; or

[~~(B)~~] (II) an honorably discharged member of the military; and

[~~(ii)~~] (B) is organized for the purpose of:

[~~(A)~~] (I) recognizing or honoring [~~a person~~] an individual for military service;

[~~(B)~~] (II) assisting [~~a person~~] an individual described in Subsection (1)(a)(i) to lawfully associate with, or provide service with, other [~~people~~] individuals described in Subsection (1)(a)(i); or

[~~(C)~~] (III) provide support for, or assistance to, [~~a person~~] an individual described in Subsection (1)(a)(i).

[~~(b)~~] (ii) "Service medal" means:

[~~(i)~~] (A) a congressional medal of honor, as defined in 18 U.S.C. 704(c)(2);

[~~(ii)~~] (B) a distinguished service cross, as defined in 10 U.S.C 3742;

[~~(iii)~~] (C) a Navy cross, as defined in 10 U.S.C. 6242;

[~~(iv)~~] (D) an Air Force cross, as defined in 10 U.S.C. 8742;

[~~(v)~~] (E) a silver star, as defined in 10 U.S.C. 3746, 6244, or 8746;

[~~(vi)~~] (F) a bronze star, as defined in 10 U.S.C. 1133;

[~~(vii)~~] (G) a purple heart, as defined in 10 U.S.C. 1129;

[~~(viii)~~] (H) any decoration or medal authorized by the Congress of the United States for the armed forces of the United States;

[~~(ix)~~] (I) any service medal or badge awarded to members of the armed forces of the United States;

[~~(x)~~] (J) any of the following Utah National Guard medals or ribbons:

[~~(A)~~] (I) medal of valor;

[~~(B)~~] (II) Utah cross;

[~~(C)~~] (III) joint medal of merit;

[~~(D)~~] (IV) Utah medal of merit;

[~~(E)~~] (V) joint commendation medal;

[~~(F)~~] (VI) commendation medal;

[~~(G)~~] (VII) achievement ribbon;

[~~(H)~~] (VIII) joint staff service ribbon;

[~~(I)~~] (IX) state partnership service ribbon;

[~~(J)~~] (X) service ribbon;

[~~(K)~~] (XI) military funeral honors service ribbon;

[~~(L)~~] (XII) emergency service ribbon; or

[~~(M)~~] (XIII) recruiting ribbon;

[~~(xi)~~] (K) any ribbon, button, or rosette for a decoration, medal, or badge described in Subsections [~~(1)(b)(i) through (x)~~] (1)(a)(ii)(A) through (J); or

[~~(xii)~~] (L) an imitation of a decoration, medal, badge, ribbon, button, or rosette

described in Subsections [~~(1)(b)(i) through (xi)~~] (1)(a)(ii)(A) through (K).

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

(2) [~~Any person who~~] An actor commits false representation of the military if the actor:

(a) intentionally makes a false representation, verbally or in writing, that the [~~person~~] actor has been awarded a service medal[~~, is guilty of an infraction.~~] ;

[~~(3)~~] (b)(i) [~~Any person who wears, ~~]purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges for anything of value a service medal, or [~~any~~] a colorable imitation [~~ thereof, except when authorized by federal law, or under regulations made pursuant to federal law, ~~] of a service medal; and

(ii) [~~with the intent ~~] intends to defraud[~~,~~] another individual or [~~with the intent ~~]to falsely represent that the [~~person~~] actor or another [~~person~~] individual has been awarded a service medal[~~, is guilty of an infraction.~~] ;

[~~(4)~~] (c) [~~A person is guilty of an infraction if the person ~~]wears or uses a service medal of a military related organization:

[~~(a)~~] (i) that the [~~person~~] actor is not entitled to wear or use; and

[~~(b) with the intent to~~]

(ii) with the intention to defraud another individual or [~~with the intent ~~]to falsely represent that the [~~person~~] actor or another [~~person~~] individual has been awarded the service medal[~~.~~] ; or

[~~(5)~~] (d) [~~A person is guilty of an infraction if the person ~~]uses the name, an officer title, an insignia, a ritual, or a ceremony of a military related organization:

[~~(a)~~] (i) that the [~~person~~] actor is not entitled to use; and

[~~(b)~~] (ii) [~~with the intent ~~] with the intention to defraud[~~,~~] or [~~with the intent to ~~]falsely represent that the [~~person~~] actor or another [~~person~~] individual was or is a member, representative, or officer of the military related organization.

(3) A violation of Subsection (2) is an infraction.

(4) Subsection (2)(b) does not apply if the actor is authorized under a federal law or a federal regulation to undertake the conduct described.

Section 257. Section **76-9-802** is amended to read:

Part 8. Criminal Gang Related Offenses

76-9-802 . Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more [~~persons~~] individuals, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of [~~its~~] the organization's, association's, or group's primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

[~~(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.~~]

(2) "Gang loitering" means an individual remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:

(a) establish control over one or more identifiable areas;

(b) intimidate other individuals from entering those areas; or

(c) conceal illegal activities.

(3) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

[~~(3)~~] (4) "Minor" means [~~a person~~] an individual younger than 18 years old.

[~~(4)~~] (5) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with, a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

[~~(5)~~] (6)(a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) [~~Sections~~] assault as described in Section 76-5-102[~~through~~] ;

(iv) aggravated assault by prisoner as described in Section 76-5-103.5[~~, which address assault offenses~~];

[~~(iv) Title 76,~~]

(v) an offense described in Chapter 5, Part 2, Criminal Homicide;

[~~(v) Sections~~]

(vi) kidnapping as described in Section 76-5-301[~~through 76-5-304, which address kidnapping and related offenses~~];

(vii) child kidnapping as described in Section 76-5-301.1;

(viii) parental kidnapping as described in Section 76-5-301.2;

(ix) aggravated kidnapping as described in Section 76-5-302;

(x) custodial interference as described in Section 76-5-303;

(xi) unlawful detention and unlawful detention of a minor as described in Section 76-5-304;

[~~(vi)~~] (xii) a felony offense [~~under Title 76,~~] described in Chapter 5, Part 4, Sexual Offenses, except Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420;

[~~(vii)~~] (xiii) [~~Title 76,~~] an offense described in Chapter 6, Part 1, Property Destruction;

[~~(viii)~~] (xiv) [~~Title 76,~~] an offense described in Chapter 6, Part 2, Burglary and Criminal Trespass;

[~~(ix)~~] (xv) [~~Title 76,~~] an offense described in Chapter 6, Part 3, Robbery;

[~~(x)~~] (xvi) a felony offense [~~under Title 76,~~] described in Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

[~~(xi)~~] (xvii) [~~Title 76,~~] an offense described in Chapter 6, Part 5, Fraud, except

Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

[~~(xii)~~] (xviii) [~~Title 76,~~] an offense described in Chapter 6, Part 11, Identity Fraud Act;

[~~(xiii)~~] (xix) [~~Title 76,~~] an offense described in Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

[~~(xiv)~~] (xx) tampering with a witness [~~under~~] as described in Section 76-8-508;

[~~(xv)~~] (xxi) retaliation against a witness, victim, or informant [~~under~~] as described in Section 76-8-509.3;

[~~(xvi)~~] (xxii) receiving or soliciting a bribe as a witness [~~under~~] as described in Section 76-8-508.7;

[~~(xvii)~~] (xxiii) extortion or bribery to dismiss a criminal proceeding [~~under~~] as described in Section 76-8-509;

[~~(xviii)~~] (xxiv) a misdemeanor violation of disorderly conduct [~~under~~] as described in Section 76-9-102, if the violation occurs at an official meeting;

(xxv) an offense described in Chapter 9, Part 15, Criminal Offenses Relating to Bus Passenger Safety;

(xxvi) an offense described in Chapter 9, Part 16, Money Laundering and Currency Transaction Reporting;

(xxvii) an offense described in Chapter 11, Weapons;

(xxviii) an offense described in Chapter 15, Part 2, Explosives; or

(xxix) an offense described in Chapter 17, Part 4, Offenses Concerning Patterns of Unlawful Activity.

[~~(xix) Title 76, Chapter 10, Part 3, Explosives;~~]

[~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;~~]

[~~(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]

[~~(xxiii) communications fraud under Section 76-10-1801;~~]

[~~(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; or~~]

[~~(xxv) burglary of a research facility under Section 76-10-2002.~~]

(b) "Predicate gang crime" [~~also~~]includes:

(i) [~~any~~] a state or federal criminal offense that by [~~its~~] the offense's nature involves a substantial risk that physical force may be used against another individual in the

course of committing the offense; and

(ii) [~~any~~] a felony violation of a criminal statute of [~~any other~~] another state, the United States, or [~~any~~] a district, possession, or territory of the United States which would constitute a violation of any offense in Subsection [~~(4)(a)~~] (6)(a) if committed in this state.

(7)(a) "Public place" means any location or structure that the public or a substantial group of the public has access to.

(b) "Public place" includes:

(i) a sidewalk, street, or highway;

(ii) a public park, public recreation facility, or any other area open to the public;

(iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse;

(iv) a parking lot or structure adjacent to a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse;

(v) a common area of a school, hospital, apartment building, office building, transport facility, or a business; and

(vi) a lobby, hallway, elevator, restaurant or other dining area, or restroom of a location or structure described in Subsections (7)(b)(i) through (v).

Section 258. Section **76-9-803** is amended to read:

76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

[~~(1)~~] (2) [~~It is a class B misdemeanor to~~] An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang if the actor:

(a) [~~solicit, recruit, entice, or intimidate~~] solicits, recruits, entices, or intimidates a minor to join a criminal street gang[~~, whether or not the minor actually joins the criminal street gang~~];

(b) [~~conspire~~] conspires to commit [~~any~~] an act [~~under~~] described in Subsection [~~(1)(a)~~] (2)(a) with the intent to cause a minor to join a criminal street gang; or

(c) [~~use~~] uses intimidation to prevent, or attempt to prevent, a minor from leaving a criminal street gang or ending the minor's affiliation with a criminal street gang.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(2) It is a class A misdemeanor for any person who is a member of or actively involved with a criminal street gang to:~~]

[~~(a) intimidate or otherwise cause a minor to commit or attempt to commit any misdemeanor criminal offense; or~~]

[~~(b) commit a violation of Subsection (1)(a):~~]

[~~(i) more than once;~~]

[~~(ii) regarding the same minor; and~~]

[~~(iii) within a period of 180 days.~~]

[~~(3) Prosecution for any offense under this section does not prohibit prosecution for any other criminal offense.~~]

(4) It is not a defense to a prosecution under Subsection (2)(a) that the minor did not join the criminal street gang.

Section 259. Section **76-9-803.5** is enacted to read:

76-9-803.5 . Soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang by a gang member.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang by a gang member if the actor:

(a) is a member of, or actively involved with, a criminal street gang; and

(b) solicits, recruits, entices, or intimidates a specific minor to join a criminal street gang more than once within a period of 180 days.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense to a prosecution under this section that the minor described in Subsection (2) did not join a criminal street gang.

Section 260. Section **76-9-803.6** is enacted to read:

76-9-803.6 . Intimidating or causing a minor to commit a misdemeanor by a gang member.

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits intimidating or causing a minor to commit a misdemeanor by a gang member if the actor:

(a) is a member of, or actively involved with, a criminal street gang; and

(b) intimidates or otherwise causes a minor to commit or attempt to commit a misdemeanor criminal offense.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 261. Section **76-9-804** is amended to read:

76-9-804 . Possession of a dangerous weapon by a convicted criminal gang

offender.

(1)(a) As used in this section, "dangerous weapon" means the same as that term is defined in Sections 76-1-101.5 and 76-11-101.

(b) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

[~~(1) A person who has been convicted of a crime for which the penalty was enhanced under Section 76-3-203.1 may not, except where a greater penalty is applicable under this title,~~]

(2) An actor commits possession of a dangerous weapon by a convicted criminal gang offender if:

(a) the actor possess a dangerous weapon[~~as defined in either Section 76-1-101.5 or 76-10-501~~], ammunition, or a facsimile of a firearm; and

(b) the actor's possession described in Subsection (2)(a) occurs within five years [~~after the conviction~~] after the day on which the actor was convicted of an offense that was enhanced under Section 76-3-203.1.

[~~(2)~~] (3) A violation of Subsection [~~(1)~~] (2) is a class A misdemeanor.

Section 262. Section **76-9-805**, which is renumbered from Section 76-9-904 is renumbered and amended to read:

[~~76-9-904~~] 76-9-805 . Failure to disperse.

[~~(1)(a) Failure to comply with an order issued under Subsection 76-9-903(1)(b) to disperse is a class B misdemeanor of failure to disperse.~~]

[~~(b) Any second and subsequent violation of Subsection (1)(a) is a class B misdemeanor of failure to disperse and is subject to a fine of not less than $100, unless the court finds mitigating circumstances justifying a lesser punishment and makes that finding a part of the court record.~~]

[~~(2)(a) A person is guilty of a class B misdemeanor of subsequent failure to disperse who:~~]

[~~(i) is present in a public place with or as part of a group of two or more persons, and that group includes one or more persons a peace officer reasonably believes to be a member of a criminal street gang; and~~]

[~~(ii) is within sight or hearing of a location where a law enforcement officer issued an order to the person to disperse under Section 76-9-903 within the prior eight hours.~~]

[~~(b) A violation of Subsection (2)(a) is subject to a fine of not less than $100, unless the court finds mitigating circumstances justifying a lesser punishment and makes that finding a part of the court record.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

(2) An actor commits failure to disperse if the actor:

(a) is in a place designated as an area where gang loitering is prohibited under Section 11-48-104;

(b) is ordered by a law enforcement officer under Section 53-25-602 to disperse from within sight and hearing of the location described in Subsection (2)(a); and

(c)(i) fails to disperse as ordered in Subsection (2)(b); or

(ii) disperses and then returns to the location within the next eight hours after receiving the order to disperse under Subsection (2)(b).

(3)(a) Subject to Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) In addition to the punishment described in Subsection (3)(a), a subsequent violation of Subsection (2) is subject to a fine of not less than $100.

(4) A court may sentence an actor under Subsection (3)(b) with a lesser punishment if the court, on the record, finds that mitigating circumstances justify the lesser punishment.

(5) This section does not affect or limit an actor's constitutional right to engage in collective advocacy activities that are protected by the constitution or laws of this state or by the constitution or laws of the United States.

Section 263. Section **76-9-1101**, which is renumbered from Section 76-10-101 is renumbered and amended to read:

Part 11. Cigarettes, Tobacco, and Psychotoxic Chemical Solvents

[~~76-10-101~~] 76-9-1101 . Definitions.

As used in this part:

(1)(a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

(i) contains nicotine;

(ii) is intended for human consumption;

(iii) is not purchased with a prescription from a licensed physician; and

(iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Alternative nicotine product" includes:

(i) pure nicotine;

(ii) snortable nicotine;

(iii) dissolvable salts, orbs, pellets, sticks, or strips; and

(iv) nicotine-laced food and beverage.

(c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

(2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

(3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

(4)(a) "Electronic cigarette" means:

(i) [~~any~~] an electronic oral device:

(A) that provides an aerosol or a vapor of nicotine or other substance; and

(B) [~~which~~] that simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (4)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(7)(a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

(b) "Flavored electronic cigarette product" includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or mint.

(c) "Flavored electronic cigarette product" does not include an electronic cigarette product that has a taste or smell of only tobacco or menthol.

(8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(10)(a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(ii) is not purchased with a prescription from a licensed physician; and

(iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.

(11) "Nontherapeutic nicotine device substance" means a substance that:

(a) contains nicotine;

(b) is sold in a cartridge for use in a nontherapeutic nicotine device;

(c) is not purchased with a prescription from a licensed physician; and

(d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

(13) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a cafe;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

(16) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette product that:

(a)(i) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(ii)(A) was marketed in the United States on or before August 8, 2016;

(B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette product to the United States Food and Drug Administration under 21 U.S.C. Sec. 387j on or before September 9, 2020; and

(C) has an application described in Subsection (16)(a)(ii) that either remains under review by the United States Food and Drug Administration or a final decision on the application has not taken effect; and

(b) does not exceed:

(i) 4.0% nicotine by weight per container; or

(ii) a nicotine concentration of 40 milligrams per milliliter.

(17) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

(18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

(19)(a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

(b) "Tobacco paraphernalia" includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

(c) "Tobacco paraphernalia" does not include matches or lighters.

(20) "Tobacco product" means:

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

(21) "Tobacco retailer" means:

(a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

(b) a retail tobacco specialty business.

Section 264. Section **76-9-1102**, which is renumbered from Section 76-10-102 is renumbered and amended to read:

[~~76-10-102~~] 76-9-1102 . Cigarette or tobacco advertising violation.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~It is a class B misdemeanor for any person to display~~] Except as provided in Subsection (4), an actor commits cigarette or tobacco advertising violation if the actor displays on [~~any~~] a billboard, streetcar sign, streetcar, bus, placard, or on any other object or place of display, [~~any~~] an advertisement of cigarettes, cigarette papers, cigars, chewing tobacco, or smoking tobacco or any disguise or substitute of [~~either, except that a dealer in cigarettes, cigarette papers, tobacco or cigars, or their substitutes, may have a sign on the front of his place of business stating that he is a dealer in the articles; provided that nothing herein shall be construed to prohibit the advertising of cigarettes, cigarette papers, chewing tobacco or smoking tobacco, or any substitute of either, in any newspaper, magazine or periodical printed or circulating in this state.~~] cigarettes, cigarette papers, tobacco, or cigars.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4)(a) A dealer of cigarettes, cigarette papers, tobacco, cigars, or a substitute for cigarettes, cigarette papers, tobacco, or cigars may have a sign on the front of the dealer's place of business stating that the dealer is a dealer of cigarettes, cigarette papers, tobacco, cigars, or a substitute for cigarettes, cigarette papers, tobacco, or cigars.

(b) This section does not prohibit the advertisement of an item listed in Subsection (4)(a) in a newspaper, magazine or periodical printed or circulating in this state.

[~~(2) Any advertisement for smokeless tobacco placed in a newspaper, magazine, or periodical published in this state must bear a warning which states: "Use of smokeless tobacco may cause oral cancer and other mouth disorders and is addictive." This warning must be in a conspicuous location and in conspicuous and legible type, in contrast with the typography, layout, and color of all other printed material in the advertisement. For purposes of this subsection, "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity or nasal passage. In the event the United States Congress passes legislation which requires warnings in advertisements of smokeless tobacco, the specific language required to be placed in advertisements by that legislation shall take precedence over this subsection.~~]

Section 265. Section **76-9-1103**, which is renumbered from Section 76-10-103 is renumbered

and amended to read:

[~~76-10-103~~] 76-9-1103 . Permitting a minor to use a tobacco product, electronic cigarette product, or nicotine product in a place of business.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits permitting a minor to use a tobacco product, electronic cigarette product, or nicotine product in a place of business if the actor:

(a) is a proprietor of a place of business; and

(b) [~~It is a class C misdemeanor for the proprietor of any place of business to knowingly permit~~] knowingly permits an individual under 21 years old to frequent [~~a~~] the actor's place of business while the individual is using a tobacco product, an electronic cigarette product, or a nicotine product.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 266. Section **76-9-1104**, which is renumbered from Section 76-10-104 is renumbered and amended to read:

[~~76-10-104~~] 76-9-1104 . Providing a cigar, a cigarette, an electronic cigarette product, a nicotine product, or tobacco to a minor.

(1)(a) As used in this section, "provides":

[~~(a)~~] (i) includes selling, giving, furnishing, sending, or causing to be sent; and

[~~(b)~~] (ii) does not include the acts:

(A) of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others[~~ or the acts~~] ; or

(B) of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~An individual who~~] Except as provided in Subsection (4), an actor commits providing a cigar, cigarette, electronic cigarette product, nicotine product, or tobacco to a minor if the actor knowingly, intentionally, recklessly, or with criminal negligence provides a tobacco product, an electronic cigarette product, or a nicotine product to an individual who is under 21 years old[~~, is guilty of:~~] .

[~~(a) a class C misdemeanor on the first offense;~~]

[~~(b) a class B misdemeanor on the second offense; and~~]

[~~(c) a class A misdemeanor on any subsequent offense.~~]

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

(a) a class C misdemeanor on the first offense;

(b) a class B misdemeanor on the second offense; or

(c) a class A misdemeanor on the third or subsequent offense.

[~~(3)~~] (4) This section does not apply to conduct of an employee of a tobacco retailer that is a violation of Section [~~76-10-114~~] 76-9-1116.

Section 267. Section **76-9-1105**, which is renumbered from Section 76-10-104.1 is renumbered and amended to read:

[~~76-10-104.1~~] 76-9-1105 . Providing tobacco paraphernalia to a minor.

(1)(a) As used in this section, "provides"[~~:~~] means the same as that term is defined in Section 76-9-1104.

[~~(a) includes selling, giving, furnishing, sending, or causing to be sent; and~~]

[~~(b) does not include the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others or the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's content.~~]

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2)[~~(a) It is unlawful for an individual to~~] An actor commits providing tobacco paraphernalia to a minor if the actor knowingly, intentionally, recklessly, or with criminal negligence provide tobacco paraphernalia to an individual under 21 years old.

[~~(b) An individual who violates this section is guilty of:~~]

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

[~~(i)~~] (a) a class C misdemeanor on the first offense; [~~and~~] or

[~~(ii)~~] (b) a class B misdemeanor on [~~any~~] a subsequent offense.

Section 268. Section **76-9-1106**, which is renumbered from Section 76-10-105 is renumbered and amended to read:

[~~76-10-105~~] 76-9-1106 . Buying or possessing a tobacco product or an electronic cigarette product by a minor.

(1) [~~An individual who is 18 years old or older, but~~] Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits buying or possessing a tobacco product or an electronic cigarette product by a minor if the actor:

(a) is younger than 21 years old[~~, and who~~] ; and

(b) buys or attempts to buy, accepts, or has in the [~~individual's~~] actor's possession a tobacco product, an electronic cigarette product, or a nicotine product[~~ is:~~] .

[~~(a) guilty of an infraction; and~~]

[~~(b) subject to:~~]

[~~(i) a minimum fine or penalty of $60; and~~]

[~~(ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.~~]

[~~(2)~~] (3)(a) If the actor is 18 years old or older but younger than 21 years old, a violation of Subsection (2) is:

(i) an infraction; and

(ii) subject to:

(A) a minimum fine or penalty of $60; and

(B) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(b) [~~An individual who is under 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is subject to~~] If the actor is under 18 years old, a violation of Subsection (2) is a citation under Section 80-6-302, unless the violation is committed on school property under Section 53G-8-211.

[~~(b)~~] (c) If a violation under this section is adjudicated under Section 80-6-701, the minor may be subject to the following:

(i) a fine or penalty, in accordance with Section 80-6-709; and

(ii) participation in a court-approved tobacco education program, which may include a participation fee.

[~~(3)~~] (4)(a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

Section 269. Section **76-9-1107**, which is renumbered from Section 76-10-105.1 is renumbered and amended to read:

[~~76-10-105.1~~] 76-9-1107 . Illegal indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product.

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

[~~(a)~~] (i)[~~(i)~~] (A) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

[~~(ii)~~] (B) "Face-to-face exchange" does not include a sale through a[~~:~~] vending machine or a self-service display.

[~~(A) vending machine; or~~]

[~~(B) self-service display.~~]

[~~(b)~~] (ii) "Retailer" means a person who:

[~~(i)~~] (A) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or

[~~(ii)~~] (B) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette product, or a nicotine product.

[~~(c)~~] (iii) "Self-service display" means a display of a tobacco product, an electronic cigarette product, or a nicotine product to which the public has access without the intervention of a retailer or retailer's employee.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Except as provided in Subsection [~~(3), a retailer may sell~~] (4), an actor commits illegal indirect sale of a tobacco product, an electronic cigarette product, or a nicotine product if the actor:

(a) is a retailer; and

(b) sells a tobacco product, an electronic cigarette product, or a nicotine product[~~only~~] in a manner that does not include a face-to-face exchange.

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

(a) a class C misdemeanor on the first offense;

(b) a class B misdemeanor on the second offense; or

(c) a class A misdemeanor on the third or subsequent offense.

[~~(3)~~] (4) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual [~~who complies with Subsection (4) to be present~~] who is under 21 years old to be present if the individual:

(A) is accompanied by the actor's parent or legal guardian; or

(B)(I) is present solely for the purpose of providing a service to the business, including making a delivery;

(II) is monitored by the proprietor business or an employee of the business; and

(III) is not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(ii)(B)(II); or

(c) a sale at a retail tobacco specialty business.

[~~(4) An individual who is under 21 years old may not enter or be present at a retail tobacco specialty business unless the individual is:~~]

[~~(a) accompanied by a parent or legal guardian; or~~]

[~~(b)(i) present at the retail tobacco specialty business solely for the purpose of providing a service to the retail tobacco specialty business, including making a delivery;~~]

[~~(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and~~]

[~~(iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(i).~~]

(5)(a) [~~A~~] An individual's parent or legal guardian who accompanies[~~, under Subsection (4)(a),~~] an individual into an area described in Subsection [~~(3)(b) or into a retail tobacco specialty business~~] (4)(b)(ii)(A) may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.

(b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

[~~(6) A violation of Subsection (2) or (4) is a:~~]

[~~(a) class C misdemeanor on the first offense;~~]

[~~(b) class B misdemeanor on the second offense; and~~]

[~~(c) class A misdemeanor on any subsequent offenses.~~]

[~~(7) An individual who violates Subsection (5) is guilty of an offense under Section 76-10-104.~~]

Section 270. Section **76-9-1108** is enacted to read:

76-9-1108 . Illegal presence of a minor inside a tobacco specialty business.

(1)(a) As used in this section, "self-service display" means the same as that term is defined in Section 76-9-1107.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Except as provided in Subsection (4), an actor commits illegal presence of a minor inside a tobacco specialty business if the actor:

(a) is under 21 years old; and

(b) enters or is present inside a retail tobacco specialty business.

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

(a) a class C misdemeanor on the first offense;

(b) a class B misdemeanor on the second offense; or

(c) a class A misdemeanor on the third or subsequent offense.

(4) An actor under 21 years old may enter or be present inside a tobacco specialty business if the actor is:

(a) accompanied by the actor's parent or legal guardian; or

(b)(i) present at the retail tobacco specialty business solely for the purpose of providing a service to the tobacco retail specialty business, including making a delivery;

(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(i).

(5)(a) An individual's parent or legal guardian who accompanies an individual under Subsection (4)(a) inside a tobacco specialty business may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.

(b) A violation of Subsection (5)(a) is an offense under Section 76-9-1104.

Section 271. Section **76-9-1109**, which is renumbered from Section 76-10-105.3 is renumbered and amended to read:

[~~76-10-105.3~~] 76-9-1109 . Illegal sale or gift of clove cigarette.

(1)(a) As used in this section, "clove cigarette" means a cigarette that contains more than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly known as clove.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~It is unlawful for any person to knowingly sell, offer for sale, give or furnish any clove cigarette in this state. For purposes of this section "clove cigarette" means any cigarette which contains more than 10%, by weight, of raw eugenia caryophyllata or caryophyllus, commonly known as clove. Any person who violates this section is guilty of~~] An actor commits illegal sale or gift of clove cigarette if the actor knowingly sells, offers for sale, gives, or furnishes a clove cigarette in this state.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 272. Section **76-9-1110**, which is renumbered from Section 76-10-107 is renumbered and amended to read:

[~~76-10-107~~] 76-9-1110 . Abuse of psychotoxic chemical solvent.

(1)(a) As used in this section, "psychotoxic chemical solvent" includes any glue, cement, or other substance containing one or more of the following chemical compounds:

(i) acetone and acetate;

(ii) amyl nitrite or amyl nitrate or their isomers;

(iii) benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers;

(iv) ethyl alcohol, ethyl nitrite, or ethyl nitrate;

(v) ethylene dichloride;

(vi) isobutyl alcohol;

(vii) methyl alcohol;

(viii) methyl ethyl ketone;

(ix) n-propyl alcohol;

(x) pentachlorophenol;

(xi) petroleum ether;

(xii) propyl nitrite or propyl nitrate or their isomers;

(xiii) toluene;

(xiv) xylene; or

(xv) another chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~A person is guilty of~~] Except as provided in Subsection (4), an actor commits abuse of psychotoxic chemical [~~solvents if~~] solvent if:

(a) for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of [~~his~~] the actor's brain or nervous system, [~~he~~] the actor intentionally:

(i) smells or inhales the fumes of [~~any~~] a psychotoxic chemical solvent; or

(ii) possesses, purchases, or attempts to possess or purchase [~~any~~] a psychotoxic chemical solvent; or

(b) the [~~person~~] actor offers, sells, or provides a psychotoxic chemical solvent to another person, knowing that other person or a third party intends to possess or use that psychotoxic chemical solvent in violation of Subsection [~~(1)(a).~~] (2)(a).

[~~(2) This section does not apply to the prescribed use, distribution, or sale of those substances for medical or dental purposes.~~]

(3) [~~Abuse of psychotoxic chemical solvents~~] A violation of Subsection (2) is a class B

misdemeanor.

[~~(4) As used in this section, psychotoxic chemical solvent includes any glue, cement, or other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate, or their isomers, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol, methyl alcohol, methyl ethyl ketone, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene or xylene, or other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction, or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.~~]

(4) This section does not apply to:

(a) the prescribed use, distribution, or sale of a psychotoxic chemical solvent for a medical or dental purpose; or

(b) [~~Nothing in this section shall be construed to include any~~] a controlled substance regulated by the provisions of Title 58, Chapter 37, Utah Controlled Substances Act.

Section 273. Section **76-9-1111**, which is renumbered from Section 76-10-107.5 is renumbered and amended to read:

[~~76-10-107.5~~] 76-9-1111 . Abuse of nitrous oxide.

(1)(a) As used in this section, "nitrous oxide" means:

[~~(a)~~] (i) N2O, a colorless gas or liquid that is also referred to as dinitrogen monoxide, nitrogen oxide, or laughing gas; [~~and~~] or

[~~(b)~~] (ii) any substance containing nitrous oxide.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~A person is guilty of~~] Except as provided in Subsection (4), an actor commits abuse of nitrous oxide [~~who~~] if the actor:

(a) possesses nitrous oxide with the intent to breathe, inhale, or ingest [~~it~~] the nitrous oxide for the purpose of:

(i) causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses; or

(ii) in any manner changing, distorting, or disturbing the audio, visual, or mental processes;

(b) knowingly [~~and~~] or intentionally is under the influence of nitrous oxide; or

(c) offers, sells, or provides nitrous oxide to another person, knowing that other person or a third party intends to possess or use the nitrous oxide in violation of Subsection

(2)(a) or (b).

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~] (4)(a) Subsection (2)(b) does not apply to any person who is under the influence of nitrous oxide pursuant to an administration for the purpose of medical, surgical, or dental care by a person holding a license under state law that authorizes the administration of nitrous oxide.

[~~(4)~~] (b) Subsection (2)(c) does not apply to any person who:

(i) [~~-~~]administers nitrous oxide for the purpose of medical, surgical, or dental care; and

(ii) [~~who~~]holds a license under state law that authorizes the administration of nitrous oxide.

[~~(5) A violation of this section is a class A misdemeanor.~~]

Section 274. Section **76-9-1112**, which is renumbered from Section 76-10-111 is renumbered and amended to read:

[~~76-10-111~~] 76-9-1112 . Illegal provision of smokeless tobacco or electronic cigarette product -- Exceptions.

[~~(1) The Legislature finds that:~~]

[~~(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;~~]

[~~(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;~~]

[~~(c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco products; and~~]

[~~(d) it is necessary to restrict the gift of the products described in this Subsection (1) in the interest of the health of the citizens of this state.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2)[~~(a)~~] Except as provided in Subsection [~~(3), it is unlawful for~~] (4), an actor commits illegal provision of smokeless tobacco or electronic cigarette product if the actor:

(a) is a manufacturer, wholesaler, and retailer [~~to:~~] ; and

(b)(i) [~~give or distribute~~] gives or distributes without charge [~~any~~]smokeless tobacco, chewing tobacco, or an electronic cigarette product in this state;

(ii) [~~sell, offer for sale, or furnish any~~] sells, offers for sale, or furnishes an electronic cigarette product at less than the cost, including the amount of any applicable tax, of the product to the manufacturer, wholesaler, or retailer; or

(iii) [~~give, distribute, sell, offer for sale, or furnish any~~] gives, distributes, sells, offers for sale, or furnishes an electronic cigarette product for free or at a lower price because the recipient of the electronic cigarette product makes another purchase.

[~~(c) Any individual who violates this section is guilty of:~~]

[~~(i) a class C misdemeanor for the first offense; and~~]

[~~(ii) a class B misdemeanor for any subsequent offense.~~]

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

(a) a class C misdemeanor on the first offense; or

(b) a class B misdemeanor on a subsequent offense.

[~~(b)~~] (4)(a) The price that a manufacturer, wholesaler, or retailer may charge under Subsection [~~(2)(a)(ii)~~] (2)(b)(ii) does not include a discount for:

(i) a physical manufacturer coupon:

(A) that is surrendered to the wholesaler or retailer at the time of sale; and

(B) for which the manufacturer will reimburse the wholesaler or the retailer for the full amount of the discount described in the manufacturer coupon and provided to the purchaser;

(ii) a rebate that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the rebate provided to the purchaser; or

(iii) a promotional fund that will be paid to the manufacturer, the wholesaler, or the retailer for the full amount of the promotional fund provided to the purchaser.

[~~(3)~~] (b) Smokeless tobacco, chewing tobacco, or an electronic cigarette product may be distributed to adults without charge at professional conventions where the general public is excluded.

(5) The Legislature finds that:

(a) smokeless tobacco, or chewing tobacco, is harmful to the health of individuals who use those products because research indicates that they may cause mouth or oral cancers;

(b) the use of smokeless tobacco among juveniles in this state is increasing rapidly;

(c) the use of electronic cigarette products may lead to unhealthy behavior such as the use of tobacco products; and

(d) it is necessary to restrict the gift of the products described in this section in the interest of the health of the citizens of this state.

Section 275. Section **76-9-1113**, which is renumbered from Section 76-10-112 is renumbered and amended to read:

[~~76-10-112~~] 76-9-1113 . Illegal distribution of a tobacco product -- Exceptions.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) Except as provided in Subsection [~~(3), it is unlawful for~~] (4), an actor commits illegal distribution of a tobacco product if the actor:

(a) is a manufacturer, wholesaler, or retailer; and

(b) [~~to give or distribute~~] gives or distributes a tobacco product in this state without charge.

[~~(2) An individual who violates this subsection is guilty of~~]

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

(a) a class C misdemeanor [~~for~~] on the first offense; [~~and~~] or

(b) a class B misdemeanor [~~for any~~] on a subsequent offense.

[~~(3)~~] (4)(a) A tobacco product may be distributed to an adult without charge at a professional convention where the general public is excluded.

[~~(4)~~] (b) The prohibition described in Subsection [~~(1)~~] (2) does not apply to a tobacco retailer, a manufacturer, or a distributor that gives a tobacco product to an individual who is 21 years old or older upon the individual's purchase of a tobacco product.

Section 276. Section **76-9-1114**, which is renumbered from Section 76-10-113 is renumbered and amended to read:

[~~76-10-113~~] 76-9-1114 . Illegal distribution of a flavored electronic cigarette product.

(1) [~~Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a retail tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any person.~~] Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish~~] An actor commits illegal distribution of a flavored electronic cigarette product if the actor gives, distributes, sells, offers for sale, or furnishes to any person a flavored electronic cigarette product.

[~~(4) An individual who violates this section is guilty of~~]

[~~(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.~~]

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

(a) a class C misdemeanor [~~for~~] on the first offense; [~~and~~] or

(b) a class B misdemeanor [~~for any~~] on a subsequent offense.

Section 277. Section **76-9-1115** is enacted to read:

76-9-1115 . Illegal distribution of an electronic cigarette product without federal authorization.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits illegal distribution of an electronic cigarette product without federal authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.

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

(a) a class C misdemeanor on the first offense; or

(b) a class B misdemeanor on a subsequent offense.

Section 278. Section **76-9-1116**, which is renumbered from Section 76-10-114 is renumbered and amended to read:

[~~76-10-114~~] 76-9-1116 . Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.

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

[~~(a)~~] (i) "Compensatory service" means service or unpaid work performed by an employee, in lieu of the payment of a fine or imprisonment.

[~~(b)~~] (ii) "Employee" means an employee or an owner of a tobacco retailer.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~It is unlawful for an employee to knowingly or intentionally sell or give~~] An actor commits unlawful sale of a tobacco product, electronic cigarette product, or nicotine product if the actor:

(a) is an employee; and

(b) intentionally or knowingly sells or gives a tobacco product, an electronic cigarette product, or a nicotine product in the course of business to an individual [~~who is under~~] younger than 21 years old.

(3) [~~An employee who violates this section~~] A violation of Subsection (2) is:

(a) on a first violation:

(i) [~~guilty of~~]an infraction; and

(ii) subject to:

(A) a fine not exceeding $1,000; or

(B) compensatory service; or

(b) on [~~any~~] a subsequent violation:

(i) [~~guilty of~~]a class C misdemeanor; and

(ii) subject to:

(A) a fine not exceeding $2,000; or

(B) compensatory service.

Section 279. Section **76-9-1117**, which is renumbered from Section 76-10-115 is renumbered and amended to read:

[~~76-10-115~~] 76-9-1117 . Unlawful transfer of proof of age.

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

[~~(a)~~] (i) "Proof of age" means:

[~~(i)~~] (A) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

[~~(ii)~~] (B) a valid identification that:

[~~(A)~~] (I) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

[~~(B)~~] (II) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

[~~(C)~~] (III) includes date of birth; and

[~~(D)~~] (IV) has a picture affixed;

[~~(iii)~~] (C) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

[~~(iv)~~] (D) a valid United States military identification card that:

[~~(A)~~] (I) includes date of birth; and

[~~(B)~~] (II) has a picture affixed; or

[~~(v)~~] (E) a valid passport.

[~~(b)~~] (ii) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) [~~An individual is guilty of a class B misdemeanor if the individual knowingly and intentionally transfers that individual's~~] Except as provided in Subsection (4), an actor commits unlawful transfer of proof of age if the actor intentionally or knowingly transfers the actor's proof of age to another individual to aid that individual in:

(a) purchasing a tobacco product, an electronic cigarette product, or a nicotine product;

or

(b) gaining admittance to any part of the premises of a retail tobacco specialty business.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3) An individual is guilty of a class A misdemeanor if the individual knowingly and intentionally uses proof of age containing false information with the intent to:~~]

[~~(a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or~~]

[~~(b) gain admittance to any part of the premises of a retail tobacco specialty business.~~]

(4) [~~Subsections (2) and (3) do~~] Subsection (2) does not apply to an individual who uses a false identification in accordance with Subsection 77-39-101(4) at the request of a peace officer.

Section 280. Section **76-9-1118** is enacted to read:

76-9-1118 . Unlawful use of proof of age containing false information.

(1)(a) As used in this section, "proof of age" means the same as that term is defined in Section 76-9-1117.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.

(2) An actor commits unlawful use of proof of age containing false information if the actor intentionally or knowingly uses proof of age containing false information with the intent to:

(a) purchase a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) gain admittance to any part of the premises of a retail tobacco specialty business.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Subsection (2) does not apply to an individual who uses a false identification in accordance with Subsection 77-39-101(4) at the request of a peace officer.

Section 281. Section **76-9-1119**, which is renumbered from Section 76-10-116 is renumbered and amended to read:

[~~76-10-116~~] 76-9-1119 . Ordinances, rules, and regulations.

(1) Except as provided in Subsection (2) or (3), an ordinance, rule, or regulation adopted by a governing body of a political subdivision of the state or a state agency is superseded if:

(a) the ordinance, rule, or regulation affects:

(i) the minimum age of sale for a tobacco product, an electronic cigarette product, or tobacco paraphernalia;

(ii) the provision or sale of a tobacco product, an electronic cigarette product, or tobacco paraphernalia;

(iii) the flavoring of a tobacco product or an electronic cigarette product;

(iv) the purchase or possession of a tobacco product, an electronic cigarette product, or tobacco paraphernalia; or

(v) the placement or display of a tobacco product or an electronic cigarette product; and

(b) the ordinance, rule, or regulation is not essentially identical to [~~any~~] a state statute relating to the applicable subject described in Subsection (1)(a).

(2) A governing body of a political subdivision of the state or a state agency may adopt an ordinance, rule, or regulation on a subject described in Subsections (1)(a)(i) through (v) if the governing body of a political subdivision of the state or a state agency is authorized by statute to adopt the ordinance, rule, or regulation.

(3) Subsection (1) does not apply to the adoption or enforcement of a land use ordinance by a municipal or county government.

Section 282. Section **76-9-1201** is enacted to read:

Part 12. Offenses Concerning Water, Shafts, and Wells

76-9-1201 . Definitions.

Reserved.

Section 283. Section **76-9-1202**, which is renumbered from Section 76-10-201 is renumbered and amended to read:

[~~76-10-201~~] 76-9-1202 . Unlawful interference with water flow.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~Every person who knowingly or~~] An actor commits unlawful interference with water flow if the actor intentionally or knowingly interferes with or alters the flow of water in any stream, ditch, or lateral while under the control or management of any water commissioner[~~ is guilty of a crime punishable under Section 73-2-27~~].

(3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

Section 284. Section **76-9-1203**, which is renumbered from Section 76-10-202 is renumbered and amended to read:

[~~76-10-202~~] 76-9-1203 . Unlawful taking of water or damaging a water facility.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~No person may, in~~] An actor commits unlawful taking of water or damaging a water facility if the actor, in violation of [~~any~~] a right of [~~any other~~] another person[~~ knowingly or~~] , intentionally or knowingly:

(a) [~~turn or use~~] turns on or uses the water, or [~~any~~] a part thereof, of [~~any~~] a canal, ditch, pipeline, or reservoir, except at a time when the use of the water has been duly

distributed to the [~~person~~] actor;

(b) [~~use any~~] uses a greater quantity of the water than has been duly distributed to [~~him~~] the actor;

(c) in any way [~~change~~] changes the flow of water when lawfully distributed for irrigation or other useful purposes, except when duly authorized to make the change; or

(d) [~~break or injure any~~] breaks or injures a dam, canal, pipeline, watergate, ditch, or other means of diverting or conveying water for irrigation or other useful purposes.

(3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

[~~(2)~~] (4) Subsection [~~(1)~~] (2) applies to violations of [~~any~~] a right to the use of water, including:

(a) a water right; or

(b) authorization of a person's use of water by:

(i) a water company, as defined in Subsection 73-3-3.5(1)(b); or

(ii) an entity having a valid water right under Utah law.

[~~(3) Any person who violates this section is guilty of a crime punishable under Section 73-2-27.~~]

Section 285. Section **76-9-1204**, which is renumbered from Section 76-10-203 is renumbered and amended to read:

[~~76-10-203~~] 76-9-1204 . Unlawful obstruction of watergates.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~Every person who~~] An actor commits unlawful obstruction of watergates if the actor:

(a) rafts or floats logs, timber, or wood down any river or stream; and

(b) allows the logs, timber, or wood described in Subsection (2)(a) to accumulate at or obstruct the watergates owned by [~~any~~] a person or irrigation company taking or diverting the water of the river or stream for irrigation or manufacturing purposes[~~, is guilty of a crime punishable under Section 73-2-27~~].

(3) A violation of Subsection (2) is subject to the penalty provisions in Section 73-2-27.

Section 286. Section **76-9-1205**, which is renumbered from Section 76-10-204 is renumbered and amended to read:

[~~76-10-204~~] 76-9-1205 . Unlawful damage to a bridge, dam, canal, or other water-related structure.

[~~(1) A person is guilty of a third degree felony who intentionally, knowingly, or recklessly~~

~~commits an offense under Subsection (2) that does not amount to a violation of Subsection 76-6-106(2)(a)(ii) or Section 76-6-106.3.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) Except as provided in Subsection (4), an actor commits unlawful damage to a bridge, dam, canal, or other water-related structure if the actor intentionally, knowingly, or recklessly:

[~~(2) Offenses referred to in Subsection (1) are when a person:~~]

(a) cuts, breaks, damages, or destroys [~~any~~] a bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected:

(i) to create hydraulic power[~~,~~] ;

(ii) to drain or reclaim [~~any swamp and overflowed~~] a swamp, overflowed land, or marsh land[~~,~~] ; or

(iii) to conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

(b) makes or causes to be made [~~any~~] an aperture in [~~any~~] a dam, canal, flume, aqueduct, reservoir, embankment, levee, or similar structure with intent to injure or destroy [~~it~~] the dam, canal, flume, aqueduct, reservoir, embankment, levee, or similar structure; or

(c) draws up, cuts, or injures [~~any piles~~] a pile fixed in the ground and used for securing [~~any~~] a lake or river bank or [~~walls~~] wall or [~~any~~] a dock, quay, jetty, or lock.

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

(4) Subsection (2) applies to conduct that does not amount to a violation of Subsection 76-6-106(2)(a)(ii) or Section 76-6-106.3.

Section 287. Section **76-9-1206**, which is renumbered from Section 76-10-2601 is renumbered and amended to read:

[~~76-10-2601~~] 76-9-1206 . Unlawful failure to fence a shaft or well.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1201 apply to this section.

(2) [~~Any person who~~] An actor commits unlawful failure to fence a shaft or well if the actor:

(a) has sunk or sinks a shaft or well on the public domain for any purpose[~~- shall enclose it with a substantial curb or fence, which shall be at least 4-1/2 feet high.~~] ; and

(b) fails to enclose the shaft or well with a substantial curb or fence that is at least 4.5 feet high.

[~~(2)~~] (3) [~~Any person violating this section is guilty of~~] A violation of Subsection (2) is a class B misdemeanor.

Section 288. Section **76-9-1301**, which is renumbered from Section 76-10-801 is renumbered

and amended to read:

Part 13. Criminal Nuisance

[~~76-10-801~~] 76-9-1301 . Definitions.

[~~(1) A nuisance is any~~] As used in this part:

(1) "Nuisance" means an item, thing, manner, or condition [~~whatsoever~~]that:

(a) is dangerous to human life or health; or

(b) renders soil, air, water, or food impure or unwholesome.

(2)(a) "Public nuisance" means unlawfully committing an act or omitting to perform a duty, which act or duty:

(i) annoys, injures, or endangers the comfort, repose, health, or safety of three or more persons, regardless of the extent to which the annoyance, injury, or endangerment inflicted on the persons is unequal;

(ii) offends public decency;

(iii) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a lake, stream, canal, or basin, or a public park, square, street, or highway;

(iv) is a nuisance as described in Section 78B-6-1107, Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction; or

(v) renders three or more persons insecure in life or the use of property, regardless of the extent to which the effect inflicted on the persons is unequal.

(b) "Public nuisance" is presumed to not include:

(i) activities conducted in the normal and ordinary course of agricultural operations, as defined in Section 4-44-102, and conducted in accordance with sound agricultural practices, with the presumption that agricultural operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are operating within sound agricultural practices; or

(ii) activities conducted in the normal and ordinary course of critical infrastructure materials operations, as defined in Section 78B-6-1101, and conducted in accordance with sound critical infrastructure materials practices, with the presumption that critical infrastructure materials operations undertaken in conformity with federal, state, and local laws and regulations, including zoning ordinances, are operating within sound critical infrastructure materials operations.

[~~(2) Any person, whether as owner, agent, or occupant who creates, aids in creating, or~~

~~contributes to a nuisance, or who supports, continues, or retains a nuisance, is guilty of a class B misdemeanor.~~]

Section 289. Section **76-9-1302** is enacted to read:

76-9-1302 . Creating, supporting, or retaining a nuisance.

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) An actor commits creating, supporting, or retaining a nuisance if the actor:

(a) is an owner, agent, or occupant; and

(b)(i) creates, aids in creating, or contributes to a nuisance; or

(ii) supports, continues, or retains a nuisance.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 290. Section **76-9-1303**, which is renumbered from Section 76-10-802 is renumbered and amended to read:

[~~76-10-802~~] 76-9-1303 . Befouling waters.

[~~A person is guilty of a class B misdemeanor if he:~~]

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) An actor commits the offense of befouling waters if the actor:

(a) [~~Constructs~~] constructs or maintains a corral, sheep pen, goat pen, stable, pigpen, chicken coop, or other offensive yard or outhouse [~~where~~] from which the waste or drainage [~~therefrom shall flow~~] will flow directly into the waters of any stream, well, or spring of water used for domestic purposes;[~~ or~~]

[~~(2)~~] (b) [~~Deposits~~] deposits, piles, unloads, or leaves [~~any~~] a manure heap, offensive rubbish, or the carcass of [~~any~~] a dead animal [~~where~~] from which the waste or drainage [~~therefrom~~]will flow directly into the waters of any stream, well, or spring of water used for domestic purposes;[~~ or~~]

[~~(3)~~] (c) [~~Dips~~] dips or washes sheep in [~~any~~] a stream, or constructs, maintains, or uses [~~any~~] a pool or dipping vat for dipping or washing sheep in such close proximity to [~~any~~] a stream used for domestic purposes by the inhabitants of any city or town [~~for domestic purposes~~] so as to make the waters [~~thereof~~] of the stream impure or unwholesome;[~~ or~~]

[~~(4)~~] (d) [~~Constructs~~] constructs or maintains [~~any~~] a corral, yard, or vat to be used for the purpose of shearing or dipping sheep within 12 miles of any city or town, [~~where~~] from which the refuse or filth from the corral or yard would naturally find its way into any stream of water used for domestic purposes by the inhabitants of any city or town[~~ for domestic purposes~~]; or

[~~(5)~~] (e) [~~Establishes~~] establishes and maintains [~~any~~] a corral, camp, or bedding place for the purpose of herding, holding, or keeping [~~any~~]cattle, horses, sheep, goats, or hogs within seven miles of any city or town, [~~where~~] from which the refuse or filth from the corral, camp, or bedding place will naturally find its way into any stream of water used for domestic purposes by the inhabitants of any city or town[~~ for domestic purposes~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 291. Section **76-9-1304**, which is renumbered from Section 76-10-805 is renumbered and amended to read:

[~~76-10-805~~] 76-9-1304 . Unlawful disposal of carcass or offal.

(1) [~~Every person who~~] Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) An actor commits unlawful disposal of carcass or offal if the actor:

(a) puts the carcass of [~~any~~] a dead animal, or the offal from [~~any~~] a slaughter pen, corral, or butcher shop, into [~~any~~] a river, creek, pond, street, alley, or public highway, or road in common use[~~, or who attempts to destroy it by fire, within one-fourth of a mile of any city or town is guilty of a class B misdemeanor.~~] ; or

(b) attempts to destroy by fire the carcass of a dead animal, or the offal from a slaughter pen, corral, or butcher shop, within one-fourth of a mile of a city or town.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 292. Section **76-9-1305**, which is renumbered from Section 76-10-804 is renumbered and amended to read:

[~~76-10-804~~] 76-9-1305 . Maintaining, committing, or failing to remove a public nuisance.

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) [~~Every person who~~] An actor commits maintaining, committing, or failing to remove a public nuisance if the actor:

(a) maintains or commits [~~any~~] a public nuisance, the punishment for which is not otherwise prescribed[~~, or who~~] ; or

(b) willfully omits to perform [~~any~~] a legal duty relating to the removal of a public nuisance[~~, is guilty of~~] .

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 293. Section **76-9-1306**, which is renumbered from Section 76-10-806 is renumbered and amended to read:

[~~76-10-806~~] 76-9-1306 . Action for abatement of public nuisance.

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

(i) "Distribute" means the same as that term is defined in Section 76-5c-101.

(ii) "Exhibit" means the same as that term is defined in Section 76-5c-101.

(iii) "Material" means the same as that term is defined in Section 76-5c-101.

(b) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) The county attorney of the county [~~where~~] in which the public nuisance exists, upon direction of the county [~~-~~]executive, or city attorney of the city [~~where~~] in which the public nuisance exists, upon direction of the board of city commissioners, or attorney general, upon direction of the governor, or any of the above attorneys without the necessity of direction, is empowered to institute an action in the name of the county, city, or state, as the case may be, to abate a public nuisance.

(3) The action shall be brought in the [~~district~~] court of the district [~~where~~] in which the public nuisance exists and shall be in the form prescribed by the Rules of Civil Procedure of the State of Utah for injunctions, but none of the above attorneys shall be required to execute a bond with respect to the action.

(4) If the action is instituted, however, to abate the distribution or exhibition of material alleged to offend public decency, the action shall be in the form prescribed by the Rules of Civil Procedure of Utah for injunctions, but no restraining order or injunction shall issue except upon notice to the person sought to be enjoined; and that person shall be entitled to a trial of the issues commencing within three days after filing of an answer to the complaint and a decision shall be rendered by the court within two days after the conclusion of the trial.[~~ As used in this part, "distribute," "exhibit," and "material" mean the same as provided in Section 76-10-1201.~~]

Section 294. Section **76-9-1307**, which is renumbered from Section 76-10-808 is renumbered and amended to read:

[~~76-10-808~~] 76-9-1307 . Relief granted for a public nuisance that offends public decency.

If the existence of a public nuisance [~~as defined by Subsection 76-10-803(1)(b)~~] that offends public decency is admitted or established, either in a civil or criminal proceeding, a judgment shall be entered [~~which~~] that shall:

(1) permanently enjoin each defendant and any other person from further maintaining the public nuisance at the place complained of and each defendant from maintaining such public nuisance elsewhere;

(2) direct the person enjoined to surrender to the sheriff of the county in which the action was brought any material in [~~his~~] the defendant's possession [~~which~~] that is subject to the injunction, and the sheriff shall seize and destroy this material; and

(3) without proof of special injury, direct that an accounting be had and all money and other consideration paid as admission to view any motion picture film determined to constitute a public nuisance, or paid for any publication determined to constitute a public nuisance, in either case without deduction for expenses, be forfeited and paid into the general fund of the county [~~where the~~] in which the public nuisance was maintained.

Section 295. Section **76-9-1308**, which is renumbered from Section 76-10-807 is renumbered and amended to read:

[~~76-10-807~~] 76-9-1308 . Criminal violation of an order enjoining a public nuisance.

(1) Terms defined in Sections 76-1-101.1 and 76-9-1301 apply to this section.

(2) [~~A person who~~] An actor commits criminal violation of an order enjoining a public nuisance if the actor knowingly violates [~~any~~] a judgment or order abating or otherwise enjoining a public nuisance[~~ as defined under Section 76-10-803 is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 296. Section **76-9-1401**, which is renumbered from Section 76-10-1101 is renumbered and amended to read:

Part 14. Gambling

[~~76-10-1101~~] 76-9-1401 . Definitions.

As used in this part:

(1)(a) "Amusement device" means a game that:

(i) is activated by a coin, token, or other object of consideration or value; and

(ii) does not provide the opportunity to:

(A) enter into a sweepstakes, lottery, or other gambling event; or

(B) receive any form of consideration or value, except an appropriate reward.

(b) "Amusement device" includes:

(i) a video game;

(ii) a driving simulator;

(iii) an electronic game;

(iv) a claw machine;

(v) a bowling game;

(vi) a shuffleboard game;

(vii) a skee-ball game;

(viii) a pool table;

(ix) a pinball machine;

(x) a target machine; and

(xi) a baseball machine.

(2) "Amusement facility" means a facility that:

(a) is operated primarily for the purpose of providing amusement or entertainment to customers;

(b) is located on property that is open to customers for the purpose of providing customers with an opportunity to use an amusement device;

(c) receives a substantial amount of the facility's revenue from the operation of amusement devices; and

(d) does not provide an opportunity for, or a machine or device that enables, gambling or fringe gambling.

(3)(a) "Appropriate reward" means a reward that:

(i) an individual receives as a result of the individual's participation in or use of an amusement device; and

(ii) provides:

(A) full and adequate return for money, a token, or other consideration or value invested into the amusement device;

(B) an immediate and unrecorded ability to replay a game featured on an amusement device that is not exchangeable for value;

(C) a toy, novelty, or other non-monetary prize with a value of less than $100 as a reward for playing; or

(D) tickets or credits that are redeemable for a toy, novelty, or non-monetary prize at an amusement facility, or at any franchise or chain of the amusement facility, where the amusement device is located.

(b) "Appropriate reward" does not include money, a gift certificate, a gift card, credit to be used in a retail store, or other form of monetary compensation or reward.

(4) "Consumer" means the same as that term is defined in Section [~~76-10-1230~~] 76-5c-401.

(5) "Enter or entry" means an act or process by which an individual becomes eligible to receive a prize offered for participation in any form of sweepstakes, game, or contest.

(6)(a) "Fringe gambling" means any de facto form of gambling, lottery, fringe gaming

device, or video gaming device that is given, conducted, or offered for use or sale by a business in exchange for anything of value or incident to the purchase of another good or service.

(b) "Fringe gambling" does not include:

(i) a promotional activity that is clearly ancillary to the primary activity of a business; or

(ii) use of an amusement device or vending machine.

(7)(a) "Fringe gaming device" means a mechanically, electrically, or electronically operated machine or device that:

(i) is not an amusement device or a vending machine;

(ii) is capable of displaying or otherwise presenting information on a screen or through any other mechanism; and

(iii) provides the user with a card, token, credit, gift certificate, product, or opportunity to participate in a contest, game, gaming scheme, or sweepstakes with a potential return of money or other prize.

(b) "Fringe gaming device" includes a machine or device similar to a machine or device described in Subsection (7)(a) that seeks to avoid application or circumvent this part or Utah Constitution, Article VI, Section 27[~~, of the Utah Constitution~~].

(8)(a) "Gambling" means risking anything of value for a return or risking anything of value upon the outcome of a contest, game, gaming scheme, or gaming device when the return or outcome:

(i) is based on an element of chance, regardless of:

(A) the existence of a preview or pre-reveal feature in the device, contest, or game; or

(B) whether the preview or pre-reveal feature described in Subsection (8)(a)(i)(A) allows users to see individual or successive outcomes; and

(ii) is in accord with an agreement or understanding that someone will receive anything of value in the event of a certain outcome.

(b) "Gambling" includes a lottery.

(c) "Gambling" does not include:

(i) a lawful business transaction; or

(ii) use of an amusement device.

(9) "Gambling bet" means money, checks, credit, or any other representation of value.

(10) "Gambling device or record" means anything specifically designed for use in gambling

or fringe gambling or used primarily for gambling or fringe gambling.

(11) "Gambling proceeds" means anything of value used in gambling or fringe gambling.

[~~(12) "Internet gambling" or "online gambling" means gambling, fringe gambling, or gaming by use of:~~]

[~~(a) the Internet; or~~]

[~~(b) any mobile electronic device that allows access to data and information.~~]

[~~(13)~~] (12) "Internet service provider" means a person engaged in the business of providing Internet access service, with the intent of making a profit, to consumers in Utah.

[~~(14)~~] (13) "Lottery" means any scheme for the disposal or distribution of property by chance among persons who have paid or promised to pay any valuable consideration for the chance of obtaining property, or portion of it, or for any share or any interest in property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name it is known.

(14) "Online gambling" means gambling, fringe gambling, or gaming by use of:

(a) the Internet; or

(b) any mobile electronic device that allows access to data and information.

(15) "Prize" means a gift, award, gratuity, good, service, credit, or anything else of value that may be or is transferred to an individual or placed on an account or other record with the intent to be transferred to an individual.

(16) "Promotional activity that is clearly ancillary to the primary activity of a business" means a promotional activity that:

(a) continues for a limited period of time;

(b) is related to a good or service ordinarily provided by a business or the marketing or advertisement of a good or service ordinarily provided by the business;

(c) does not require [~~a person~~] an individual to purchase a good or service from the business in consideration for participation or an advantage in the promotional activity or any other contest, game, gaming scheme, sweepstakes, or promotional activity;

(d) promotes a good or service described in Subsection (16)(b) on terms that are commercially reasonable; and

(e) does not, through use of a machine or device:

(i) simulate a gambling environment;

(ii) require the purchase of something of value to participate in the promotional activity that is not regularly used, purchased, or redeemed by users of the machine

or device;

(iii) provide a good or service described in Subsection (16)(b):

(A) in a manner in which the person acquiring the good or service is unable to immediately acquire, redeem, or otherwise use the good or service after the time of purchase; or

(B) at a value less than the full value of the good or service;

(iv) appear or operate in a manner similar to a machine or device that is normally found in a casino for the purpose of gambling;

(v) provide an entertaining display, designed to appeal to an individual's senses, that promotes actual or simulated game play that is similar in appearance or function to gambling, including:

(A) a video playing card game, including a video poker game;

(B) a video bingo game;

(C) a video craps game;

(D) a video keno game;

(E) a video lotto game;

(F) an 8-liner machine;

(G) a Pot O' Gold game;

(H) a video game involving a random or chance matching of pictures, words, numbers, or symbols; or

(I) a video game that reveals a prize as the game is played; or

(vi) otherwise create a pretextual transaction to facilitate a contest, game, gaming scheme, or sweepstakes in an attempt to circumvent the requirements of this part or Article VI, Section 27, of the Utah Constitution.

(17) "Skill-based game" means a game, played on a machine or device, the outcome of which is based, in whole or in part, on the skill of the player, regardless of whether a degree of chance is involved.

(18) "Sweepstakes" means a game, advertising scheme, marketing scheme, or other promotion:

(a) that an individual may enter with or without payment of any consideration;

(b) that qualifies the person to win a prize; and

(c) the result of which is based on chance.

(19) "Vending machine" means a device:

(a) that dispenses merchandise in exchange for money or any other item of value;

(b) that provides full and adequate return of the value deposited;

(c) through which the return of value is not conditioned on an element of chance or skill; and

(d)(i) does not include a promotional activity; or

(ii) includes a promotional activity that is clearly ancillary to the primary activity of a business.

(20) "Video gaming device" means a device that includes all of the following:

(a) a video display and computer mechanism for playing a game;

(b) the length of play of any single game is not substantially affected by the skill, knowledge, or dexterity of the player;

(c) a meter, tracking, or recording mechanism that records or tracks any money, tokens, games, or credits accumulated or remaining;

(d) a play option that permits a player to spend or risk varying amounts of money, tokens, or credits during a single game, in which the spending or risking of a greater amount of money, tokens, or credits:

(i) does not significantly extend the length of play time of any single game; and

(ii) provides for a chance of greater return of credits, games, or money; and

(e) an operating mechanism that, in order to function, requires inserting money, tokens, or other valuable consideration other than entering the user's name, birthdate, or contact information.

Section 297. Section **76-9-1402**, which is renumbered from Section 76-10-1102 is renumbered and amended to read:

[~~76-10-1102~~] 76-9-1402 . Participating in gambling.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) [~~A person is guilty of~~] An actor commits participating in gambling if the [~~person:~~]

[~~(a)~~] actor participates in:

(a) gambling[~~ or~~] ;

(b) fringe gambling[~~, including any Internet or~~] ; or

(c) online gambling[~~;~~] .

[~~(b) knowingly permits gambling or fringe gambling to be played, conducted, or dealt upon or in any real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or~~]

[~~(c) knowingly allows the use of any video gaming device that is:~~]

[~~(i) in any business establishment or public place; and~~]

[~~(ii) accessible for use by any person within the establishment or public place.~~]

[~~(2) Gambling is a class B misdemeanor, except that any person who is convicted two or more times under this section is guilty of a class A misdemeanor.~~]

[~~(3)(a) A person is guilty of a third degree felony who intentionally provides or offers to provide any form of Internet or online gambling to any person in this state.~~]

[~~(b) Subsection (3)(a) does not apply to an Internet service provider, a hosting company as defined in Section 76-10-1230, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service by reason of the fact that the Internet service provider, hosting company, Internet advertising service, or provider of public telecommunications services:~~]

[~~(i) transmits, routes, or provides connections for material without selecting the material; or~~]

[~~(ii) stores or delivers the material at the direction of a user.~~]

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2).

(4) If [~~any~~]federal law authorizes [~~Internet~~] online gambling in the states of the United States and [~~that federal law~~]provides that individual states may opt out of [~~Internet~~] online gambling, this state shall opt out of [~~Internet~~] online gambling in the manner provided by federal law and within the time frame provided by that law.

(5) Regardless of whether a federal law is enacted that authorizes [~~Internet~~] online gambling in the states of the United States, this section [~~acts~~] and Section 76-9-1404 act as this state's prohibition of [~~any~~]gambling, [~~including Internet~~] fringe gambling, or online gambling, in this state.

Section 298. Section **76-9-1403** is enacted to read:

76-9-1403 . Permitting gambling.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) An actor commits permitting gambling if the actor knowingly:

(a) permits gambling or fringe gambling to be played, conducted, or dealt upon or in real or personal property owned, rented, or under the control of the actor, whether in whole or in part; or

(b) allows the use of a video gaming device that is:

(i) in a business establishment or public place; and

(ii) accessible for use by an individual within the establishment or public place.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of a violation of Subsection (2).

Section 299. Section **76-9-1404** is enacted to read:

76-9-1404 . Online gambling promotion.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) An actor commits online gambling promotion if the actor intentionally provides or offers to provide a form of online gambling to an individual in this state.

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

(4) This section does not apply to an Internet service provider, a hosting company as defined in Section 76-5c-401, a provider of public telecommunications services as defined in Section 54-8b-2, or an Internet advertising service that:

(a) transmits, routes, or provides connections for material without selecting the material; or

(b) stores or delivers the material at the direction of a user.

Section 300. Section **76-9-1405**, which is renumbered from Section 76-10-1104 is renumbered and amended to read:

[~~76-10-1104~~] 76-9-1405 . General gambling promotion.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~] (2) [~~A person is guilty of~~] An actor commits general gambling promotion if the [~~person~~] actor:

(a) [~~-~~]derives, or intends to derive, an economic benefit other than personal winnings from gambling or fringe gambling; and[~~:~~]

[~~(a)~~] (b)(i) [~~the person~~]induces or aids another individual to engage in gambling or fringe gambling; or

[~~(b)~~] (ii) [~~the person~~]knowingly invests in, finances, owns, controls, supervises, manages, or participates in [~~any~~]gambling or fringe gambling.

[~~(2)~~] (3)(a) [~~Gambling promotion~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor[~~,~~] .

(b) [~~except that any person who is twice convicted under this section is guilty of~~] A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2).

Section 301. Section **76-9-1406**, which is renumbered from Section 76-10-1103 is renumbered and amended to read:

[~~76-10-1103~~] 76-9-1406 . Gambling fraud.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~] (2) [~~A person is guilty of~~] An actor commits gambling fraud if the [~~person~~] actor:

(a) participates in gambling or fringe gambling;

(b) [~~and~~]wins or acquires [~~to himself or herself or~~] gambling proceeds for the actor or another [~~any gambling proceeds~~] individual; and

(c) [~~when the person~~]knows the [~~person~~] actor has a lesser risk of losing or greater chance of winning than one or more of the other participants, and the risk is not known to all the other participants.

[~~(2) A person convicted of gambling fraud is punished as in the case of theft of property of like value.~~]

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

(a) a second degree felony if the value of what the actor wins or acquires for the actor or another individual is or exceeds $5,000;

(b) a third degree felony if the value of what the actor wins or acquires for the actor or another individual is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value of what the actor wins or acquires for the actor or another individual is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value of what the actor wins or acquires for the actor or another individual is less than $500.

Section 302. Section **76-9-1407**, which is renumbered from Section 76-10-1105 is renumbered and amended to read:

[~~76-10-1105~~] 76-9-1407 . Possessing a gambling device or record.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) [~~A person is guilty of~~] An actor commits possessing a gambling device or record if the [~~person~~] actor:

(a) knowingly possesses [~~the~~] a gambling device or record; and

(b) [~~with intent~~] intends to use the gambling device or record in gambling or fringe gambling.

[~~(2)~~] (3)(a) [~~Possession of a gambling device or record~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor[~~,~~] .

(b) [~~except that any person who is convicted two or more times under this section is~~

~~guilty of~~] A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2).

Section 303. Section **76-9-1408**, which is renumbered from Section 76-10-1110 is renumbered and amended to read:

[~~76-10-1110~~] 76-9-1408 . Deriving a benefit from a fringe gaming device.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~] (2) [~~Notwithstanding any other provision in Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals, it is unlawful for any person to derive or intend to derive an economic benefit from a fringe gaming device by~~] An actor commits deriving a benefit from a fringe gaming device if the actor:

(a) [~~permitting~~] permits a fringe gaming device to be located on or in [~~any~~]real or personal property owned, rented, or under the control of the [~~person~~] actor;

(b) [~~allowing~~] allows individual or public access or use of a fringe gaming device as part of [~~any~~] a business owned or operated by the [~~person~~] actor;

(c) [~~inducing or aiding a person~~] induces or aids an individual to use a fringe gaming device;

(d) [~~investing in, financing, owning, controlling, or otherwise managing~~] invests in, finances, owns, controls, or otherwise manages a fringe gaming device; or

(e) [~~possessing~~] possesses a fringe gaming device with the intent to use or allow another individual to use the fringe gaming device.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the actor has previously been convicted of a violation of Subsection (2).

[~~(2)~~] (4) [~~Subsection (1)~~] This section applies regardless of whether the fringe gaming device:

(a) is server-based;

(b) uses a simulated game terminal as a representation of a prize associated with the results of a sweepstakes entry;

(c) uses a simulated game to influence or determine the result of the simulated game or the value of a prize;

(d) selects the winner of a prize from a predetermined or finite pool of entries;

(e) includes a pre-reveal feature;

(f) predetermines a prize and reveals the prize at the time a sweepstakes entry result is revealed;

(g) requires deposit of any money, coin, token, or gift certificate, or the use of a credit card, debit card, prepaid card, or any other method of payment to activate the device;

(h) requires direct payment into the machine or device or remote activation of the device;

(i) requires a purchase of a related product regardless of whether the product has legitimate value;

(j) reveals the prize incrementally, regardless of whether a prize is awarded; or

(k) includes a skill-based game.

[~~(3) Each violation of this section is a separate offense.~~]

[~~(4) A person who violates this section is guilty of:~~]

[~~(a) a class A misdemeanor for the first offense; or~~]

[~~(b) a third degree felony for a subsequent offense.~~]

Section 304. Section **76-9-1409**, which is renumbered from Section 76-10-1104.5 is renumbered and amended to read:

[~~76-10-1104.5~~] 76-9-1409 . Advertising or soliciting participation in a lottery.

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

[~~(a) "Conspicuously~~] "conspicuously printed" means printed in either larger or bolder type size than the adjacent and surrounding material so as to be clearly legible to [~~any person~~] an individual viewing the print.

[~~(b) "Lottery" means the same as defined in Section 76-10-1101.~~]

(b) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

(2) [~~It is unlawful for any person to distribute or disseminate any~~] An actor commits advertising or soliciting participation in a lottery if the actor distributes or disseminates an advertisement or other written or printed material containing an advertisement or solicitation for participation in [~~any~~] a lottery[~~ unless the advertisement or solicitation contains or includes the words "Void in Utah" conspicuously printed~~].

(3)(a) [~~Any person who is convicted of violating ~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) [~~shall be fined the sum~~] is subject to a fine of $2,500.

(b) [~~Any person who is twice or more convicted under this section shall be fined the sum of ~~] A violation of Subsection (2) is subject to a fine of $10,000 if the actor has previously been convicted of a violation of Subsection (2).

(4) This section does not apply if the advertisement or solicitation contains or includes the words "Void in Utah" conspicuously printed in the advertisement or solicitation.

Section 305. Section **76-9-1410**, which is renumbered from Section 76-10-1109 is renumbered

and amended to read:

[~~76-10-1109~~] 76-9-1410 . Obtaining a benefit from a confidence game.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1401 apply to this section.

[~~(1)~~] (2) [~~Any person who~~] An actor commits obtaining a benefit from a confidence game if the actor knowingly obtains or attempts to obtain from [~~any other person any~~] another individual money or property by any means, instrument, or device commonly [~~called~~] referred to as a confidence game[~~ shall be punished as in the case of theft of property of like value~~].

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

(a) a second degree felony if the value of what the actor obtains is or exceeds $5,000;

(b) a third degree felony if the value of what the actor obtains is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value of what the actor obtains is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value of what the actor obtains is less than $500.

[~~(2)~~] (4) [~~In every~~] An indictment, information, or complaint under this section[~~, it~~] shall be deemed and held to contain a sufficient description of the offense [~~to charge that the accused did, on, ____ (insert the date) unlawfully and knowingly obtain or attempt to obtain (as the case may be) from ____, (insert the name of the person or persons defrauded or attempted to be defrauded) his money or property (as the case may be) by means and by use of a confidence game~~] if the indictment, information, or complaint contains:

(a) the date that the actor is accused of unlawfully and knowingly obtaining money or property from another individual;

(b) the name of the individual from whom the actor is accused of obtaining money or property;

(c) a description of the money or property obtained by the actor from the individual; and

(d) a description of the confidence game the actor used to obtain the money or property from the individual.

Section 306. Section **76-9-1411**, which is renumbered from Section 76-10-1112 is renumbered and amended to read:

[~~76-10-1112~~] 76-9-1411 . Local control -- Seizure and disposition of gambling debts or proceeds.

(1) [~~Nothing in this part preempts~~] This part does not preempt or otherwise [~~limits the~~

~~authority of~~] limit a county or municipality [~~to enact~~] from enacting a local ordinance related to gambling or fringe gambling.

[~~(2) In accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, a county or municipality may seize gambling debts, gambling proceeds, or fringe gaming devices that are reasonably identifiable as being obtained or provided in violation of this part or a local ordinance.~~]

(2) The following that are reasonably identifiable as having been used or obtained in violation of this part or a local ordinance may be seized and are subject to forfeiture proceedings in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, or Title 77, Chapter 11b, Forfeiture of Seized Property:

(a) gambling bets;

(b) gambling proceeds;

(c) gambling debts; and

(d) fringe gaming devices.

Section 307. Section **76-9-1412**, which is renumbered from Section 76-10-1113 is renumbered and amended to read:

[~~76-10-1113~~] 76-9-1412 . Cause of action.

(1) An individual who suffers an economic loss as a result of a fringe gaming device, video gaming device, or gambling device or record may bring a cause of action against a person who operates or receives revenue from the fringe gaming device, video gaming device, or gambling device or record to recover damages, costs, and attorney fees.

(2) An individual who brings suit under Subsection (1) may recover twice the amount of the economic loss described in Subsection (1).

Section 308. Section **76-9-1501**, which is renumbered from Section 76-10-1503 is renumbered and amended to read:

Part 15. Criminal Offenses Relating to Bus Passenger Safety

[~~76-10-1503~~] 76-9-1501 . Definitions.

As used in this [~~act~~] part:

(1)(a) "Bus" means [~~any~~] a passenger bus or coach or other motor vehicle having a seating capacity of 15 or more passengers operated by a bus company for the purpose of carrying passengers or cargo for hire.

(b) [~~and~~] "Bus" includes a transit vehicle, as defined in Section 17B-2a-802, of a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(2)(a) "Bus company" or "company" means [~~any~~] a person, group of persons, or

corporation providing for-hire transportation to passengers or cargo by bus upon the highways in the state, including passengers and cargo in interstate or intrastate travel. [~~These terms also include~~]

(b) "Bus company" or "company" includes local public bodies, public transit districts, municipalities, public corporations, boards, and commissions established under the laws of the state providing transportation to passengers or cargo by bus upon the highways in the state, whether or not for hire.

(3) "Charter" means a group of persons, pursuant to a common purpose and under a single contract, and at a fixed charge in accordance with a bus company's tariff, which has acquired the exclusive use of a bus to travel together to a specified destination or destinations.

(4) "Passenger" means [~~any~~] a person transported or served by a bus company, including persons accompanying or meeting another being transported, any person shipping or receiving cargo, and any person purchasing a ticket or receiving a pass.

(5)(a) "Terminal" means a bus station or depot or any other facility operated or leased by or operated on behalf of a bus company.

(b) [~~and~~] "Terminal" includes:

(i) a transit facility, as defined in Section 17B-2a-802, of a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act[~~. This term includes~~] ; and

(ii) a reasonable area immediately adjacent to:

(A) [~~any~~] a designated stop along the route traveled by [~~any~~] a bus operated by a bus company[~~ and~~] ; or

(B) [~~parking lots or areas adjacent to terminals~~] a parking lot or an area adjacent to a terminal.

Section 309. Section **76-9-1502**, which is renumbered from Section 76-10-1504 is renumbered and amended to read:

[~~76-10-1504~~] 76-9-1502 . Bus hijacking.

[~~(1)(a)~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~A person is guilty of~~] An actor commits bus hijacking if the [~~person~~] actor seizes or exercises control, by force or violence or threat of force or violence, of a bus within the state.

[~~(b)~~] (3) [~~Bus hijacking~~] A violation of Subsection (2) is a first degree felony.

[~~(2)(a) A person is guilty of assault with the intent to commit bus hijacking if the person intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.~~]

[~~(b) Assault with the intent to commit bus hijacking is a second degree felony.~~]

[~~(3) A person who, in the commission of assault with intent to commit bus hijacking, uses a dangerous weapon, as defined in Section 76-1-101.5, is guilty of a first degree felony.~~]

Section 310. Section **76-9-1503** is enacted to read:

76-9-1503 . Assault with intent to commit bus hijacking.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) An actor commits assault with intent to commit bus hijacking if the actor intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second degree felony.

(b) A violation of Subsection (2) is a first degree felony if the actor used a dangerous weapon during the violation.

Section 311. Section **76-9-1504**, which is renumbered from Section 76-10-1505 is renumbered and amended to read:

[~~76-10-1505~~] 76-9-1504 . Unlawful discharge of a firearm or hurling of a missile into a bus or terminal.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Any person who~~] Except as provided in Subsection (4), an actor commits unlawful discharge of a firearm or hurling of a missile into a bus or terminal if the actor discharges a firearm or hurls a missile at or into [~~any~~] a bus or terminal[~~ shall be guilty of a third degree felony~~].

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

[~~(2)~~] (4) [~~The prohibition of this~~] This section does not apply to elected or appointed peace officers or commercial security personnel who discharge firearms or hurl missiles in the course and scope of [~~their~~] the peace officer's or commercial security personnel's employment.

Section 312. Section **76-9-1505**, which is renumbered from Section 76-10-1506 is renumbered and amended to read:

[~~76-10-1506~~] 76-9-1505 . Unlawful conduct while on a bus.

(1)(a) As used in this section, "controlled substance" means the same as that term is defined in Section 58-37-2.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~A person is guilty of a class C misdemeanor, if the person~~] An actor commits unlawful conduct while on a bus if the actor:

(a) threatens a breach of the peace, is disorderly, or uses obscene, profane, or vulgar language on a bus;

(b) is in or upon any bus while unlawfully under the influence of a controlled substance[~~as defined in Section 58-37-2~~];

(c) fails to obey a reasonable request or order of a bus driver, bus company representative, a nondrinking designee other than the driver as provided in Subsection 32B-4-415(4)(c)(ii), or other person in charge or control of a bus or terminal;

(d) ingests [~~any~~] a controlled substance, unless prescribed by a physician or a medical facility, in or upon any bus, or drinks intoxicating liquor in or upon [~~any~~] a bus, except a chartered bus as defined and provided in Sections 32B-1-102 and 41-6a-526; or

(e) smokes tobacco or other products in or upon [~~any~~] a bus, except a chartered bus.

[~~(2)~~] (3) A violation of Subsection (2) is a class C misdemeanor.

(4)(a) If [~~any person violates Subsection (1)~~] an actor violates Subsection (2), the driver of the bus or [~~person~~] individual in charge thereof may stop at the place where the offense is committed or at the next regular or convenient stopping place and remove [~~such person~~] the actor, using only such force as may be necessary to accomplish the removal, and the driver or [~~person~~] individual in charge may request the assistance of passengers to assist in [~~the removal~~] removing the actor.

[~~(3)~~] (b) The driver or [~~person~~] individual in charge may cause the [~~person so removed~~] removed actor to be detained and delivered to the proper authorities.

Section 313. Section **76-9-1506**, which is renumbered from Section 76-10-1507 is renumbered and amended to read:

[~~76-10-1507~~] 76-9-1506 . Unlawful refusal to leave a terminal -- Detention of violators -- Private security personnel.

[~~(1)(a) In order to provide for the safety, welfare and comfort of passengers, a bus company may refuse admission to terminals to a person not having bona fide business within the terminal.~~]

[~~(b) The refusal may not be inconsistent or contrary to state or federal laws or regulations, or to an ordinance of the political subdivision in which the terminal is located.~~]

[~~(c) An authorized bus company representative may require a person in a terminal to identify himself and state his business.~~]

[~~(d) Failure to comply with a request under Subsection (1)(c) or to state an acceptable business purpose is grounds for the representative to request that the person depart the terminal.~~]

[~~(e) A person who refuses to comply with a request made under Subsection (1)(d) is guilty of a class C misdemeanor.~~]

[~~(2)(a) A person who carries any highly flammable or hazardous material or device into a terminal or aboard a bus is guilty of a third degree felony.~~]

[~~(b) The bus company may employ reasonable means, including mechanical, electronic or x-ray devices to detect the items concealed in baggage or upon the person of a passenger.~~]

[~~(c) Upon the discovery of an item referred to in Subsection (2)(a), the company may obtain possession and retain custody of the item until it is transferred to a peace officer.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) An actor commits unlawful refusal to leave a terminal if:

(a) an authorized bus company representative asks the actor to identify the actor's self and state the ground for the actor's business in the terminal;

(b) the actor:

(i) fails to comply with the request described in Subsection (2)(a); or

(ii) fails to state an acceptable business purpose;

(c) the authorized bus company representative requests that the actor depart the terminal;

(d) the request for departure described in Subsection (2)(c) is:

(i) within the bus company's ability to refuse admission to a terminal to individuals who do not have a bona fide business within the terminal as part of the bus company's provision of safety, welfare, and comfort of passengers; and

(ii) not inconsistent with or contrary to state or federal laws or regulations, or to an ordinance of the political subdivision in which the terminal is located; and

(e) the actor refuses to comply with the request described in Subsection (2)(c) to depart the terminal.

(3) A violation of Subsection (2) is a class C misdemeanor.

[~~(3)~~] (4)(a) An authorized bus company representative may detain within a terminal or bus [~~any person violating~~] an actor who violates the provisions of this section for a reasonable time until law enforcement authorities arrive.

(b) The detention described in Subsection (4)(a) does not constitute unlawful imprisonment and neither the bus company nor the representative is civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against the detained [~~person~~] actor.

[~~(4)~~] (5)(a) A bus company may employ or contract for private security personnel.

(b) The private security personnel may:

(i) detain within a terminal or bus [~~a person violating~~] an actor who violates this section for a reasonable time until law enforcement authorities arrive; and

(ii) use reasonable and necessary force in subduing or detaining the [~~person~~] actor.

Section 314. Section **76-9-1507** is enacted to read:

76-9-1507 . Unlawful material or device in a bus or a terminal -- Detention of violators -- Private security personnel.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) An actor commits unlawful material or device in a bus or a terminal if the actor carries a highly flammable or hazardous material or device into a terminal or aboard a bus.

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

(4)(a) A bus company may employ reasonable means, including mechanical, electronic or x-ray devices, to detect the items concealed in baggage or upon the person of a passenger.

(b) Upon discovery of a highly flammable or hazardous material or device, the bus company may obtain possession and retain custody of the material or device until the material or device is transferred to a peace officer.

(5)(a) An authorized bus company representative may detain within a terminal or bus an actor who violates the provisions of this section for a reasonable time until law enforcement authorities arrive.

(b) The detention does not constitute unlawful imprisonment and neither the bus company nor the representative is civilly or criminally liable upon grounds of unlawful imprisonment or assault, provided that only reasonable and necessary force is exercised against the detained actor.

(6)(a) A bus company may employ or contract for private security personnel.

(b) The private security personnel may:

(i) detain within a terminal or bus an actor who violates this section for a reasonable time until law enforcement authorities arrive; and

(ii) use reasonable and necessary force in subduing or detaining the actor.

Section 315. Section **76-9-1508**, which is renumbered from Section 76-10-1508 is renumbered and amended to read:

[~~76-10-1508~~] 76-9-1508 . Theft of baggage or cargo.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Any person who~~] An actor commits theft of baggage or cargo if the actor removes any baggage, cargo or other item transported upon a bus or stored in a terminal without the consent of:

(a) the owner of the property; or

(b) the bus company[,] or [~~its~~] the bus company's duly authorized representative[~~ is guilty of theft and shall be punished pursuant to section 76-6-404~~].

(3) A violation of Subsection (2) is punishable under Section 76-6-404.

Section 316. Section **76-9-1509**, which is renumbered from Section 76-10-1509 is renumbered and amended to read:

[~~76-10-1509~~] 76-9-1509 . Obstructing the operation of a bus.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Any person who~~] An actor commits obstructing the operation of a bus if the actor unlawfully obstructs or impedes by force or violence, or any means of intimidation, the regular operation of a bus[~~ is guilty of a class C misdemeanor~~].

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 317. Section **76-9-1510**, which is renumbered from Section 76-10-1510 is renumbered and amended to read:

[~~76-10-1510~~] 76-9-1510 . Conspiracy to obstruct the operation of a bus.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1501 apply to this section.

(2) [~~Two or more persons who~~] An actor commits conspiracy to obstruct the operation of a bus if the actor willfully [~~combine or conspire~~] combines or conspires with another individual to violate Section [~~76-10-1509 shall each be guilty of a class C misdemeanor~~] 76-9-1509, Obstructing the operation of a bus.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 318. Section **76-9-1601**, which is renumbered from Section 76-10-1902 is renumbered and amended to read:

Part 16. Money Laundering and Currency Transaction Reporting

[~~76-10-1902~~] 76-9-1601 . Definitions.

As used in this part:

(1) "Bank" means an agent, agency, or office in this state of a person doing business in [~~any~~] one of the following capacities:

(a) a commercial bank or trust company organized under the laws of this state or of the United States;

(b) a private bank;

(c) a savings and loan association or a building and loan association organized under the laws of the United States;

(d) an insured institution as defined in Section 401 of the National Housing Act;

(e) a savings bank, industrial bank, or other thrift institution;

(f) a credit union organized under the laws of this state or of the United States; or

(g) any other organization chartered under Title 7, Financial Institutions Act, and subject to the supervisory authority set forth in that title.

(2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.

(3)(a) "Currency" means the coin and paper money of the United States or of another country that is designated as legal tender, that circulates, and is customarily used and accepted as a medium of exchange in the country of issuance.

(b) "Currency" includes United States silver certificates, United States notes, Federal Reserve notes, and foreign bank notes customarily used and accepted as a medium of exchange in a foreign country.

(4) "Financial institution" means an agent, agency, branch, or office within this state of a person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the following capacities:

(a) a bank, except bank credit card systems;

(b) a broker or dealer in securities;

(c) a currency dealer or exchanger, including a person engaged in the business of check cashing;

(d) an issuer, seller, or redeemer of travelers checks or money orders, except as a selling agent exclusively who does not sell more than $150,000 of the instruments within any 30-day period;

(e) a licensed transmitter of funds or other person engaged in the business of

transmitting funds;

(f) a telegraph company;

(g) a person subject to supervision by a state or federal supervisory authority; or

(h) the United States Postal Service regarding the sale of money orders.

(5) "Financial transaction" means a transaction:

(a) involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce; or

(b) involving the use of a financial institution that is engaged in, or its activities affect commerce in any way or degree.

[~~(6) The phrase "knows that the property involved represents the proceeds of some form of unlawful activity" means that the person knows or it was represented to the person that the property involved represents proceeds from a form of activity, although the person does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in Subsection (12).~~]

[~~(7)~~] (6) "Monetary instruments" means coins or currency of the United States or of another country, travelers checks, personal checks, bank checks, money orders, and investment securities or negotiable instruments in bearer form or in other form so that title passes upon delivery.

[~~(8)~~] (7) "Person" means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, and all other entities cognizable as legal personalities.

[~~(9)~~] (8) "Proceeds" means property acquired or derived directly or indirectly from, produced through, realized through, or caused by an act or omission and includes property of any kind.

[~~(10)~~] (9) "Property" means anything of value, and includes an interest in property, including a benefit, privilege, land, or right with respect to anything of value, whether real or personal, tangible or intangible.

[~~(11)~~] (10) "Prosecuting agency" means the office of the attorney general or the office of the county attorney, including an attorney on the staff whether acting in a civil or criminal capacity.

[~~(12) "Specified unlawful activity" means an unlawful activity defined as an unlawful activity in Section 76-10-1602, except an illegal act under Title 18, Section 1961(1)(B), (C), and (D), United States Code, and includes activity committed outside this state which, if committed within this state, would be unlawful activity.~~]

[~~(13)~~] (11) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, "transaction" includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of a stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

[~~(14)~~] (12) "Transaction in currency" means a transaction involving the physical transfer of currency from one person to another. A transaction that is a transfer of funds by means of bank check, bank draft, wire transfer, or other written order that does not include the physical transfer of currency is not a transaction in currency under this chapter.

(13)(a) "Unlawful activity" means the same as that term is defined in Section 76-17-401.

(b) "Unlawful activity" includes activity committed outside this state which, if committed within this state, would be unlawful activity.

(c) "Unlawful activity" does not include an illegal act under 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 319. Section **76-9-1602**, which is renumbered from Section 76-10-1903 is renumbered and amended to read:

[~~76-10-1903~~] 76-9-1602 . Money laundering.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

(2) [~~A person~~] An actor commits [~~the offense of~~]money laundering [~~who~~] if the actor:

(a)(i) transports, receives, or acquires [~~the~~]property [~~which~~] that is [~~in fact~~] the proceeds of [~~the specified~~]unlawful activity[~~,~~] ; and

(ii) [~~knowing~~] knows that the property [~~involved~~]represents the proceeds of [~~some form of~~]unlawful activity;

(b)(i) makes proceeds of unlawful activity available to another person by transaction, transportation, or other means[~~,~~] ; and

(ii) [~~knowing~~] knows that the proceeds are intended to be used for the purpose of continuing or furthering the commission of[~~ specified~~] unlawful activity; or

(c)(i) conducts a transaction involving property;

(ii) [~~knowing~~] knows that the property [~~involved in the transaction~~]represents the proceeds of [~~some form of~~]unlawful activity; and

(iii) conducts the transaction with the intent:

[~~(i)~~] (A) to promote the unlawful activity;

[~~(ii)~~] (B) to conceal or disguise the nature, location, source, ownership, or control

of the property; or

[~~(iii)~~] (C) to avoid a transaction reporting requirement under this [~~chapter~~] part or under federal law[~~; or~~] .

[~~(d) knowingly accepts or receives property which is represented to be proceeds of unlawful activity.~~]

[~~(2) Under Subsection (1)(d), knowledge that the property represents the proceeds of unlawful activity may be established by proof that a law enforcement officer or an individual acting at the request of a law enforcement officer made the representations and the person's subsequent statements or actions indicate that the person believed those representations to be true.~~]

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

(4) Each act committed in violation of Subsection (2) that involves the movement of funds in excess of $10,000 is a separate violation under this section.

(5) Under Subsection (2)(a)(ii), the phrase "knows that the property involved represents the proceeds of unlawful activity" means that the actor knows, or it was represented to the actor, that the property involved represents proceeds from a form of unlawful activity, although the actor does not necessarily know which form of activity, that constitutes a crime under state or federal law, regardless of whether or not the activity is specified in the definition of unlawful activity.

Section 320. Section **76-9-1603** is enacted to read:

76-9-1603 . Accepting the proceeds of unlawful activity.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

(2) An actor commits accepting the proceeds of unlawful activity if the actor knowingly accepts or receives property that is represented to the actor to be the proceeds of unlawful activity.

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

(4) Each act committed in violation of Subsection (2) that involves the movement of funds in excess of $10,000 is a separate violation under this section.

(5) Under Subsection (2), knowledge that the property represents the proceeds of unlawful activity may be established by proof that a law enforcement officer or an individual acting at the request of a law enforcement officer made the representations and the actor's subsequent statements or actions indicate that the actor believed those representations to be true.

Section 321. Section **76-9-1604**, which is renumbered from Section 76-10-1906 is renumbered

and amended to read:

[~~76-10-1906~~] 76-9-1604 . Failure to report a financial transaction of more than $10,000.

[~~(1)(a) A person engaged in a trade or business, except a financial institution, who receives more than $10,000 as described in Subsection (1)(b) shall complete and file with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns relating to currency received in trade or business.~~]

[~~(b) Subsection (1)(a) applies if the person described in Subsection (1) receives more than $10,000 in domestic or foreign currency:~~]

[~~(i) in one transaction; or~~]

[~~(ii) through two or more related transactions during one business day.~~]

[~~(c) A person who knowingly and intentionally fails to comply with the reporting requirements of this Subsection (1) is:~~]

[~~(i) on a first conviction, guilty of a class C misdemeanor; and~~]

[~~(ii) on a second or subsequent conviction, guilty of a class A misdemeanor.~~]

[~~(d) A person is guilty of a third degree felony who knowingly and intentionally violates this Subsection (1) and the violation is committed either:~~]

[~~(i) in furtherance of the commission of any other violation of state law; or~~]

[~~(ii) as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1601 apply to this section.

(2) An actor commits failure to report a financial transaction of more than $10,000 if the actor:

(a) is engaged in a trade or business;

(b) receives more than $10,000 in domestic or foreign currency:

(i) in one transaction; or

(ii) through two or more related transactions during one business day; and

(c) intentionally or knowingly fails to complete and file with the State Bureau of Investigation the information required by 26 U.S.C. Sec. 6050I, concerning returns relating to currency received in trade or business.

(3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a class C misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted of violating this section.

(c) A violation of Subsection (2) is a third degree felony if the violation is committed:

(i) in furtherance of the commission of any other violation of state law; or

(ii) as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period.

[~~(2)~~] (4)(a) The State Bureau of Investigation and the Office of the Attorney General:

(i) shall enforce compliance with Subsection [~~(1)~~] (2); and

(ii) are custodians of and have access to all information and documents filed under Subsection [~~(1)~~] (2).

(b) [~~The information~~] Information filed by a trade or business in compliance with this section is confidential, except a law enforcement agency, county attorney, or district attorney, when establishing a clear need for the information for investigative purposes, shall have access to the information and shall maintain the information in a confidential manner except as otherwise provided by the Utah Rules of Criminal Procedure.

(5) Under this section, each failure by an actor to file a report required under Subsection (2) is a separate violation.

(6) This section does not apply to a financial institution.

Section 322. Section **76-9-1701** is enacted to read:

Part 17. Unlawful Use of a Laser Pointer

76-9-1701 . Definitions.

As used in this part:

(1) "Aircraft" means the same as that term is defined in Section 72-10-102.

(2) "Laser light" means light that is amplified by stimulated emission of radiation.

(3) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at an individual.

(4) "Law enforcement officer" means an officer under Section 53-13-103.

Section 323. Section **76-9-1702**, which is renumbered from Section 76-10-2501 is renumbered and amended to read:

[~~76-10-2501~~] 76-9-1702 . Unlawful use of a laser pointer against a motor vehicle.

[~~(1) As used in this section:~~]

[~~(a) "Aircraft" means the same as that term is defined in Section 72-10-102.~~]

[~~(b) "Laser light" means light that is amplified by stimulated emission of radiation.~~]

[~~(c) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at an individual.~~]

[~~(d) "Law enforcement officer" means an officer under Section 53-13-103.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

(2) An actor commits unlawful use of a laser pointer against a motor vehicle if the actor directs a beam of laser light from a laser pointer at[~~:~~] a moving motor vehicle or the occupants of a moving motor vehicle.

[~~(a) a moving motor vehicle or the occupants of a moving motor vehicle; ~~]

[~~(b) one whom the actor knows or has reason to know is a law enforcement officer; or~~]

[~~(c) an aircraft or the occupants of an aircraft.~~]

[~~(3) It is an affirmative defense to a charge under Subsection (2)(b) that:~~]

[~~(a) the law enforcement officer was:~~]

[~~(i) not in uniform;~~]

[~~(ii) not traveling in a vehicle identified as a law enforcement vehicle; and~~]

[~~(iii) not otherwise engaged in an activity that would give the actor reason to know the law enforcement officer to be a law enforcement officer; and~~]

[~~(b) the law enforcement officer was not otherwise known by the actor to be a law enforcement officer.~~]

[~~(4)(a) A violation of Subsection (2)(a) is an infraction. ~~]

[~~(b) A violation of Subsection (2)(b) is a class C misdemeanor.~~]

[~~(c)(i) Except as provided in Subsection (4)(c)(ii) or (4)(c)(iii), a violation of Subsection (2)(c) is a class B misdemeanor.~~]

[~~(ii) Except as provided in Subsection (4)(c)(iii), a violation of Subsection (2)(c) is a class A misdemeanor if the actor previously has been convicted of a violation of Subsection (2)(c).~~]

[~~(iii) A violation of Subsection (2)(c) is a third degree felony if the actor's conduct causes an aircraft to crash or perform an emergency landing.~~]

(3) A violation of Subsection (2) is an infraction.

[~~(5)~~] (4) If the violation of this section constitutes an offense subject to a greater penalty under another provision of this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 324. Section **76-9-1703** is enacted to read:

76-9-1703 . Unlawful use of a laser pointer against an aircraft.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

(2) An actor commits unlawful use of a laser pointer against an aircraft if the actor directs a beam of laser light from a laser pointer at an aircraft or the occupants of an aircraft.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the actor previously has been convicted of a violation of Subsection (2).

(c) A violation of Subsection (2) is a third degree felony if the actor's conduct causes an aircraft to crash or perform an emergency landing.

(4) If the violation of this section constitutes an offense subject to a greater penalty under another provision of this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 325. Section **76-9-1704** is enacted to read:

76-9-1704 . Unlawful use of a laser pointer against a law enforcement officer.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1701 apply to this section.

(2) An actor commits unlawful use of a laser pointer against a law enforcement officer if the actor directs a beam of laser light from a laser pointer at an individual who the actor knows or has reason to know is a law enforcement officer.

(3) A violation of Subsection (2) is a class C misdemeanor.

(4) It is an affirmative defense to a charge under Subsection (2) that:

(a) the law enforcement officer was:

(i) not in uniform;

(ii) not traveling in a vehicle identified as a law enforcement vehicle; and

(iii) not otherwise engaged in an activity that would give the actor reason to know the law enforcement officer to be a law enforcement officer; and

(b) the law enforcement officer was not otherwise known by the actor to be a law enforcement officer.

(5) If the violation of this section constitutes an offense subject to a greater penalty under another provision of this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 326. Section **76-9-1801** is enacted to read:

Part 18. Litter and Recycling Violations

76-9-1801 . Definitions.

Reserved.

Section 327. Section **76-9-1802**, which is renumbered from Section 76-10-2701 is renumbered and amended to read:

[~~76-10-2701~~] 76-9-1802 . Unlawful littering on land or waterway.

(1)(a) As used in this section, "litter" includes a glass bottle, glass, a nail, tack, wire, can, barbed wire, board, trash or garbage, paper or paper products, or any other substance that would or could mar or impair the scenic aspect or beauty of the land.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) [~~A person may not throw, deposit, or discard, or permit to be dropped, thrown, deposited, or discarded on any~~] An actor commits unlawful littering on land or waterway if the actor drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, litter in a park, recreation area, or other public or private land, or waterway,[~~any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of the land in the state whether under private, state, county, municipal, or federal ownership~~] without the permission of the owner or person having control or custody of the land or waterway.

(3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

[~~(2) A person who drops, throws, deposits, or discards, or permits to be dropped, thrown, deposited, or discarded, on any park, recreation area, or other public or private land or waterway any destructive, injurious, or unsightly material shall:~~]

[~~(a) immediately remove the material or cause it to be removed; and~~]

[~~(b) deposit the material in a receptacle designed to receive the material.~~]

[~~(3) A person distributing commercial handbills, leaflets, or other advertising shall take whatever measures are reasonably necessary to keep the material from littering public or private property.~~]

[~~(4) A person removing a wrecked or damaged vehicle from a park, recreation area, or other public or private land shall remove any glass or other injurious substance dropped from the vehicle in the park, recreation area, or other public or private land.~~]

[~~(5) A person in charge of a construction or demolition site shall take reasonable steps to prevent the accumulation of litter at the construction or demolition site.~~]

[~~(6) A law enforcement officer as defined in Section 53-13-103, within the law enforcement officer's jurisdiction:~~]

[~~(a) shall enforce the provisions of this section;~~]

[~~(b) may issue citations to a person who violates any of the provisions of this section; and~~]

[~~(c) may serve and execute all warrants, citations, and other processes issued by any court in enforcing this section.~~]

[~~(7) An operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lots of industrial firms, marina, boat launching area, boat moorage and fueling station, public and private pier, beach, and bathing area shall maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates.~~]

[~~(8)~~] (4) A municipality within [~~its~~] the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 328. Section **76-9-1803** is enacted to read:

76-9-1803 . Unlawful failure to prevent advertising materials from becoming litter.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to prevent advertising materials from becoming litter if the actor:

(a) distributes commercial handbills, leaflets, or other advertising materials; and

(b) fails to take measures that are reasonably necessary to keep the commercial handbills, leaflets, or other advertising materials from littering public or private property.

(3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 329. Section **76-9-1804** is enacted to read:

76-9-1804 . Unlawful failure to remove injurious substance while removing a vehicle.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to remove injurious substance while removing a vehicle if the actor:

(a) removes a wrecked or damaged vehicle from a park, recreation area, or other public or private land; and

(b) fails to remove glass or other injurious substance dropped from the vehicle in the park, recreation area, or other private or public land.

(3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) the glass or other injurious substance dropped from the vehicle; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 330. Section **76-9-1805** is enacted to read:

76-9-1805 . Unlawful failure to prevent accumulation of litter at a construction or demolition site.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to prevent accumulation of litter at a construction or demolition site if the actor:

(a) is in charge of a construction or demolition site; and

(b) fails to take reasonable steps to prevent the accumulation of litter at the construction or demolition site.

(3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) the litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 331. Section **76-9-1806** is enacted to read:

76-9-1806 . Unlawful failure to provide sufficient litter receptacles.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) An actor commits unlawful failure to provide sufficient litter receptacles if the actor:

(a) is an operator of a park, campground, trailer park, drive-in restaurant, gasoline service station, shopping center, grocery store parking lot, tavern parking lot, parking lot of an industrial firm, marina, boat launching area, boat moorage and fueling station, public or private pier, beach, or bathing area; and

(b) fails to maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates on the premises.

(3)(a) A violation of Subsection (2) is a class C misdemeanor and subject to a minimum fine of $100 for each violation.

(b) The court may require the actor to participate in at least four hours of cleaning up:

(i) the litter caused by the actor's offense; and

(ii) existing litter from a safe area designated by the court.

(4) A municipality within the municipality's corporate limits and a county outside of incorporated municipalities may enact local ordinances to carry out the provisions of this section.

Section 332. Section **76-9-1807**, which is renumbered from Section 76-10-2101 is renumbered and amended to read:

[~~76-10-2101~~] 76-9-1807 . Unlawful misuse of a recycling bin.

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

[~~(a)~~] (i) "Recycling" means the process of collecting materials diverted from the waste stream for reuse.

[~~(b)~~] (ii) "Recycling bin" means any receptacle made available to the public by a governmental entity or private business for the collection of any source-separated item for recycling purposes.

(b) Terms defined in Sections 76-1-101.5 and 76-9-1801 apply to this section.

(2) [~~It is an infraction to place any~~] An actor commits unlawful misuse of a recycling bin if:

(a) the actor places a prohibited item or substance in a recycling bin; and

(b) [~~if the~~] the recycling bin is posted with the following information printed legibly in basic English:

[~~(a)~~] (i) a descriptive list of the items that may be deposited in the recycling bin, entitled in boldface capital letters: "ITEMS YOU MAY DEPOSIT IN THIS RECYCLING BIN:";

[~~(b)~~] (ii) at the end of the list in Subsection [~~(2)(a),~~] (2)(b)(i), the following statement in boldface capital letters: "REMOVING FROM THIS BIN ANY ITEM THAT IS

LISTED ABOVE AND THAT YOU DID NOT PLACE IN THE CONTAINER IS THE CRIMINAL OFFENSE OF THEFT, PUNISHABLE BY LAW.";

[~~(c)~~] (iii) the following statement in boldface capital letters: "DEPOSIT OF ANY OTHER ITEM IN THIS RECYCLING BIN IS AGAINST THE LAW.";

[~~(d)~~] (iv) the following statement in boldface capital letters, posted on the recycling collection container in close proximity to the other notices required under [~~Subsections (2)(a), (b), and (c)~~] Subsection (2)(b): "PLACING ANY ITEM OR SUBSTANCE IN THIS RECYCLING BIN OTHER THAN THOSE ALLOWED IN THE LIST POSTED ON THIS BIN IS AN INFRACTION, PUNISHABLE BY A MAXIMUM FINE OF $750."; and

[~~(e)~~] (v) the name and telephone number of the entity that owns the recycling bin or is responsible for its placement and maintenance.

(3) A violation of Subsection (2) is an infraction.

Section 333. Section **76-9-1901** is enacted to read:

Part 19. Unlawful Contraband Compartment in a Vehicle

76-9-1901 . Definitions.

As used in this part:

(1)(a) "Compartment" means any box, container, space, or enclosure:

(i) that is intended or designed to conceal, hide, or otherwise prevent the discovery of contraband; and

(ii) that is within a vehicle or attached to a vehicle.

(b) "Compartment" includes:

(i) false, altered, or modified fuel tanks;

(ii) original factory equipment of a vehicle that is modified, altered, or changed to accommodate or contain contraband; and

(iii) a box, container, space, or enclosure that is fabricated, made, created from, or added to the existing structure of a vehicle.

(2)(a) "Contraband" means any property, item, or substance that is unlawful to produce or possess under state or federal law.

(b) "Contraband" includes any cash or monetary instrument that is the proceeds of an unlawful activity under Subsection 76-17-401(4).

(3) "Motor vehicle" means the same as that term is defined in Section 41-6a-102.

(4) "Semitrailer" means the same as that term is defined in Section 41-6a-102.

(5) "Trailer" means the same as that term is defined in Section 41-1a-102.

(6) "Vehicle" means a motor vehicle, a trailer, or a semitrailer.

Section 334. Section **76-9-1902**, which is renumbered from Section 76-10-2801 is renumbered and amended to read:

[~~76-10-2801~~] 76-9-1902 . Vehicle compartment for contraband -- Penalties.

[~~(1) As used in this section:~~]

[~~(a)(i) "Compartment" means any box, container, space, or enclosure:~~]

[~~(A) that is intended or designed to conceal, hide, or otherwise prevent the discovery of contraband; and~~]

[~~(B) that is within a vehicle or attached to a vehicle.~~]

[~~(ii) "Compartment" includes:~~]

[~~(A) false, altered, or modified fuel tanks;~~]

[~~(B) original factory equipment of a vehicle that is modified, altered, or changed to accommodate or contain contraband; and~~]

[~~(C) a box, container, space, or enclosure that is fabricated, made, created from, or added to the existing structure of a vehicle.~~]

[~~(b)(i) "Contraband" means any property, item, or substance which is unlawful to produce or possess under state or federal law.~~]

[~~(ii) "Contraband" includes any cash or monetary instrument that is the proceeds of an unlawful activity under Subsection 76-10-1602(4).~~]

[~~(c) "Motor vehicle" has the same meaning as in Section 41-6a-102.~~]

[~~(d) "Semitrailer" has the same meaning as in Section 41-6a-102.~~]

[~~(e) "Trailer" has the same meaning as in Section 41-1a-102.~~]

[~~(f) "Vehicle" means a motor vehicle, a trailer, and a semitrailer.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

(2) [~~It is a class A misdemeanor for a person to~~] An actor commits unlawful possession, use, or control of a vehicle with a contraband compartment if the actor knowingly [~~possess, use, or control~~] possesses, uses, or controls a vehicle [~~which~~] that has a compartment with the intent to store, conceal, or transport contraband in the compartment.

[~~(3) It is a third degree felony for a person to facilitate the storage, concealment, or transportation of contraband by:~~]

[~~(a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;~~]

[~~(b) installing or creating a compartment in a vehicle; or~~]

[~~(c) attaching a compartment to a vehicle.~~]

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) The trier of fact may infer that [~~a person~~] an actor intended to store, conceal, or transport contraband if:

(a) the [~~person~~] actor possesses, uses, or controls a vehicle that has a compartment[~~,~~] ; and

(b) the compartment contains:

[~~(a)~~] (i) contraband; or

[~~(b)~~] (ii) evidence of prior storage, concealment, or transportation of contraband.

Section 335. Section **76-9-1903** is enacted to read:

76-9-1903 . Unlawful creation, installation, or attachment of a contraband compartment.

(1) Terms defined in Sections 76-1-101.5 and 76-9-1901 apply to this section.

(2) An actor commits unlawful creation, installation, or attachment of a contraband compartment if the actor facilitates the storage, concealment, or transportation of contraband by:

(a) designing, constructing, building, altering, or fabricating a compartment for a vehicle;

(b) installing or creating a compartment in a vehicle; or

(c) attaching a compartment to a vehicle.

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

(4) The trier of fact may infer that an actor intends to store, conceal, or transport contraband if:

(a) the actor possesses, uses, or controls a vehicle that has a compartment; and

(b) the compartment contains:

(i) contraband; or

(ii) evidence of prior storage, concealment, or transportation of contraband.

Section 336. Section **76-9-2001** is enacted to read:

Part 20. Unlawful Tattooing or Body Piercing of a Minor

76-9-2001 . Definitions.

As used in this part:

(1) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.

(2) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of tattooing or body piercing upon the minor after the parent or legal guardian has provided:

(a) reasonable proof of personal identity and familial relationship; and

(b) written permission signed by the parent or legal guardian authorizing the performance of tattooing or body piercing upon the minor.

(3) "Minor" means a person younger than 18 years old who:

(a) is not married; and

(b) has not been declared emancipated by a court of law.

(4) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars.

Section 337. Section **76-9-2002**, which is renumbered from Section 76-10-2201 is renumbered and amended to read:

[~~76-10-2201~~] 76-9-2002 . Unlawful tattooing of a minor.

[~~(1) As used in this section:~~]

[~~(a) "Body piercing" means the creation of an opening in the body, excluding the ear, for the purpose of inserting jewelry or other decoration.~~]

[~~(b) "Consent of a minor's parent or legal guardian" means the presence of a parent or legal guardian during the performance of body piercing or tattooing upon the minor after the parent or legal guardian has provided:~~]

[~~(i) reasonable proof of personal identity and familial relationship; and~~]

[~~(ii) written permission signed by the parent or legal guardian authorizing the performance of body piercing or tattooing upon the minor.~~]

[~~(c) "Minor" means a person younger than 18 years of age who:~~]

[~~(i) is not married; and~~]

[~~(ii) has not been declared emancipated by a court of law.~~]

[~~(d) "Tattoo" means to fix an indelible mark or figure upon the body by inserting a pigment under the skin or by producing scars.~~]

[~~(2) A person is guilty of unlawful body piercing of a minor if the person performs or offers to perform a body piercing:~~]

[~~(a) upon a minor;~~]

[~~(b) without receiving the consent of the minor's parent or legal guardian; and~~]

[~~(c) for remuneration or in the course of a business or profession.~~]

[~~(3)~~] (1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.

(2) [~~A person is guilty of~~] Except as provided in Subsection (5), an actor commits unlawful tattooing of a minor if the [~~person~~] actor performs or offers to perform a tattooing:

(a) upon a minor;

(b) without receiving the consent of the minor's parent or legal guardian; and

(c) for remuneration or in the course of a business or profession.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) The owner or operator of a business in which a violation of Subsection (2) occurs is subject to a civil penalty of $1,000 for each violation.

[~~(4)~~] (5) [~~A person~~] An actor is not guilty of violating Subsection (2) [~~or (3),~~]if the [~~person~~] actor:

(a) has no actual knowledge of the minor's age; and

(b) reviews, photocopies, and retains the photocopy of an apparently valid driver license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years [~~of age~~] old or older before the [~~person~~] actor performs the [~~body piercing or~~]tattooing.

[~~(5)(a) A person who violates Subsection (2) or (3) is guilty of a class B misdemeanor.~~]

[~~(b) The owner or operator of a business in which a violation of Subsection (2) or (3) occurs is subject to a civil penalty of $1,000 for each violation.~~]

Section 338. Section **76-9-2003** is enacted to read:

76-9-2003 . Unlawful body piercing of a minor.

(1) Terms defined in Sections 76-1-101.5 and 76-9-2001 apply to this section.

(2) Except as provided in Subsection (5), an actor commits unlawful body piercing of a minor if the actor performs or offers to perform a body piercing:

(a) upon a minor;

(b) without receiving the consent of the minor's parent or legal guardian; and

(c) for renumeration or in the course of a business or profession.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) The owner or operator of a business in which a violation of Subsection (2) occurs is subject to a civil penalty of $1,000 for each violation.

(5) An actor is not guilty of violating Subsection (2) if the actor:

(a) has no actual knowledge of the minor's age; and

(b) reviews, photocopies, and retains the photocopy of an apparently valid driver license or other government-issued picture identification for the minor that expressly purports that the minor is 18 years old or older before the actor performs the body piercing.

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

Section 339. Section **76-11-101**, which is renumbered from Section 76-10-501 is renumbered

and amended to read:

CHAPTER 11. WEAPONS

Part 1. General Provisions

[~~76-10-501~~] 76-11-101 . Definitions.

As used in this [~~part~~] chapter:

(1)(a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898;

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii)(A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(3)(a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

[~~(4) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.~~]

[~~(5)~~] (4) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b)(i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection [~~(5)(b)(i)~~] (4)(b)(i);

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

(B) rare; or

(C) bizarre; or

(ii) because of the firearm's association with an historical:

(A) figure;

(B) period; or

(C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

[~~(6)~~] (5)(a) "Dangerous weapon" means:

(i) a firearm; or

(ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

(i) the location and circumstances in which the object was used or possessed;

(ii) the primary purpose for which the object was made;

(iii) the character of the wound, if any, produced by the object's unlawful use;

(iv) the manner in which the object was unlawfully used;

(v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and

(vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section [~~76-10-306~~] 76-15-210.

[~~(7)(a) "Dating relationship" means a romantic or intimate relationship between individuals.~~]

[~~(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.~~]

[~~(8) "Dealer" means a person who is:~~]

[~~(a) licensed under 18 U.S.C. Sec. 923; and~~]

[~~(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.~~]

[~~(9) "Domestic violence" means the same as that term is defined in Section 77-36-1.~~]

[~~(10) "Enter" means intrusion of the entire body.~~]

[~~(11) "Federal Firearms Licensee" means a person who:~~]

[~~(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and~~]

[~~(b) is engaged in the activities authorized by the specific category of license held.~~]

[~~(12)~~] (6)[~~(a)~~] "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

[~~(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.~~]

[~~(13) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.~~]

[~~(14) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.~~]

[~~(15)~~] (7)[~~(a)~~] "Handgun" means a pistol, revolver, or other firearm of any description,

loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

[~~(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.~~]

[~~(16) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.~~]

[~~(17) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.~~]

[~~(18)~~] (8) "Prohibited area" means a place where it is unlawful to discharge a firearm.

[~~(19) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.~~]

[~~(20)~~] (9) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

[~~(21) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.~~]

(10)(a) "Short barreled rifle" means a rifle that has a barrel or barrels of fewer than 16 inches in length.

(b) "Short barreled rifle" includes a dangerous weapon made from a rifle by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(22)~~] (11)(a) "Short barreled shotgun" [~~or "short barreled rifle"~~]means a shotgun [~~having~~] that has a barrel or barrels of fewer than 18 inches in length[~~, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length,~~] .

(b) [~~or~~] "Short barreled shotgun" includes a dangerous weapon made from a [~~rifle or~~] shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(23)~~] (12) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(24) "Shoulder arm" means a firearm that is designed to be fired while braced against the~~

~~shoulder.~~]

[~~(25) "Single criminal episode" means the same as that term is defined in Section 76-1-401.~~]

[~~(26)~~] (13) "Slug" means a single projectile discharged from a shotgun shell.

[~~(27) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.~~]

[~~(28)~~] (14) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 340. Section **76-11-102**, which is renumbered from Section 76-10-502 is renumbered and amended to read:

[~~76-10-502~~] 76-11-102 . When a weapon is deemed to be loaded.

(1) For the purpose of this chapter, [~~any pistol, revolver, shotgun, rifle, or other weapon described in this part shall be deemed to be~~] a firearm is considered to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position.

(2) [~~Pistols and revolvers shall also be deemed to be~~] Handguns are also considered to be loaded when an unexpended cartridge, shell, or projectile is in a position whereby the manual operation of any mechanism once would cause the unexpended cartridge, shell, or projectile to be fired.

(3) A muzzle loading firearm [~~shall be deemed to be~~] is considered loaded when [~~it~~] the muzzle loading firearm is capped or primed and has a powder charge and ball or shot in the barrel or cylinders.

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

Section 341. Section **76-11-201** is enacted to read:

Part 2. General Weapons Violations

76-11-201 . Definitions.

As used in this part:

(1) "Enter" means intrusion of the entire body.

(2) "Fully automatic weapon" means a firearm that fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

(3) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(4) "Machinegun firearm attachment" means any part or combination of parts added to a

semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

(5) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

(6) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

Section 342. Section **76-11-202**, which is renumbered from Section 76-10-504 is renumbered and amended to read:

[~~76-10-504~~] 76-11-202 . Carrying a concealed firearm.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~] (2) [~~Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2), (3), and (4), a person who~~] An actor commits carrying a concealed firearm if the actor:

(a)(i) carries a concealed loaded or unloaded firearm[~~, as defined in Section 76-10-501, including an unloaded firearm on his or her~~] on the actor's person; or [~~one~~]

(ii) has a loaded or unloaded firearm that is readily accessible for immediate use which is not securely encased[~~, as defined in this part,~~] ; and

(b) is in or on a place other than the [~~person's~~] actor's residence, property, a vehicle in the [~~person's~~] actor's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the [~~person's~~] actor's control[~~ is guilty of a class B misdemeanor~~].

[~~(2)~~] (3)(a) Except as provided in Subsections (3)(b) and (c), a violation of Subsection (2) is a class B misdemeanor.

(b) [~~A person who carries a~~] Except as provided in Subsection (3)(c), a violation of Subsection (2) is a class A misdemeanor if the concealed firearm [~~that~~]is[~~ a~~] loaded [~~firearm in~~] at the time of the violation[~~ of Subsection (1) is guilty of a class A misdemeanor~~].

[~~(3)~~] (c) [~~A person who carries concealed an~~] A violation of Subsection (2) is a second degree felony if:

(i) the concealed firearm is an unlawfully possessed short barreled shotgun or a short barreled rifle[~~ is guilty of a second degree felony.~~] ; or

[~~(4)~~] (ii) [~~If the concealed~~] the firearm that is concealed is used in the commission of a violent felony[~~ as defined in Section 76-3-203.5~~], and the [~~person~~] actor is a party to the offense[~~, the person is guilty of a second degree felony~~].

[~~(5)~~] (4) [~~Nothing in Subsection (1) or (2) prohibits~~] This section does not:

(a) [~~a person~~] prohibit an individual engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23A, Wildlife Resources Act, from carrying a concealed firearm [~~as long as~~] if the taking of wildlife does not occur:

[~~(a)~~] (i) within the limits of a municipality in violation of that municipality's ordinances; or

[~~(b)~~] (ii) upon the highways of the state as defined in Section 41-6a-102[~~.~~] ; or

(b) apply to an individual who is a restricted person under Section 76-11-302 and may not possess a firearm in any manner or location and is subject to the penalties described in Part 3, Persons Restricted Regarding Dangerous Weapons.

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

Section 343. Section **76-11-203**, which is renumbered from Section 76-10-505 is renumbered and amended to read:

[~~76-10-505~~] 76-11-203 . Carrying a loaded firearm in a vehicle or on a street.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~] (2) [~~Unless otherwise authorized by law, a person may not carry a loaded firearm~~] An actor commits carrying a loaded firearm in a vehicle or on a street if the actor carries a loaded firearm:

(a) in or on a vehicle, unless:

(i) the vehicle is in the person's lawful possession; or

(ii) the [~~person~~] actor is carrying the loaded firearm in a vehicle with the consent of the [~~person~~] individual lawfully in possession of the vehicle;

(b) on a public street; or

(c) in a posted prohibited area.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(2)~~] (4) Subsection [~~(1)(a)~~] (2)(a) does not apply to a minor under 18 years [~~of age~~] old, since a minor under 18 years [~~of age~~] old may not carry a loaded firearm in or on a vehicle.

[~~(3)~~] (5) Notwithstanding Subsections [~~(1)(a)(i) and (ii)~~] (2)(a)(i) and (ii), and Subsection [~~76-10-523(5), a person~~] 53-5a-108(5), an actor may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.

[~~(4) A violation of this section is a class B misdemeanor.~~]

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

Section 344. Section **76-11-204**, which is renumbered from Section 76-10-505.5 is renumbered

and amended to read:

[~~76-10-505.5~~] 76-11-204 . Possession of a dangerous weapon on or about school premises.

(1)(a) As used in this section, "on or about school premises" means:

[~~(a)~~] (i)[~~(i)~~] (A) in a public or private elementary or secondary school; or

[~~(ii)~~] (B) on the grounds of any of those schools;

[~~(b)~~] (ii)[~~(i)~~] (A) in a public or private institution of higher education; or

[~~(ii)~~] (B) on the grounds of a public or private institution of higher education; or

[~~(c)~~] (iii)[~~(i)~~] (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

[~~(ii)~~] (B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor [~~who~~] commits possession of a dangerous weapon on or about school premises if the actor:

(a) is 18 years old or older; and

(b) [~~may not possess~~] possesses a dangerous weapon[~~, firearm, or short barreled shotgun~~] at a place that the actor knows, or has reasonable cause to believe, is on or about school premises.

(3)(a) [~~Possession of a dangerous weapon on or about school premises~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) [~~Possession of a firearm or short barreled shotgun on or about school premises~~] A violation of Subsection (2) is a class A misdemeanor if the dangerous weapon possessed by the actor is a firearm.

(4) This section does not apply if:

(a) the actor is authorized to possess a firearm as described in Section 53-5-704, 53-5-705, [~~76-10-511~~] 53-5a-102.3, or [~~76-10-523~~] 53-5a-108, or as otherwise authorized by law;

(b) the actor is authorized to possess a firearm as described in Section 53-5-704.5, unless the actor is in a location where the actor is prohibited from carrying a firearm under Subsection 53-5-710(2);

(c) the possession is approved by the responsible school administrator;

(d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the actor responsible for the item's possession or use;

(e) the actor is an armed school security guard as described in Section 53G-8-704; or

(f) the possession is:

(i) at the actor's place of residence or on the actor's property; or

(ii) in any vehicle lawfully under the actor's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not[~~-~~]:

(a) prohibit prosecution of a more serious weapons offense that may occur on or about school premises;

(b) prevent an actor from securely storing a firearm on the grounds of a school if the actor:

(i) participates in:

(A) the school guardian program created in Section 53-22-105; [~~and~~] or

(B) the Educator-Protector Program created in Section 53-22-107; and

(ii) complies with the requirements for securely storing the firearm described in Subsection 53-22-107(5)(a); or

(c) prohibit the prosecution of possession of a dangerous weapon by a minor, as described in Section [~~76-10-509.4~~] 76-11-209, that occurs on or about school premises.

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

Section 345. Section **76-11-205**, which is renumbered from Section 76-10-506 is renumbered and amended to read:

[~~76-10-506~~] 76-11-205 . Threatening with or using a dangerous weapon in a fight or a quarrel.

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

[~~(a)~~] (i) "Dangerous weapon" means an item that in the manner of its use or intended use is capable of causing death or serious bodily injury. The following factors shall be used in determining whether an item, object, or thing is a dangerous weapon:

[~~(i)~~] (A) the character of the instrument, object, or thing;

[~~(ii)~~] (B) the character of the wound produced, if any; and

[~~(iii)~~] (C) the manner in which the instrument, object, or thing was exhibited or used.

[~~(b)~~] (ii) "Threatening manner" does not include:

[~~(i)~~] (A) the possession of a dangerous weapon, whether visible or concealed, without additional behavior which is threatening; or

[~~(ii)~~] (B) informing another of the actor's possession of a deadly weapon to prevent what the actor reasonably perceives as a possible use of unlawful force by the other and the actor is not engaged in any activity described in Subsection 76-2-402(3)(a).

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Except as otherwise provided in Section 76-2-402 and for an individual described in Section 76-10-503, an individual who, in the presence of two or more individuals, and not amounting to a violation of Section 76-5-103, ~~] An actor commits threatening with or using a dangerous weapon in a fight or a quarrel if the actor:

(a) draws or exhibits a dangerous weapon in an angry and threatening manner; or

(b) unlawfully uses a dangerous weapon in a fight or quarrel[~~ is guilty of a class A misdemeanor~~].

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) This section does not apply to:

(a) an individual who, reasonably believing the action to be necessary in compliance with Section 76-2-402, with purpose to prevent another's use of unlawful force:

[~~(a)~~] (i) threatens the use of a dangerous weapon; or

[~~(b)~~] (ii) draws or exhibits a dangerous weapon[~~.~~] ;

[~~(4) This section does not apply to~~]

(b) an individual listed in Subsections [~~76-10-523(1)(a) through (f)~~] 53-5a-108(1)(a) through (f) in performance of the individual's duties; or

(c) an individual who is a restricted person under Section 76-11-302 and may not possess a firearm in any manner or location and is subject to the penalties described in Part 3, Persons Restricted Regarding Dangerous Weapons.

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

Section 346. Section **76-11-206**, which is renumbered from Section 76-10-507 is renumbered and amended to read:

[~~76-10-507~~] 76-11-206 . Possession of a dangerous weapon with criminal intent.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~Every person having upon his person any~~] An actor commits possession of a dangerous weapon with criminal intent if the actor possesses a dangerous weapon with the intent to use [~~it~~] the dangerous weapon to commit a criminal offense.

(3) [~~is guilty of~~] A violation of Subsection (2) is a class A misdemeanor.

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

Section 347. Section **76-11-207**, which is renumbered from Section 76-10-508 is renumbered and amended to read:

[~~76-10-508~~] 76-11-207 . Improper discharging of a dangerous weapon.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits improper discharging of a dangerous weapon if the actor discharges a dangerous weapon:

[~~(a) An individual may not discharge a dangerous weapon or firearm:~~]

[~~(i)~~] (a) from [~~an automobile or other~~] a vehicle;

[~~(ii)~~] (b) from, upon, or across a highway;

[~~(iii)~~] (c) at a road sign placed [~~upon a highway of the~~] on a state highway;

[~~(iv)~~] (d) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;

[~~(v)~~] (e) at railroad equipment or facilities including a sign or signal;

[~~(vi)~~] (f) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

[~~(vii)~~] (g) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

[~~(A)~~] (i) a house, dwelling, or [~~any~~]other building; or

[~~(B)~~] (ii) [~~any~~] a structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

[~~(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.~~]

[~~(2)~~] (3) A violation of [~~any provision~~]of Subsection [~~(1)~~] (2) is a class B misdemeanor.

[~~(3)~~] (4) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

[~~(4)~~] (5) This section does not apply to an [~~individual~~] actor who:

(a) discharges a firearm [~~when that individual is~~]in the lawful defense of [~~self~~] the actor or [~~others~~] other individuals;

(b) is performing official duties as provided in Section 23A-5-202 and Subsections [~~76-10-523(1)(a)~~] 53-5a-108(1)(a) through (f) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection [~~(4)(c)(i);~~] (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection [~~(1)~~] (2).

(d) It is a defense to a charge for violating this section that the actor had actual permission of the person in charge of the property at the time the actor discharged the dangerous weapon as described in Subsection (2).

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

Section 348. Section **76-11-208**, which is renumbered from Section 76-10-508.1 is renumbered and amended to read:

[~~76-10-508.1~~] 76-11-208 . Felony discharge of a firearm.

(1)(a) As used in this section, "habitable structure" means the same as that term is defined in Section 76-6-101.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(1)~~] (2) [~~Except as provided under Subsection (2) or (3), an individual who discharges a firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years~~] An actor commits felony discharge of a firearm if:

(a) the actor discharges a firearm in the direction of [~~one or more individuals~~] an individual, knowing or having reason to believe that [~~any~~] an individual may be

endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another individual or with intent to damage a habitable structure[~~as defined in Section 76-6-101~~], discharges a firearm in the direction of [~~any~~] an individual or habitable structure; or

(c) the actor, with intent to intimidate or harass another individual, discharges a firearm in the direction of [~~any~~] a vehicle.

[~~(2) A violation of Subsection (1) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.~~]

[~~(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a first degree felony.~~]

(3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a third degree felony punishable by a term of imprisonment of not less than three years nor more than five years.

(b) Except as provided in Subsection (3)(c), a violation of Subsection (2) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(c) A violation of Subsection (2) that causes serious bodily injury to an individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to an [~~individual~~] actor:

(a) who discharges a firearm [~~when that individual is~~]in the lawful defense of [~~self~~] the actor or [~~others~~] another individual;

(b) who is performing official duties as provided in Section 23A-5-202 or Subsections [~~76-10-523(1)(a) through (f)~~] 53-5a-108(1)(a) through (f) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection [~~(1)~~] (2).

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

Section 349. Section **76-11-209**, which is renumbered from Section 76-10-509.4 is renumbered and amended to read:

[~~76-10-509.4~~] 76-11-209 . Possession of a dangerous weapon by a minor.

(1)(a) As used in this section, "responsible adult" means an individual:

[~~(a)~~] (i) who is 18 years old or older; and

[~~(b)~~] (ii) who may lawfully possess a dangerous weapon.

(b) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor [~~who is under 18 years old may not possess a dangerous weapon.~~] commits possession of a dangerous weapon by a minor if the actor:

(a) is under 18 years old; and

(b) possesses a dangerous weapon.

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

(i) a class B misdemeanor for a first offense; and

(ii) a class A misdemeanor for each subsequent offense.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:

(i) a handgun;

(ii) a short barreled rifle;

(iii) a short barreled shotgun;

(iv) a fully automatic weapon; or

(v) a machinegun firearm attachment.

(4) For an actor who is younger than 14 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon;

(c) is accompanied by the actor's parent or guardian, or a responsible adult, while the

actor has the dangerous weapon in the actor's possession; and

(d) does not use the dangerous weapon in the commission of a crime.

(5) For an actor who is 14 years old or older but younger than 18 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon; and

(c) does not use the dangerous weapon in the commission of a crime.

(6) This section does not apply to the following minors who are otherwise complying with Subsection (4) or (5):

(a) a minor who is a patron at an amusement park, pier, or similar location and is possessing a firearm to participate in lawfully operated target concessions if the firearm to be used is firmly chained or affixed to the counters;

(b) a minor attending a hunter's safety course or a firearms safety course and possessing a weapon as part of the course;

(c) a minor using a firearm at an established range or other area where the discharge of a firearm is not prohibited by state or local law;

(d) a minor participating in an organized competition involving the use of a firearm, or practicing for the competition;

(e) a minor who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law;

(f) a minor who has a valid hunting license and is possessing a firearm to lawfully engage in hunting; or

(g) a minor traveling to or from an activity described in Subsections (6)(a) through (f) with an unloaded firearm in the minor's possession.

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

Section 350. Section **76-11-210**, which is renumbered from Section 76-10-509.5 is renumbered and amended to read:

[~~76-10-509.5~~] 76-11-210 . Providing an illegal weapon to a minor.

[~~(1) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of Section 76-10-509.4 is guilty of:~~]

[~~(a) a class B misdemeanor upon the first offense; and~~]

[~~(b) a class A misdemeanor for each subsequent offense.~~]

[~~(2) Any person who transfers in violation of applicable state or federal law a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor is guilty of a third degree felony.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits providing an illegal weapon to a minor if:

(a) the actor provides a handgun to a minor and the minor's possession of the handgun would be a violation of Section 76-11-209, Possession of a dangerous weapon by a minor; or

(b) the actor transfers or provides, in violation of applicable state or federal law, a short barreled rifle, short barreled shotgun, or fully automatic weapon to a minor.

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

(i) a class B misdemeanor upon the first offense; and

(ii) a class A misdemeanor for each subsequent offense.

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

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

Section 351. Section **76-11-211**, which is renumbered from Section 76-10-509.6 is renumbered and amended to read:

[~~76-10-509.6~~] 76-11-211 . Parent or guardian providing a firearm to a violent minor.

[~~(1) A parent or guardian may not intentionally or knowingly provide a firearm to, or permit the possession of a firearm by, any minor who has been convicted of a violent felony as defined in Section 76-3-203.5 or any minor who has been adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.~~]

[~~(2) Any person who violates this section is guilty of:~~]

[~~(a) a class A misdemeanor upon the first offense; and~~]

[~~(b) a third degree felony for each subsequent offense.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits the offense of a parent or guardian providing a firearm to a violent minor if:

(a) the actor intentionally or knowingly provides a firearm to, or permits the possession of a firearm by, a minor;

(b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor; and

(c) the minor has previously been:

(i) convicted of a violent felony; or

(ii) adjudicated in juvenile court for an offense which would constitute a violent felony if the minor were an adult.

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

(a) a class A misdemeanor upon the first offense; and

(b) a third degree felony for each subsequent offense.

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

Section 352. Section **76-11-212**, which is renumbered from Section 76-10-509.7 is renumbered and amended to read:

[~~76-10-509.7~~] 76-11-212 . Parent or guardian knowing a minor is in possession of a dangerous weapon.

[~~Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section76-10-509.4 and fails to make reasonable efforts to remove the dangerous weapon from the minor's possession is guilty of a class B misdemeanor.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits the offense of a parent or guardian knowing a minor is in possession of a dangerous weapon if:

(a) the actor knows a minor is in possession of a deadly weapon in violation of Section 76-11-209, Possession of a dangerous weapon by a minor;

(b) the minor is the actor's biological or adopted child or the actor is the legal guardian of the minor; and

(c) the actor fails to make reasonable efforts to remove the dangerous weapon from the minor's possession.

(3) A violation of Subsection (2) is a class B misdemeanor.

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

Section 353. Section **76-11-213**, which is renumbered from Section 76-10-509.9 is renumbered and amended to read:

[~~76-10-509.9~~] 76-11-213 . Selling a firearm to a minor.

[~~(1) A person may not sell any firearm to a minor under 18 years of age unless the minor is accompanied by a parent or guardian.~~]

[~~(2) Any person who violates this section is guilty of a third degree felony.~~]

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor commits selling a firearm to a minor if:

(a) the actor sells a firearm to a minor; and

(b) at the time the actor sells the weapon to the minor, the minor is not accompanied by a parent of the minor or a legal guardian of the minor.

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

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

Section 354. Section **76-11-214**, which is renumbered from Section 76-10-528 is renumbered and amended to read:

[~~76-10-528~~] 76-11-214 . Carrying a dangerous weapon while under influence of alcohol or drugs.

(1) Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) [~~It is a class B misdemeanor for an actor to carry~~] An actor commits carrying a dangerous weapon while under the influence of alcohol or drugs if the actor:

(a) carries a dangerous weapon; and

(b) is under the influence of:

[~~(a)~~] (i) alcohol as determined by the actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

[~~(b)~~] (ii) a controlled substance as defined in Section 58-37-2.

[~~(2)~~] (3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to:

(a) an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that [~~it~~] the dangerous weapon can be retrieved and used as readily as if carried on the person;

(b) an actor who uses or threatens to use force in compliance with Section 76-2-402;

(c) an actor carrying a dangerous weapon in the actor's residence or the residence of another individual with the consent of the individual who is lawfully in possession of the residence;

(d) an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section 26B-4-201, if the actor's use of the cannabis or cannabis product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(e) an actor who:

(i) has a valid prescription for a controlled substance;

(ii) takes the controlled substance described in Subsection [~~(2)(e)(i)~~] (4)(e)(i) as prescribed; and

(iii) after taking the controlled substance, the actor:

(A) is not a danger to the actor or another individual; or

(B) is capable of safely handling a dangerous weapon.

[~~(3)~~] (5) It is not a defense to prosecution under this section that the actor:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

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

Section 355. Section **76-11-215**, which is renumbered from Section 76-10-529 is renumbered and amended to read:

[~~76-10-529~~] 76-11-215 . Possession of a dangerous weapon in an airport secure area -- Reporting requirements.

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

(i) "Airport authority" has the same meaning as defined in Section 72-10-102.

(ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section [~~76-10-306~~] 76-15-210.

(iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) Terms defined in Sections [~~76-1-101.5 and 76-10-501~~] 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

[~~(2)(a) Within a secure area of an airport established pursuant to this section, an actor, including an actor licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of:~~]

[~~(i) a class A misdemeanor if the actor knowingly or intentionally possesses a firearm or other dangerous weapon;~~]

[~~(ii) subject to Subsection (5), an infraction if the actor recklessly or with criminal negligence possesses a firearm or other dangerous weapon; or~~]

[~~(iii) a violation of Section 76-10-306 if the actor transports, possesses, distributes, or sells an explosive, chemical, or incendiary device.~~]

[~~(b) Subsection (2)(a) does not apply to:~~]

[~~(i) individuals exempted under Section 76-10-523; and~~]

[~~(ii) a member of the state or federal military forces while engaged in the performance of the member's official duties.~~]

[~~(3)~~] (2) Except as provided in Subsection (4), an actor commits possession of a dangerous weapon in an airport secure area if the actor, including an actor who has a concealed

firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act:

(a) knowingly or intentionally possesses a dangerous weapon within the secure area of an airport established under Subsection (5); or

(b) recklessly or with criminal negligence possesses a dangerous weapon within the secure area of an airport established under Subsection (5).

(3)(a) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) Subject to Subsection (6), a violation of Subsection (2)(b) is an infraction.

(4) Subsection (2) does not apply to:

(a) an individual exempted from certain weapons laws as described in Section 53-5a-108; or

(b) a member of the state or federal military forces while engaged in the performance of the member's official duties.

(5) An airport authority, county, municipality, or other entity regulating an airport may:

(a) establish a secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or another device, to detect firearms, other dangerous weapons, or explosives concealed in baggage or upon the person of an individual attempting to enter the secure area.

[~~(4)~~] (6) At least one notice shall be prominently displayed at each entrance to a secure area in which a firearm, other dangerous weapon, or explosive is restricted.

(7) An actor who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device within the secure area of an airport commits a violation of Section 76-15-210.

[~~(5)~~] (8)(a) An actor who violates Subsection [~~(2)(a)(ii)~~] (2)(b) on a first offense may receive a written warning for the offense and may not receive a citation or any other form of punishment.

(b) An actor who violates Subsection [~~(2)(a)(ii)~~] (2)(b) on a second or subsequent offense may receive a written warning or a citation.

[~~(6)~~] (9)(a) Except as provided in Subsection [~~(6)(d)~~] (9)(d), if a law enforcement officer issues a citation to an actor for an infraction as a result of the actor's conduct described in Subsection [~~(2)(a)(ii)~~] (2)(b), or provides an oral or written warning for that conduct, the law enforcement officer shall:

(i) if the law enforcement officer is able to confirm that the actor may lawfully possess the [~~firearm or other~~]dangerous weapon, allow the actor, at the actor's

option, to:

(A) temporarily surrender custody of the[~~firearm or other~~] dangerous weapon into the custody of the law enforcement agency so that the[~~firearm or other~~] dangerous weapon may be retrieved by the actor at a later date; or

(B) exit the secure area of the airport with the[~~firearm or other~~] dangerous weapon; or

(ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the[~~firearm or other~~] dangerous weapon, or the airport authority under Subsection [~~(6)(d)~~] (9)(d) prohibits the procedure described in Subsection [~~(6)(a)(i)~~] (9)(a)(i), take temporary custody of the[~~firearm or other~~] dangerous weapon so that the[~~firearm or other~~] dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.

(b) If a law enforcement officer takes temporary custody of a[~~firearm or other~~] dangerous weapon under Subsection [~~(6)(a)~~] (9)(a):

(i) at the time the[~~firearm or other~~] dangerous weapon is obtained from the actor, the law enforcement officer, or another law enforcement officer, or an employee who works in the secure area of the airport, shall provide the actor with written instructions on how, when, and where the actor may retrieve the actor's [~~firearm or other~~]dangerous weapon; and

(ii) within three business days from the time when the law enforcement officer receives the[~~firearm or other~~] dangerous weapon, the law enforcement agency shall determine whether the actor is legally permitted to possess the[~~firearm or other~~] dangerous weapon, and if so, ensure that the[~~firearm or other~~]dangerous weapon is available for the actor to retrieve.

(c) An unclaimed[~~firearm or other~~] dangerous weapon that is surrendered into the custody of a law enforcement agency under this Subsection [~~(6)~~] (9) may be disposed of pursuant to Section 77-11d-105, disposition of unclaimed property.

(d) An airport authority may implement a policy that prohibits the law enforcement agency with jurisdiction over the airport from utilizing the procedure described in Subsection [~~(6)(a)(i)~~] (9)(a)(i).

[~~(7)~~] (10)(a) An actor's firearm that is confiscated based on a violation of Subsection [~~(2)(a)(i)~~] (2)(a) shall be returned to the actor in accordance with Subsection 77-11a-402(1)(b)[~~.~~].

(b) In accordance with Subsection 77-11b-102(5), a firearm seized under Subsection [

~~(2)(a)(i)~~] (2)(a) is not subject to forfeiture if the actor may lawfully possess the firearm.

(c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.

[~~(8)~~] (11) An airport authority, county, municipality, or other entity regulating an airport or with local jurisdiction over an airport may not:

(a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or another state or local law or regulation for conduct described in Subsection [~~(2)(a)(ii)~~] (2)(b);

(b) assess a civil penalty for conduct described in Subsection [~~(2)(a)(i) or (ii)~~] (2); or

(c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

[~~(9)~~] (12) A law enforcement agency that issues a written warning, citation, or referral for prosecution under this section shall record and report the information as required under Section 53-25-103.

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

Section 356. Section **76-11-216**, which is renumbered from Section 76-10-530 is renumbered and amended to read:

[~~76-10-530~~] 76-11-216 . Trespass with a firearm in a house of worship or a private residence.

(1) [~~A person, including a person licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Firearm Act, after notice has been given as provided in Subsection (2) that firearms are prohibited, may not knowingly and intentionally:~~]

[~~(a) transport a firearm into:~~]

[~~(i) a house of worship; or~~]

[~~(ii) a private residence; or~~]

[~~(b) while in possession of a firearm, enter or remain in:~~]

[~~(i) a house of worship; or~~]

[~~(ii) a private residence.~~]

Terms defined in Sections 76-1-101.5, 76-11-101, and 76-11-201 apply to this section.

(2) An actor, including an actor licensed to carry a concealed firearm pursuant to Title 53, Chapter 5, Part 7, Concealed Firearm Act, commits trespass with a firearm in a house of worship or a private residence if the actor:

(a) has been given notice as described in Subsection (4) that firearms are prohibited in a house of worship or a private residence; and

(b) knowingly and intentionally:

(i) transports a firearm into the house of worship or private residence; or

(ii) while in possession of a firearm, enters or remains in the house of worship or private residence.

(3) A violation of Subsection (2) is an infraction.

[~~(2)~~] (4) Notice that firearms are prohibited may be given by:

(a) personal communication to the actor by:

(i) the church or organization operating the house of worship;

(ii) the owner, lessee, or person with lawful right of possession of the private residence; or

(iii) a person with authority to act for the person or entity in Subsections [~~(2)(a)(i)~~] (4)(a)(i) and (ii);

(b) posting of signs reasonably likely to come to the attention of persons entering the house of worship or private residence;

(c) announcement, by a person with authority to act for the church or organization operating the house of worship, in a regular congregational meeting in the house of worship;

(d) publication in a bulletin, newsletter, worship program, or similar document generally circulated or available to the members of the congregation regularly meeting in the house of worship; or

(e) publication:

(i) in a newspaper of general circulation in the county in which the house of worship is located or the church or organization operating the house of worship has its principal office in this state; and

(ii) as required in Section 45-1-101.

[~~(3)~~] (5) A church or organization operating a house of worship and giving notice that firearms are prohibited may:

(a) revoke the notice, with or without supersedure, by giving further notice in any manner provided in Subsection [~~(2)~~] (4); and

(b) provide or allow exceptions to the prohibition as the church or organization considers advisable.

[~~(4)~~] (6)(a)(i) Within 30 days of giving or revoking any notice pursuant to Subsection [~~(2)(c)~~] (4)(c), (d), or (e), a church or organization operating a house of worship shall notify the division on a form and in a manner as the division shall prescribe.

(ii) The division shall post on [~~its~~] the division's website a list of the churches and organizations operating houses of worship who have given notice under Subsection [~~(4)(a)(i)~~] (6)(a)(i).

(b) Any notice given pursuant to Subsection [~~(2)(c)~~] (4)(c), (d), or (e) shall remain in effect until revoked or for a period of one year from the date the notice was originally given, whichever occurs first.

[~~(5)~~] (7) [~~Nothing in this section permits~~] This section does not permit an owner who has granted the lawful right of possession to a renter or lessee to restrict the renter or lessee from lawfully possessing a firearm in the residence.

[~~(6) A violation of this section is an infraction.~~]

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

Section 357. Section **76-11-301** is enacted to read:

Part 3. Persons Restricted Regarding Dangerous Weapons

76-11-301 . Definitions.

As used in this part:

(1) "Adjudicated" means a judgment has been entered against a minor for an offense by a juvenile court under Section 80-6-701.

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

(3)(a) "Dating relationship" means a romantic or intimate relationship between individuals.

(b) "Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.

(4) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a firearm, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

(5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(6) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

Section 358. Section **76-11-302**, which is renumbered from Section 76-10-503 is renumbered and amended to read:

[~~76-10-503~~] 76-11-302 . Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of a violent felony;

(ii) is on probation or parole for a felony;

(iii) is on parole from secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated [~~under Section 80-6-701~~]for an offense which if committed by an adult would have been a violent felony[~~ as defined in Section 76-3-203.5~~];

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a [~~substance classified in Section 58-37-4 as a~~]Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of:

(A) a domestic violence offense that is a felony;

(B) a felony that is not a domestic violence offense or a violent felony and within seven years after completing the sentence for the conviction, has been convicted of or charged with another felony or class A misdemeanor;

(C) multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies and within seven years after completing the sentence for the convictions, has been convicted of or charged with another felony or class A misdemeanor; or

(D) multiple felonies that are not part of a single criminal episode;

(ii)(A) within the last seven years has completed a sentence for:

(I) a conviction for a felony that is not a domestic violence offense or a violent felony; or

(II) convictions for multiple felonies that are part of a single criminal episode and are not domestic violence offenses or violent felonies; and

(B) within the last seven years and after the completion of a sentence for a conviction described in Subsection (1)(b)(ii)(A), has not been convicted of or charged with another felony or class A misdemeanor;

(iii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iv) is an unlawful user of a controlled substance[~~ as defined in Section 58-37-2~~];

(v) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance[~~ as defined in Section 58-37-2~~];

(vi) has been found not guilty by reason of insanity for a felony offense;

(vii) has been found mentally incompetent to stand trial for a felony offense;

(viii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(ix) has been dishonorably discharged from the armed forces;

(x) has renounced the individual's citizenship after having been a citizen of the United States;

(xi) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xii) except as provided in Subsection (1)(d), has been convicted of the commission or attempted commission of misdemeanor assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against an individual:

(A) who is a current or former spouse, parent, or guardian;

(B) with whom the restricted person shares a child in common;

(C) who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian;

(D) involved in a dating relationship with the restricted person within the last five years; or

(E) similarly situated to a spouse, parent, or guardian of the restricted person.

(c)(i) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(A) a conviction or an adjudication under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(B) a conviction or an adjudication under Section 80-6-701 which, in accordance with the law of the jurisdiction in which the conviction or adjudication occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(ii) As used in this section, a conviction for misdemeanor assault under Subsection (1)(b)(xii), does not include a conviction which, in accordance with the law of the jurisdiction in which the conviction occurred, has been expunged, set aside, reduced to an infraction by court order, pardoned, or regarding which the person's civil rights have been restored, unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(iii) It is the burden of the defendant in a criminal case to provide evidence that a conviction or an adjudication under Section 80-6-701 is subject to an exception provided in this Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable doubt that the conviction or the adjudication is not subject to that exception.

(d) A person is not a restricted person for a conviction under Subsection (1)(b)(xii)(D) if:

(i) five years have elapsed from the later of:

(A) the day on which the conviction is entered;

(B) the day on which the person is released from incarceration following the conviction; or

(C) the day on which the person's probation for the conviction is successfully terminated;

(ii) the person only has a single conviction for misdemeanor assault as described in Subsection (1)(b)(xii)(D); and

(iii) the person is not otherwise a restricted person under Subsection (1)(a) or (b).

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a second degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) a firearm is guilty of a third degree felony; or

(b) a dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) A Category I or Category II restricted person may not use an antique firearm for an activity regulated under Title 23A, Wildlife Resources Act.

(6) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control a dangerous weapon, the penalties of that section control.

(7) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(v) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(8)(a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of

the person becoming a restricted person.

(b) Subsection (8)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(9)(a) A person may not sell, transfer, or otherwise dispose of a firearm or dangerous weapon to a person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (9)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves a dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for an unlawful purpose, is guilty of a class A misdemeanor.

(10)(a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (10) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

(11)(a) It is not a violation of Subsection (2) or (3) for an actor who is a restricted person to own, possess, or have under the actor's custody or control, archery equipment,

including crossbows, for the purpose of lawful hunting and lawful target shooting.

(b) Notwithstanding Subsection (11)(a), this section applies if the owning, possessing, or having under the actor's custody or control of archery equipment, including crossbows, is prohibited by:

(i) a court, as a condition of pre-trial release or probation; or

(ii) the Board of Pardons and Parole, as a condition of parole.

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

Section 359. Section **76-11-309**, which is renumbered from Section 76-10-503.1 is renumbered and amended to read:

[~~76-10-503.1~~] 76-11-309 . Firearm restriction notification requirement for restricted persons.

(1) As used in this section:

(a) "Peace officer" means an officer described Section 53-13-102.

(b) "Possess" means actual physical possession, actual or purported ownership, or exercising control of an item.

(c) "Restricted person" means an individual who is restricted from possessing, purchasing, transferring, or owning a firearm under Section [~~76-10-503~~] 76-11-302.

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm currently possessed by the defendant; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the

defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

(7) An individual who becomes a restricted person as a result of being served with a pretrial protective order in accordance with Section 78B-7-803, a sentencing protective order in accordance with Section 77-36-5, or a continuous protective order in accordance with Section 77-36-5, shall, at the time of service of the protective order:

(a) be verbally informed by the court, prosecuting attorney, defendant's attorney, or, if a peace officer is serving the protective order, the peace officer:

(i) that the individual is a restricted person;

(ii) that, as a restricted person, the individual may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the individual's category; and

(b) sign, in the presence of the court or, if a peace officer serves the protective order, in the presence of the peace officer, an acknowledgment contained within the protective order document attesting that the individual acknowledges and understands that the individual:

(i) is a restricted person;

(ii) is required to relinquish possession of each firearm;

(iii) will be in violation of federal and state law if the individual possesses a firearm; and

(iv) may be eligible for an affirmative defense to a state-law prosecution for possession of a firearm under Section [~~76-10-503~~] 76-11-302 if the individual lawfully transfers the individual's firearms within 10 days of becoming a restricted person.

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

Section 360. Section **76-11-310**, which is renumbered from Section 76-10-532 is renumbered and amended to read:

[~~76-10-532~~] 76-11-310 . Removal from National Instant Check System database for certain restricted persons.

(1) A person who is subject to the restrictions in Subsection [~~76-10-503(1)(b)(vi), (vii), or (viii)~~] 76-11-302(1)(b)(vi), (vii), or (viii), or 18 U.S.C. 922(d)(4) and (g)(4) based on a commitment, finding, or adjudication that occurred in this state may petition the district court in the county in which the commitment, finding, or adjudication occurred to remove the disability imposed.

(2) The petition shall be filed in the district court in the county where the commitment, finding, or adjudication occurred. The petition shall include:

(a) a listing of facilities, with their addresses, where the petitioner has ever received mental health treatment;

(b) a release signed by the petitioner to allow the prosecutor or county attorney to obtain the petitioner's mental health records;

(c) a verified report of a mental health evaluation conducted by a licensed psychiatrist occurring within 30 days prior to the filing of the petition, which shall include a statement regarding:

(i) the nature of the commitment, finding, or adjudication that resulted in the restriction on the petitioner's ability to purchase or possess a dangerous weapon;

(ii) the petitioner's previous and current mental health treatment;

(iii) the petitioner's previous violent behavior, if any;

(iv) the petitioner's current mental health medications and medication management;

(v) the length of time the petitioner has been stable;

(vi) external factors that may influence the petitioner's stability;

(vii) the ability of the petitioner to maintain stability with or without medication; and

(viii) whether the petitioner is dangerous to public safety; and

(d) a copy of the petitioner's state and federal criminal history record.

(3) The petitioner shall serve the petition on the prosecuting entity that prosecuted the case or, if the disability is not based on a criminal case, on the county or district attorney's office having jurisdiction where the petition was filed and the individual who filed the original action which resulted in the disability.

(4)(a) The court shall schedule a hearing as soon as practicable[~~. The~~] in which the petitioner may present evidence and subpoena witnesses to appear at the hearing.

(b) The prosecuting, county attorney, or the individual who filed the original action which resulted in the disability may object to the petition and present evidence in support of the objection.

(5) The court shall consider the following evidence:

(a) the facts and circumstances that resulted in the commitment, finding, or adjudication;

(b) the [~~person's~~] petitioner's mental health and criminal history records; and

(c) the [~~person's~~] petitioner's reputation, including the testimony of character witnesses.

(6) The court shall grant the relief if the court finds by clear and convincing evidence that:

(a) the [~~person~~] petitioner is not a danger to the [~~person~~] petitioner or to [~~others~~] another individual;

(b) the [~~person~~] petitioner is not likely to act in a manner dangerous to public safety; and

(c) the requested relief would not be contrary to the public interest.

(7) The court shall issue an order with its findings and send a copy to the bureau.

(8)(a) The bureau, upon receipt of a court order removing a [~~person's~~] petitioner's disability under Subsection [~~76-10-503(1)(b)(viii)~~] 76-11-302(1)(b)(viii), shall send a copy of the court order to the National Instant Check System requesting removal of the [~~person's~~] petitioner's name from the database.

(b) In addition to the action described in Subsection (8)(a), if the [~~person~~] petitioner is listed in a state database utilized by the bureau to determine eligibility for the purchase or possession of a firearm or to obtain a concealed firearm permit, the bureau shall remove the petitioner's name or send a copy of the court's order to the agency responsible for the database for removal of the petitioner's name.

(9) If the court denies the petition, the petitioner may not petition again for relief until at least two years after the date of the court's final order.

(10) The petitioner may appeal a denial of the requested relief[~~. The~~] and the review on appeal shall be de novo.

Section 361. Section **76-12-101** is enacted to read:

CHAPTER 12. OFFENSES RELATED TO PRIVACY, INFORMATION, AND COMMUNICATION

Part 1. General Provisions

76-12-101 . Definitions.

Reserved.

Section 362. Section **76-12-201** is enacted to read:

Part 2. Electronic Communication Abuse

76-12-201 . Definitions.

As used in this part:

(1)(a) "Adult" means an individual 18 years old or older.

(b) "Adult" does not include an individual who is 18 years old and enrolled in high school.

(2)(a) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text.

(b) "Electronic communication" does not include a broadcast transmission or a similar communication that is not targeted at a specific individual.

(3) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

(4)(a) "Minor" means an individual who is younger than 18 years old.

(b) "Minor" includes an individual who is 18 years old and enrolled in high school.

Section 363. Section **76-12-202**, which is renumbered from Section 76-9-201 is renumbered and amended to read:

[~~76-9-201~~] 76-12-202 . Electronic communication harassment.

(1) [~~As used in this section:~~]

[~~(a)(i) "Adult" means an individual 18 years old or older.~~]

[~~(ii) "Adult" does not include an individual who is 18 years old and enrolled in high school.~~]

[~~(b) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and~~

~~reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at a specific individual.~~]

[~~(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.~~]

[~~(d)(i) "Minor" means an individual who is younger than 18 years old.~~]

[~~(ii) "Minor" includes an individual who is 18 years old and enrolled in high school.~~]

[~~(e) "Minor victim" means a minor who is a victim of a violation of Subsection (4).~~]

[~~(f) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.~~] Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section

.

(2) Except to the extent [~~the person's~~] an actor's conduct constitutes an offense under Section [~~76-9-203, a person is guilty of~~] 76-12-206, an actor commits electronic communication harassment [~~and subject to prosecution in the jurisdiction where the communication originated or was received~~]if, with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the [~~person~~] actor:

(a)(i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the [~~person~~] actor not to contact the recipient, and the [~~person~~] actor repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.

[~~(3) A person is guilty of electronic communication harassment if the person:~~]

[~~(a) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission; or~~]

[~~(b) sends a communication by electronic mail, instant message, or other similar means, if:~~]

[~~(i) the communication references personal identifying information of another individual;~~]

[~~(ii) the person sends the communication:~~]

[~~(A) without the individual's consent; and~~]

[~~(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and~~]

[~~(iii) with the intent to:~~]

[~~(A) cause an individual physical, emotional, or economic injury or damage; or~~]

[~~(B) defraud an individual.~~]

[~~(4) A person is guilty of electronic communication harassment if:~~]

[~~(a) the person:~~]

[~~(i) is an adult;~~]

[~~(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum personal identifying information of a minor who is unrelated by blood, marriage, or adoption to the person; and~~]

[~~(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that performing the action described in Subsection (4)(a)(ii) will result in the minor being the victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual; and~~]

[~~(b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described in Subsection (4)(a)(ii).~~]

[~~(5)~~] (3)(a) Except as provided in Subsection [~~(5)(b)~~] (3)(b), a violation of Subsection (2) [~~or (3)~~]is a class B misdemeanor.

(b) A second or subsequent violation of Subsection (2)[~~or (3)~~] is a class A misdemeanor.

[~~(c) A violation of Subsection (4) is a class A misdemeanor.~~]

[~~(6)~~] (4)(a) Except as provided [~~under~~] in Subsection [~~(6)(b)~~] (4)(b), a criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this

section.

(b) This section does not create a civil cause of action based on electronic communications made for a legitimate business [~~purposes~~] purpose.

[~~(7)(a) A minor victim has a civil right of action against an actor who violates Subsection (4).~~]

[~~(b) A minor victim who brings a successful civil action under Subsection (7)(a) is entitled to recover from the actor:~~]

[~~(i) damages resulting from the violation of Subsection (4);~~]

[~~(ii) reasonable attorney fees; and~~]

[~~(iii) court costs.~~]

(5) A violation of this section is subject to prosecution in the jurisdiction in which the electronic communication originated or was received.

Section 364. Section **76-12-203** is enacted to read:

76-12-203 . Unlawful electronic disclosure of personal identifying information.

(1)(a) As used in this section, "personal identifying information" means the same as that term is defined in Section 76-6-1101.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) An actor commits unlawful electronic disclosure of personal identifying information if the actor:

(a)(i) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum without the permission of the other individual; and

(ii) undertakes the action described in Subsection (2)(a)(i) with the intent to abuse, threaten, or disrupt the other individual's electronic communication; or

(b) sends a communication by electronic mail, instant message, or other similar means, if:

(i) the communication references personal identifying information of another individual;

(ii) the actor sends the communication:

(A) without the individual's consent; and

(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and

(iii) with the intent to:

(A) cause an individual physical, emotional, or economic injury or damage; or

(B) defraud an individual.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A second or subsequent violation of Subsection (2) is a class A misdemeanor.

(4)(a) Except as provided in Subsection (4)(b), a criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on an electronic communication made for a legitimate business purpose.

Section 365. Section **76-12-204** is enacted to read:

76-12-204 . Unlawful electronic disclosure of a minor's personal information.

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

(i) "Minor victim" means a minor who is a victim of a violation of Subsection (2).

(ii) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) An actor commits unlawful electronic disclosure of a minor's personal information if:

(a) the actor:

(i) is an adult;

(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum personal identifying information of a minor who is unrelated by blood, marriage, or adoption to the actor; and

(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that performing the action described in Subsection (2)(a)(ii) will result in the minor being the victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual; and

(b) the minor described in Subsection (2)(a)(ii) is aware of the actor's action described in Subsection (2)(a)(ii).

(3) A violation of Subsection (2) is a class A misdemeanor.

(4)(a) Except as provided in Subsection (4)(b), a criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on an electronic communication made for a legitimate business purpose.

(5)(a) A minor victim has a civil right of action against an actor who violates Subsection (2).

(b) A minor victim who brings a successful civil action under Subsection (5)(a) is entitled to recover from the actor:

(i) damages resulting from the violation of Subsection (2);

(ii) reasonable attorney fees; and

(iii) court costs.

Section 366. Section **76-12-205**, which is renumbered from Section 76-6-703.1 is renumbered and amended to read:

[~~76-6-703.1~~] 76-12-205 . Disclosure of personal information with intent to cause electronic communication harassment.

(1)(a) As used in this section[~~, "electronic~~] :

(i) "Adult" means an individual 18 years old or older.

(ii) "Computer" means the same as that term is defined in Section 76-6-702.

(iii) "Electronic communication harassment" means an offense under Section [~~76-9-201~~] 76-12-202, 76-12-203, or 76-12-204.

(iv) "Identifying information" means the same as that term is defined in Section 76-6-702.

(v) "Interactive computer service" means the same as that term is defined in Section 76-6-702.

(vi) "Minor" means an individual who is younger than 18 years old.

(vii) "Service provider" means the same as that term is defined in Section 76-6-702.

(viii) "Software" means the same as that term is defined in Section 76-6-702.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and [~~76-6-702~~] 76-12-201 apply to this section.

(2) An actor commits [~~unlawful~~]disclosure of personal information with intent to cause electronic communication harassment if:

(a) with intent that electronic communication harassment occur, the actor discloses or disseminates another person's identifying information with the expectation that others will further disseminate or use the person's identifying information; and

(b) the disclosure or dissemination of the other person's identifying information results in electronic communication harassment.

(3)(a) If the [~~person~~] individual whose identifying information is disseminated is an adult, a violation of Subsection (2) is:

(i) a class B misdemeanor on the first offense;

(ii) a class A misdemeanor on the second offense; or

(iii) a third degree felony on a third or subsequent offense.

(b) If the [~~person~~] individual whose identifying information is disseminated is a minor, a violation of Subsection (2) is:

(i) a class A misdemeanor on the first offense; or

(ii) a third degree felony on the second or subsequent offense.

(4)(a) This section does not apply to an actor who provides information in conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.

(b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and [~~nothing in this section may be construed to~~] does not impose liability or culpability on, an interactive computer service for content provided by another person.

(c) This section does not affect, limit, or apply to any activity or conduct that is protected by the constitution or laws of this state, or by the constitution or laws of the United States.

(5)(a) An interactive computer service [~~is not guilty of violating this section~~] does not commit a violation of Subsection (2) if an actor violates [~~this section~~] Subsection (2) using the interactive computer service and the interactive computer service did not knowingly assist the actor to commit the violation.

(b) A service provider [~~is not guilty of violating this section~~] does not commit a violation of Subsection (2) for:

(i) action taken in relation to a customer of the service provider, for a legitimate business purpose, to install software on, monitor, or interact with the customer's Internet or other network connection, service, or computer for network or computer security purposes, authentication, diagnostics, technical support, maintenance, repair, network management, updates of computer software or system firmware, or remote system management; or

(ii) action taken, including scanning and removing computer software, to detect or prevent the following:

(A) unauthorized or fraudulent use of a network, service, or computer software;

(B) illegal activity; or

(C) infringement of intellectual property rights.

Section 367. Section **76-12-206**, which is renumbered from Section 76-9-203 is renumbered and amended to read:

[~~76-9-203~~] 76-12-206 . Unlawful online impersonation.

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

[~~(a)~~] (i) "Commercial social networking website" means a person who operates a website that allows a person to register as a user for the purpose of:

[~~(i)~~] (A) establishing a personal relationship with one or more other users through direct or real time communication with the other user; or

[~~(ii)~~] (B) the creation of [~~web pages or profiles~~] a web page or a profile available to the public or to other users.

[~~(b)~~] (ii) "Commercial social networking website" does not include an electronic mail program or a message board program.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) [~~It is a criminal offense for a person to use~~] An actor commits unlawful online impersonation if the actor uses the name or persona of an individual:

(a) without the individual's consent;

(b)(i) to create a web page on a commercial social networking website or other website; or

(ii) to post or send a message on or through a commercial social networking website or other website, other than on or through an electronic mail program or message board program;

(c) with the intent to cause an individual to reasonably believe that the individual whose name or persona is used authorized or performed the applicable action described in Subsection (2)(b); and

(d) with the intent to harm, defraud, intimidate, or threaten any individual.

(3)(a) [~~An offense under this section is~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A second or subsequent offense [~~under this section~~] of Subsection (2) is a third degree felony.

(4) It is a defense to prosecution under this section that the [~~person~~] actor is one of the following entities or that the [~~person's~~] actor's conduct consisted solely of action taken as an employee of one of the following entities:

(a) a commercial social networking website;

(b) an Internet service provider;

(c) an interactive computer service, as defined in 47 U.S.C. Sec. 230;

(d) a telecommunications provider, as defined in Section 10-1-402;

(e) a cable television service;

(f) an entity that provides cable television service, as defined in Section 10-18-102; or

(g) a law enforcement agency engaged in lawful practices.

Section 368. Section **76-12-207**, which is renumbered from Section 76-10-1802 is renumbered and amended to read:

[~~76-10-1802~~] 76-12-207 . Misrepresentation of a call or text communication identification.

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

[~~(a)~~] (i) "Caller or text message identification information" means information provided by a caller identification service or text message service regarding the telephone number or other information regarding the origination of a call or text message made using a telecommunications service or VoIP voice service.

[~~(b)~~] (ii) "Caller or text message identification service" means [~~any~~] a service or device designed to provide the user of the service or device with the telephone number of, or other information regarding, the origination of a call or text message made using a telecommunications service or VoIP voice service, including automatic number identification services.

[~~(c)~~] (iii) "Text message":

[~~(i)~~] (A) means a real-time or near real-time message consisting of text, images, sounds, or other information transmitted from or received by a device identified by a telephone number; and

[~~(ii)~~] (B) does not include a real-time, two-way voice or video communication.

[~~(d)~~] (iv) "VoIP" means a technology that allows telephone calls to be made over computer networks, including the Internet.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-201 apply to this section.

(2) [~~It is unlawful for any person or individual~~] An actor commits misrepresentation of a call or text communication identification if the actor, in connection with [~~any~~] a telecommunications service or VoIP voice service, [~~to~~]knowingly [~~cause any~~] causes a caller identification service or text message service to transmit false, misleading, or

inaccurate caller or text message identification information:

(a) with the intent to harm the recipient of the call or text message; or

(b) to a public safety answering point when reporting an emergency.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class C misdemeanor.

(b) A violation of Subsection (2) is a class B misdemeanor on a second or subsequent violation.

(c) Each separate call or text message is a violation of this section.

[~~(3)~~] (4) This section does not prevent or restrict [~~any person or individual~~] a person from blocking the capability of [~~any~~] a caller or text message identification service to transmit caller or text message identification information.

[~~(4)~~] (5) The following are exempt from this section:

(a) the lawful investigative, protective, or intelligence activity of a law enforcement agency; and

(b) a court order that specifically authorizes the use of caller or text message identification manipulation.

[~~(5) Each separate call or text message transmitted in violation of this section is:~~]

[~~(a) for a first violation, a class C misdemeanor; and~~]

[~~(b) for a second or subsequent violation, a class B misdemeanor.~~]

(6) [~~Violations~~] A violation of this section may be enforced in a civil action initiated by the recipient of a call, message, or text message made in violation of this section, a criminal action initiated by a prosecuting attorney, or both.

(7) This section does not apply to an Internet service provider or hosting company, a provider of public telecommunications services, or a text message service by reason of the fact that the Internet service provider, hosting company, text message service, or provider of public telecommunications services:

(a) transmits, routes, or provides connections for material without selecting the material;

(b) stores or delivers the material at the direction of a user; or

(c) provides a caller or text message identification service.

Section 369. Section **76-12-301**, which is renumbered from Section 76-9-401 is renumbered and amended to read:

Part 3. Privacy Offenses

[~~76-9-401~~] 76-12-301 . Definitions.

For purposes of this part:

(1) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of another without the consent of at least one party thereto by means of an electronic, mechanical, or other device.

(2) "Private place" means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance.

[~~(2) "Eavesdrop" means to overhear, record, amplify, or transmit any part of a wire or oral communication of others without the consent of at least one party thereto by means of any electronic, mechanical, or other device.~~]

(3) "Public" includes any professional or social group of which the victim of a defamation is a member.

Section 370. Section **76-12-302**, which is renumbered from Section 76-9-402 is renumbered and amended to read:

[~~76-9-402~~] 76-12-302 . Unlawful privacy violation.

(1)(a) [~~A property owner has an~~] For purposes of this section, "expectation of privacy" means a property owner's expectation of privacy [~~regarding characteristics, data, or information pertaining to the owner's property that:~~] described in Subsection (6).

[~~(i) is not immediately apparent through routine visual observation of the property; and~~]

[~~(ii) requires ground-penetrating technology to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property.~~]

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~A person is guilty of~~] An actor commits unlawful privacy violation if, except as authorized by law, the [~~person~~] actor:

(a) trespasses on property with intent to subject anyone to eavesdropping or other surveillance in a private place;

(b) installs, or uses after unauthorized installation in a private place, without the consent of the person or persons entitled to privacy in the private place, [~~any~~] a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events in the private place;

(c) installs or uses outside of a private place a device for observing, photographing, hearing, recording, amplifying, or broadcasting sounds or events originating in the private place [~~which~~] that would not ordinarily be audible, visible, or comprehensible

outside the private place, without the consent of the person or persons entitled to privacy in the private place; or

(d) uses ground-penetrating technology, without the consent of the property owner, to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property of another for which the property owner has an expectation of privacy[~~ as described in Subsection (1)~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) A court may order an actor who commits a violation of Subsection (2) to remove or destroy any data collected by the actor in the commission of the violation of Subsection (2).

(5) [~~A person~~] An actor is not guilty of a violation of this section if:

(a) the device used is an unmanned aircraft;

(b) the [~~person~~] actor is operating the unmanned aircraft for legitimate commercial or educational purposes in a manner consistent with applicable Federal Aviation Administration rules, exemptions, or other authorizations; and

(c) any conduct described in Subsection (2) that occurs via the unmanned aircraft is solely incidental to the lawful commercial or educational use of the unmanned aircraft.

[~~(4) For a person who commits a violation of Subsection (2), a court may order the person to remove and destroy any data collected by the person in the commission of the violation of Subsection (2).~~]

[~~(5) Privacy violation is a class B misdemeanor.~~]

(6) A property owner has an expectation of property privacy regarding characteristics, data, or information pertaining to the owner's property that:

(a) is not immediately apparent through routine visual observation of the property; and

(b) requires ground-penetrating technology to detect, observe, measure, map, or otherwise capture information or data about the property or characteristics of the property.

[~~(6)~~] (7)(a) This section does not apply to lawful practices of:

(i) a law enforcement agency; or

(ii) another government entity.

(b) Subsection (2)(d) does not apply to a land surveyor if:

(i) the land surveyor is performing a survey service in good faith pursuant to a bona fide contract; and

(ii) for any data pertaining to property not owned by a party to the contract described in Subsection [~~(6)(b)(i)~~] (7)(b)(i) that is captured incidentally by the land surveyor, the land surveyor:

(A) does not share, publish, sell, or distribute any incidentally captured data pertaining to property that is not relevant to the contract described in Subsection [~~(6)(b)(i)~~] (7)(b)(i); and

(B) upon completion of the contract, deletes or destroys any data pertaining to property that is not the subject of the contract.

(8)(a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (8)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 371. Section **76-12-303**, which is renumbered from Section 76-9-403 is renumbered and amended to read:

[~~76-9-403~~] 76-12-303 . Unlawful interception or disclosure of a private communication.

(1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~A person commits communication abuse if, except as authorized by law, he~~] An actor commits unlawful interception or disclosure of a private communication if, except as authorized by law, the actor:

(a) [~~Intercepts~~] intercepts, without the consent of the sender or receiver, a message by telephone, telegraph, letter, or other means of communicating privately; [~~this paragraph does not extend to:~~] or

[~~(i) Overhearing of messages through a regularly installed instrument on a telephone party line or on an extension; or~~]

[~~(ii) Interception by the telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use; or~~]

(b) [~~Divulges~~] divulges, without consent of the sender or receiver, the existence or contents of [~~any such~~] a message described in Subsection (2)(a), if the actor:

(i) [~~-~~]knows that the message described in Subsection (2)(a) was illegally intercepted; or

(ii) [~~if he~~]learned of the message described in Subsection (2)(a) in the course of employment with an agency engaged in [~~transmitting it~~] the transmission of the message.

[~~(2)~~] (3) [~~Communication abuse~~] A violation of Subsection (2) is a class B misdemeanor.

(4) Subsection (2)(a) does not apply to:

(a) overhearing a message through a regularly installed instrument on a telephone party line or on an extension; or

(b) intercepting a message by a telephone company or subscriber incident to enforcement of regulations limiting use of the facilities or to other normal operation and use.

(5)(a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (5)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 372. Section **76-12-304**, which is renumbered from Section 76-9-407 is renumbered and amended to read:

[~~76-9-407~~] 76-12-304 . Unlawful use of another's personal identity in an advertisement.

(1) [~~The definitions in Section~~] Terms defined in Sections 45-3-2, 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~Any person is guilty of a class B misdemeanor who~~] An actor commits unlawful use of another's personal identity in an advertisement if the actor knowingly or intentionally causes the publication of an advertisement in which the personal identity of an

individual is used in a manner [~~which~~] that expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement without the consent for such use by the individual.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3)~~] (4) It is an affirmative defense that the [~~person causing~~] actor who caused the publication of the advertisement reasonably believed that the [~~person~~] individual whose personal identity was to be used had consented to [~~its~~] the use of the individual's personal identity.

[~~(4)~~] (5)(a) Upon conviction of an offense under this section, unless waived by the victim, the court shall order that, within 30 days of the conviction, the [~~person~~] actor convicted shall issue a public apology or retraction to whomever received the advertisement.

(b) The apology or retraction described in Subsection (5)(a) shall be of similar size and placement as the original advertisement.

[~~(5)~~] (6) Nothing in this section prohibits a civil action under Title 45, Chapter 3, Abuse of Personal Identity Act.

(7)(a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (7)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 373. Section **76-12-305**, which is renumbered from Section 76-9-408 is renumbered and amended to read:

[~~76-9-408~~] 76-12-305 . Unlawful installation of a tracking device.

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

[~~(a)~~] (i) "Motor vehicle" means the same as that term is defined in Subsection 41-12a-103(4).

[~~(b)~~] (ii) "Private investigator" means an individual who is:

[~~(i)~~] (A) licensed as a private investigator under Title 53, Chapter 9, Private Investigator Regulation Act; and

[~~(ii)~~] (B) acting in the capacity of a private investigator.

[~~(c)~~] (iii) "Protective order" means a protective order, stalking injunction, or restraining order issued by a court of any jurisdiction.

[~~(d)~~] (iv)[~~(i)~~] (A) "Tracking device" means a device used for the primary purpose of revealing the device's location or movement by the transmission or recording of an electronic signal.

[~~(ii)~~] (B) "Tracking device" does not include location technology installed on a vehicle by the vehicle manufacturer or a commercial vehicle dealer that transmits electronic signals for the purpose of data collection, if the data collection is anonymized.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) Except as provided in Subsection [~~(3), a person is guilty of~~] (4), an actor commits unlawful installation of a tracking device if the [~~person~~] actor knowingly installs, or directs another to install, a tracking device on a motor vehicle owned or leased by another person, without the permission of the owner or lessee of the vehicle.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~] (4) [~~A person is not guilty of unlawful installation of a tracking device~~] An actor does not commit a violation of Subsection (2) if the [~~person~~] actor:

(a)(i) is a licensed private investigator installing the tracking device for a legitimate business purpose; and

(ii) installs the tracking device on a motor vehicle that is not:

(A) owned or leased by an individual under the protection of a protective order; or

(B) operated by an individual under the protection of a protective order who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle; or

(b) installs the tracking device pursuant to a court order.

[~~(4) Unlawful installation of a tracking device is a class A misdemeanor.~~]

(5) This section does not apply to a peace officer, acting in the peace officer's official capacity, who installs a tracking device on a motor vehicle in the course of a criminal investigation or pursuant to a court order.

(6) Before installing a tracking device on a motor vehicle under Subsection [~~(3)~~] (4), a

private investigator shall request confirmation from a state entity with access to updated protective order records, that:

(a) the owner or lessee of the vehicle is not under the protection of a protective order; and

(b) an individual who resides with, or is an immediate family member of, the owner or lessee of the motor vehicle is not under the protection of a protective order.

(7) On request from a licensed private investigator, a state entity, including a law enforcement agency, with access to protective order records shall confirm or deny the existence of a protective order, disclosing only whether an individual named by the private investigator is under the protection of a protective order issued in any jurisdiction.

(8) A private investigator may not disclose the information obtained under Subsection (7) to any person, except as permitted by law.

(9) On request from the Bureau of Criminal Identification, a private investigator who installs a tracking device on a motor vehicle shall disclose the purpose of the tracking device to the Bureau of Criminal Identification.

(10)(a) A person, or the heirs of a deceased person, who has been injured by a violation of this section may bring an action against the actor who committed the violation.

(b) If in the action described in Subsection (10)(a) the court finds the defendant is violating or has violated any of the provisions of this section, the court shall enjoin the defendant from a continued violation.

(c) It is not necessary that actual damages to the plaintiff be alleged or proved, but if damages are alleged and proved, the plaintiff in the action is entitled to recover from the defendant the actual damages sustained, if any, in addition to injunctive relief.

(d) A finding that the defendant is in violation of this section entitles the plaintiff to an award of reasonable attorney fees.

(e) Exemplary damages may be awarded when the violation is found to be malicious.

Section 374. Section **76-12-306** is enacted to read:

76-12-306 . Voyeurism.

(1)(a) As used in this section, "sex-designated privacy space" means the same as that term is defined in Section 76-12-309.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) An actor commits voyeurism if:

(a) the actor views, or attempts to view, an individual, with or without the use of an

instrumentality:

(i) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(ii) without the knowledge or consent of the individual; and

(iii) under circumstances in which the individual has a reasonable expectation of privacy; and

(b) the actor's conduct described in Subsection (2)(a) does not amount to a violation of Section 76-12-307, Recorded or photographed voyeurism.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the violation is committed:

(i) against a child under 14 years old;

(ii) in a sex-designated privacy space that is not designated for individuals of the actor's sex; or

(iii) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-5-419;

(C) lewdness involving a child under Section 76-5-420; or

(D) loitering in a privacy space under Section 76-12-309.

(4) For purposes of this section, an individual has a reasonable expectation of privacy within a public restroom.

Section 375. Section **76-12-307**, which is renumbered from Section 76-9-702.7 is renumbered and amended to read:

[~~76-9-702.7~~] 76-12-307 . Recorded or photographed voyeurism.

(1)(a) As used in this section, "sex-designated privacy space" means the same as that term is defined in Section 76-12-309.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) [~~A person is guilty of voyeurism who~~] An actor commits recorded or photographed voyeurism if the actor intentionally uses any type of technology to secretly or surreptitiously record, by video, photograph, or other means, an individual:

(a) for the purpose of viewing any portion of the individual's body regarding which the

individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

[~~(2)~~] (3)(a) Except as provided in Subsection[~~(2)(b)~~] (3)(b), a violation of Subsection [~~(1)~~] (2) is a class A misdemeanor.

(b) [~~The following is a third degree felony~~] A violation of Subsection (2) is a third degree felony if the violation is committed:

(i) [~~a violation of Subsection (1) committed~~]against a child under 14 years [~~of age~~] old;

(ii) in a sex-designated privacy space that is not designed for individuals of the actor's sex; or

[~~(ii)~~] (iii) [~~a violation of Subsection (1) committed~~]while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section [~~76-9-702~~] 76-5-419;

(C) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420; or

(D) loitering in a privacy space under Section [~~76-9-702.8; or~~] 76-12-309.

[~~(iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.~~]

[~~(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.~~]

[~~(4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:~~]

[~~(a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;~~]

[~~(b) without the knowledge or consent of the individual; and~~]

[~~(c) under circumstances in which the individual has a reasonable expectation of privacy.~~]

[~~(5)(a) Except as provided in Subsection (5)(b), a violation of Subsection (4) is a class~~

~~B misdemeanor.~~]

[~~(b) The following is a class A misdemeanor:~~]

[~~(i) a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor;~~]

[~~(ii) a violation of Subsection (4) committed while also committing the offense of:~~]

[~~(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);~~]

[~~(B) lewdness under Section 76-9-702;~~]

[~~(C) lewdness involving a child under Section 76-9-702.5; or~~]

[~~(D) loitering in a privacy space under Section 76-9-702.8; or~~]

[~~(iii) a violation of Subsection (4) committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.~~]

[~~(6)~~] (4) For purposes of this section, an individual has a reasonable expectation of privacy within a public restroom.

Section 376. Section **76-12-308** is enacted to read:

76-12-308 . Distribution of images obtained through voyeurism.

(1)(a) As used in this section, "image" includes print, electronic, magnetic, or digital format.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) An actor commits distribution of images obtained through voyeurism if the actor distributes or sells an image obtained by conduct in violation of Section 76-12-207, Recorded or photographed voyeurism, by transmission, display, or dissemination.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third degree felony.

(b) A violation of Subsection (2) is a second degree felony if the image is of a child under 14 years old.

Section 377. Section **76-12-309**, which is renumbered from Section 76-9-702.8 is renumbered and amended to read:

[~~76-9-702.8~~] 76-12-309 . Loitering in a privacy space.

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

[~~(a)~~] (i) "Privacy space" means the following in which an individual has a reasonable expectation of privacy:

[~~(i)~~] (A) a restroom or any other space that includes a toilet;

[~~(ii)~~] (B) a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space; or

[~~(iii)~~] (C) any room or space that includes a shower.

[~~(b)~~] (ii) "Sex-designated" means that a facility, program, or event is designated specifically for males or females and not the opposite sex.

(b) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-301 apply to this section.

(2) An actor commits the offense [~~of unlawfully~~]loitering in a privacy space if the actor intentionally or knowingly remains unlawfully in a privacy space.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection [~~(4)~~] (2) is a class A misdemeanor if the actor commits the offense:

(i) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section [~~76-9-702~~] 76-5-419;

(C) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420; or

(D) voyeurism under Section [~~76-9-702.7; or~~] 76-12-306;

(E) recorded or photographed voyeurism under Section 76-12-307; or

(F) distribution of images obtained through voyeurism under Section 76-12-308; or

(ii) in a sex-designated privacy space that is not designated for individuals of the actor's sex.

Section 378. Section **76-12-401**, which is renumbered from Section 76-10-601 is renumbered and amended to read:

Part 4. Offenses Involving Charitable Solicitations

[~~76-10-601~~] 76-12-401 . Definitions.

As used in this part:

(1) "Person" means [~~any~~] an individual, organization, group, association, partnership, corporation, or any combination of [~~them;~~] an individual, organization, group, association, partnership, or corporation.

(2)(a) "Professional fund raiser" means [~~any~~] a person:

(i) [~~-~~]who, for compensation or any other consideration, plans, conducts, or manages in this state, the solicitation of contributions for or on behalf of [~~any~~] a charitable organization or any other person[~~,~~] ; or

(ii) [~~-~~]who engages in the business of, or holds [~~himself~~] the person's self out to persons in this state as, independently engaged in the business of soliciting contributions for such purpose[~~, but shall not include a bona fide officer or employee of a charitable organization;~~] .

(b) "Professional fund raiser" does not include a bona fide officer or employee of a charitable organization.

(3) "Professional solicitor" means [~~any~~] a person who is employed or retained for compensation by a professional fund raiser to solicit contributions in this state for charitable purposes[~~;~~] .

(4) "Charitable organization" means [~~any~~] an organization that is benevolent, philanthropic, patriotic, or eleemosynary or one purporting to be [~~such;~~] benevolent, philanthropic, patriotic, or eleemosynary.

(5) "Contribution" means the promise or grant of [~~any -~~]money or property of any kind or value.

Section 379. Section **76-12-402**, which is renumbered from Section 76-10-602 is renumbered and amended to read:

[~~76-10-602~~] 76-12-402 . Unlawful use of a person's name for soliciting contributions.

(1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this section.

(2) An actor commits unlawful use of a person's name for soliciting contributions if the actor:

(a) [~~No~~] is a charitable organization, professional fund raiser, or professional solicitor, seeking to raise funds for a charitable [~~purposes,~~] purpose; and

(b) [~~shall use~~] uses the name of any other person for the purpose of soliciting [~~contributions,~~] a charitable contribution in this state[~~,~~] without the written consent of the person[~~; provided that this section shall not apply to religious corporations or organizations, charities, agencies, and organizations operated, supervised, or controlled by or in connection with a religious corporation or organization~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to:

(a) a religious corporation, organization, charity, or agency; or

(b) an organization operated, supervised, or controlled by or in connection with a religious corporation or organization.

Section 380. Section **76-12-403**, which is renumbered from Section 76-10-603 is renumbered and amended to read:

[~~76-10-603~~] 76-12-403 . Unlawful use of a person's name as a solicitation endorsement.

(1) Terms defined in Sections 76-1-101.5, 76-12-101, and 76-12-401 apply to this section.

(2) [~~It is a violation of this part to use~~] An actor commits unlawful use of a person's name as a solicitation endorsement if, without written consent[~~,~~] :

(a) the actor uses the name of a person [~~for the purpose of soliciting contributions if the person's name is listed~~]on any stationery, advertisement, brochure, or correspondence of a charitable organization[~~,~~] for the purpose of soliciting contributions; or

(b) [~~his name is listed or referred to~~] the actor lists or refers to the person's name as [~~one~~] a person who has contributed to, sponsored, or endorsed the charitable organization or [~~its~~] the charitable organization's activities.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 381. Section **76-13-101** is enacted to read:

CHAPTER 13. OFFENSES INVOLVING CRUELTY TO ANIMALS

Part 1. General Provisions

76-13-101 . Definitions.

Reserved.

Section 382. Section **76-13-102**, which is renumbered from Section 76-9-305 is renumbered and amended to read:

[~~76-9-305~~] 76-13-102 . Officer's authority to take possession of an animal -- Lien for care -- Humane destruction.

(1) [~~Any~~] Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

(2) A law enforcement officer may take possession of [~~any animals~~] an animal being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for [~~them~~] the animal or, upon permission from the owner, may destroy [~~them~~] the animal.

[~~(2) Officers caring for animals pursuant to~~]

(3)(a) An officer caring for an animal under this section [~~have~~] has a lien for the

reasonable value of the care [~~and/or destruction~~] provided to the animal and, if applicable, the reasonable value for the destruction of the animal.

(b) [~~Any~~] A court, upon proof that the owner has been notified at least five days earlier of the lien and amount due, [~~at least five days prior, ~~]shall order the animal sold at public auction or destroyed.

[~~(3)~~] (4)(a) [~~Any~~] A law enforcement officer may humanely destroy [~~any~~] an animal found suffering past recovery for any useful purpose.

(b) Before destroying the animal under Subsection (4)(a), the officer shall obtain:

(i) [~~-~~]the judgment [~~to the effect ~~]of a veterinarian[~~,~~] or of two reputable citizens called by [~~him~~] the officer to view the animal in [~~his~~] the officer's presence, of the animal's nonrecoverable condition; or

(ii) [~~shall obtain ~~]consent to the destruction from the owner of the animal.

Section 383. Section **76-13-103**, which is renumbered from Section 76-9-301.6 is renumbered and amended to read:

[~~76-9-301.6~~] 76-13-103 . Officer's authority at a dog fighting exhibition -- Authority to arrest and take possession of dogs and property.

(1) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

(2) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.

[~~(2)~~] (3)(a) Notwithstanding the provisions of Section [~~76-9-305~~] 76-13-102, Officer's authority to take possession of an animal, any authorized officer who makes an arrest under [~~Subsection (1)~~] Subsection (2) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection [~~76-9-301(2)(e)~~] 76-13-202(2)(e) or Section [~~76-9-301.1~~] 76-13-205, Dog fighting.

(b) The officer, at the time of the taking of property pursuant to Subsection [~~(2)(a)~~] (3)(a), shall state [~~his~~] the officer's name and provide other identifying information to the person in charge of the dogs or property taken.

[~~(3)~~] (4)(a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection [~~(2)~~] (3), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.

(b) The affidavit shall include:

(i) the name of the person charged in the complaint;

(ii) a description of all property taken;

(iii) the time and place of the taking of the property;

(iv) the name of the person from whom the property was taken;

(v) the name of the person who claims to own the property, if known; and

(vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section [~~76-9-301 or 76-9-301.1~~] 76-13-202, 76-13-203, 76-13-204, or 76-13-205, and the grounds for the belief.

[~~(4)~~] (5)(a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.

(b) The person designated in Subsection [~~(4)(a)~~] (5)(a) shall assume immediate custody of the property, and retain the property until further order of the court.

(c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.

(d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Section 384. Section **76-13-104**, which is renumbered from Section 76-9-301.7 is renumbered and amended to read:

[~~76-9-301.7~~] 76-13-104 . Enhanced penalties for cruelty to animal offenses.

(1)(a) As used in this section, "conviction" means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) Terms defined in Sections 76-1-101.5 and 76-13-101 apply to this section.

(2) Except as provided in Subsection (4), [~~a person~~] an actor who commits [~~any~~] a violation of Section [~~76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4)~~] 76-13-202, 76-13-203, 76-13-206, or 76-13-208 within the state and on at least one previous occasion has been convicted of violating Section [~~76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4)~~] 76-13-202, 76-13-203, 76-13-206, or 76-13-208 shall be

subject to an enhanced penalty as provided in Subsection (3).

(3) The enhanced degree of offense for offenses committed under this section are:

(a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and

(b) if the offense is a class B misdemeanor, it is a class A misdemeanor.

(4) The penalty enhancements described in this section do not apply to a conviction for the offense described in [~~Subsection 76-9-301(6)~~] Section 76-13-204, Torturing a companion animal.

Section 385. Section **76-13-201** is enacted to read:

Part 2. Cruelty to Animal Offenses

76-13-201 . Definitions.

Reserved.

Section 386. Section **76-13-202**, which is renumbered from Section 76-9-301 is renumbered and amended to read:

[~~76-9-301~~] 76-13-202 . Cruelty to an animal.

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

[~~(a)~~] (i)[~~(i)~~] (A) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

[~~(A)~~] (I) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

[~~(B)~~] (II) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

[~~(ii)~~] (B) "Abandon" does not include returning wildlife to its natural habitat.

[~~(b)~~] (ii)[~~(i)~~] (A) "Animal" means, except as provided in Subsection [~~(1)(b)(ii)~~] (1)(a)(ii)(B), a live, nonhuman vertebrate creature.

[~~(ii)~~] (B) "Animal" does not include:

[~~(A)~~] (I) a live, nonhuman vertebrate creature, if:

[~~(I)~~] (Aa) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

[~~(II)~~] (Bb) the creature is:

[~~(Aa)~~] (Ii) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

[~~(Bb)~~] (IIii) kept, owned, or used for the purpose of training hunting dogs or raptors; or

[~~(Cc)~~] (IIIiii) temporarily in the state as part of a circus or traveling

exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. Sec. 2133;

[~~(B)~~] (II) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

[~~(C)~~] (III) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

[~~(D)~~] (IV) wildlife, as defined in Section 23A-1-101, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

[~~(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.~~]

[~~(d)~~] (iii) "Custody" means ownership, possession, or control over an animal.

[~~(e)~~] (iv) "Legal privilege" means an act that:

[~~(i)~~] (A) is authorized by state law, including rules under Title 23A, Wildlife Resources Act; and

[~~(ii)~~] (B) is not in violation of a local ordinance.

[~~(f)~~] (v) "Livestock" means:

[~~(i)~~] (A) domesticated:

[~~(A)~~] (I) cattle;

[~~(B)~~] (II) sheep;

[~~(C)~~] (III) goats;

[~~(D)~~] (IV) turkeys;

[~~(E)~~] (V) swine;

[~~(F)~~] (VI) equines;

[~~(G)~~] (VII) camelidae;

[~~(H)~~] (VIII) ratites; or

[~~(I)~~] (IX) bison;

[~~(ii)~~] (B) domesticated elk, as defined in Section 4-39-102;

[~~(iii)~~] (C) a livestock guardian dog, as defined in Section 76-6-111; or

[~~(iv)~~] (D) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

[~~(g)~~] (vi) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

[~~(i)~~] (A) appropriate and essential food and water;

[~~(ii)~~] (B) adequate protection, including appropriate shelter, against extreme weather conditions; and

[~~(iii)~~] (C) other essential care.

[~~(h)~~] (vii) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) Except as provided in Subsection [~~(4) or (6), a person is guilty of~~] (4), an actor commits cruelty to an animal if the [~~person~~] actor, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the [~~person's~~] actor's custody;

(b) abandons an animal in the [~~person's~~] actor's custody;

(c) injures an animal;

(d) causes [~~any~~] an animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or

(e) causes [~~any~~] an animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(3) [~~Except as provided in Section 76-9-301.7, a~~] A violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; [~~and~~] or

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) [~~A person is guilty of aggravated cruelty to an animal if the person:~~] If an actor's conduct in violation of this section also constitutes a violation of Section 76-13-203, Aggravated cruelty to an animal, or Section 76-13-204, Torturing a companion animal, the actor's conduct shall be prosecuted under either Section 76-13-203 or 76-13-204 as applicable.

[~~(a) tortures an animal;~~]

[~~(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or~~]

[~~(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.~~]

[~~(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:~~]

[~~(a) a class A misdemeanor if committed intentionally or knowingly;~~]

[~~(b) a class B misdemeanor if committed recklessly; and~~]

[~~(c) a class C misdemeanor if committed with criminal negligence.~~]

[~~(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.~~]

[~~(7)~~] (5) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by [~~a person~~] an actor who humanely destroys [~~any~~] an animal found suffering past recovery for any useful purpose; or

(e) by [~~a person~~] an actor who humanely destroys [~~any~~] an apparently abandoned animal found on the [~~person's~~] actor's property.

[~~(8)~~] (6) For purposes of Subsection [~~(7)(d)~~] (5)(d), before destroying the suffering animal, the [~~person~~] actor who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the [~~person~~] actor to view the unrecoverable condition of the animal in the [~~person's~~] actor's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the [~~person's~~] actor's own observation, if the [~~person~~] actor is in a location or circumstance where the [~~person~~] actor is unable to contact another person.

[~~(9)~~] (7) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

[~~(10)~~] (8) County and municipal governments may not prohibit the use of an electronic locating or training collar.

[~~(11)~~] (9) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

[~~(12)~~] (10) This section does not prohibit the use of animals in lawful training.

[~~(13)~~] (11) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 387. Section **76-13-203** is enacted to read:

76-13-203 . Aggravated cruelty to an animal.

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

(i) "Animal" means the same as that term is defined in Section 76-13-202.

(ii) "Custody" means the same as that term is defined in Section 76-13-202.

(iii) "Legal privilege" means the same as that term is defined in Section 76-13-202.

(iv) "Torture" means the same as that term is defined in Section 76-13-202.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) Except as provided in Subsection (4), an actor commits aggravated cruelty to an animal if the actor:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

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

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; or

(c) a class C misdemeanor if committed with criminal negligence.

(4) If an actor's conduct in violation of this section also constitutes a violation of Section 76-13-204, Torturing a companion animal, the actor's conduct shall be prosecuted under Section 76-13-204.

(5) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) performed by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) performed by an actor who humanely destroys an animal found suffering past recovery for any useful purpose; or

(e) performed by an actor who humanely destroys an apparently abandoned animal found on the actor's property.

(6) For purposes of Subsection (5)(d), before destroying the suffering animal, an actor who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other individuals called by the actor to view the unrecoverable condition of the animal in the actor's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the actor's own observation, if the actor is in a location or circumstance where the actor is unable to contact another individual.

(7) Upon conviction under this section, the court may in the court's discretion, in addition to other penalties:

(a) order the actor to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the actor to forfeit any rights the actor has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person in caring for each animal subjected to violation of this section;

(c) order the actor to no longer possess or retain custody of any animal, as specified by the court, during the period of the actor's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(8) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 388. Section **76-13-204** is enacted to read:

76-13-204 . Torturing a companion animal.

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

(i) "Animal" means the same as that term is defined in Section 76-13-202.

(ii) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(iii) "Custody" means the same as that term is defined in Section 76-13-202.

(iv) "Torture" means the same as that term is defined in Section 76-13-202.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits torturing a companion animal if the actor intentionally or knowingly tortures a companion animal.

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

(4) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) performed by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved; or

(c) permitted under Section 18-1-3.

(5) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the actor to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the actor to forfeit any rights the actor has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person in

caring for each animal subjected to violation of this section;

(c) order the actor to no longer possess or retain custody of any animal, as specified by the court, during the period of the actor's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(6) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 389. Section **76-13-205**, which is renumbered from Section 76-9-301.1 is renumbered and amended to read:

[~~76-9-301.1~~] 76-13-205 . Dog fighting.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is unlawful for any person to~~] An actor commits dog fighting if the actor:

(a) [~~own, possess, keep, or train~~] owns, possesses, keeps, or trains a dog with the intent to engage [~~it~~] the dog in an exhibition of fighting with another dog;

(b) [~~cause~~] causes a dog to fight with another dog or [~~cause~~] causes a dog to injure another dog for amusement or gain;

(c) [~~tie, attach, or fasten~~] ties, attaches, or fastens any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog;[~~or~~]

(d) [~~permit or allow any act which~~] permits or allows any act that violates Subsection [~~(1)(a), (b), or (c)~~] (2)(a), (b), or (c) on any premises under [~~his~~] the actor's charge; or

(e) [~~to control, aid, or abet any such act~~] controls, aids, or abets any act that violates Subsection (2)(a), (b), or (c).

[~~(2)~~] (3)(a) A violation of Subsection (2) is a third degree felony.

(b) A fine imposed for a violation of Subsection (2) may not exceed $25,000.

(4) Possession of [~~any~~] a breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of [~~Subsections (1)(b) and (c)~~] Subsection (2)(b) or (c).

[~~(3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed $25,000.~~]

[~~(4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.~~]

(5) Nothing in this section prohibits any of the following:

(a) the use of dogs for management of livestock by the owner, [~~his~~] the owner's employees or agents, or any other person in the lawful custody of livestock;

(b) the use of dogs for hunting; or

(c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

Section 390. Section **76-13-206** is enacted to read:

76-13-206 . Attending a dog fight or related activity.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits attending a dog fight or related activity if the actor knowingly or intentionally is:

(a) present as a spectator at a place, building, or tenement where preparations are being made for an exhibition of dog fighting;

(b) present at a dog fighting exhibition; or

(c) present for any other conduct that would be in violation of Section 76-13-205, Dog fighting.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 391. Section **76-13-207**, which is renumbered from Section 76-9-301.3 is renumbered and amended to read:

[~~76-9-301.3~~] 76-13-207 . Game fowl fighting.

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

[~~(a)~~] (i) "Game fowl" means a fowl reared or used for fighting other fowl.

[~~(b)~~] (ii) "Promote" means to engage in promoting, producing, or staging events or activities that involve game fowl fighting.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is unlawful for a person to~~] An actor commits game fowl fighting if the actor:

(a) intentionally [~~cause~~] causes a game fowl to fight with or attack another game fowl for the purpose of entertainment, sport, or contest; or

(b) [~~promote~~] promotes any activity that involves game fowl fighting, including promoting an activity that is a violation of Subsection (2)(a).

(3) [~~A person who violates~~] A violation of Subsection (2) is[~~, upon conviction, guilty of~~]:

(a) a class B misdemeanor for the first violation;

(b) a class A misdemeanor for the second violation; or

(c) a third degree felony for a third or subsequent violation.

(4) This section does not prohibit the lawful use of livestock by the livestock owner, an employee or agent of the livestock owner, or a person in the lawful custody of livestock.

Section 392. Section **76-13-208**, which is renumbered from Section 76-9-301.5 is renumbered and amended to read:

[~~76-9-301.5~~] 76-13-208 . Attending an organized animal fighting exhibition.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is unlawful for a person to~~] An actor commits attending an organized animal fighting exhibition if the actor is knowingly [~~be~~]present:

(a) as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by [~~Subsections 76-9-301(2)(d) and (e),~~] Subsection 76-13-202(2)(d) or (e); or

(b) [~~to be present~~]at [~~such~~] an exhibition prohibited by Subsection 76-13-202(2)(d) or (e), regardless of whether [~~any~~] an entrance fee has been charged.

(3) [~~A person who violates this section is guilty of~~] A violation of Subsection (2) is a class B misdemeanor.

Section 393. Section **76-13-209**, which is renumbered from Section 76-9-306 is renumbered and amended to read:

[~~76-9-306~~] 76-13-209 . Endangering, injuring, or killing a police service canine.

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

[~~(a)~~] (i) "Handler" means a law enforcement officer who is specially trained, and uses a police service canine during the course of the performance of [~~his~~] the law enforcement officer's law enforcement duties.

[~~(b)~~] (ii) "Police service canine" means:

(A) any dog used by a law enforcement agency[~~, which~~] that is specially trained for law enforcement work[~~, or~~] ; or

(B) any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~It is a second degree felony for a person to intentionally or knowingly cause~~] An actor commits endangering, injuring, or killing a police service canine if the actor intentionally or knowingly:

(a) causes the death [~~to~~] of a police service canine[~~.~~] ;

(b) causes bodily injury to a police service canine;

(c) engages in conduct likely to cause bodily injury or death to a police service canine; or

(d) lays out, places, or administers any poison, trap, substance, or object that is likely to produce bodily injury or death to a police service canine.

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

(b) A violation of Subsection (2)(b), (c), or (d) is a third degree felony.

[~~(3) It is a third degree felony for a person to intentionally or knowingly:~~]

[~~(a) cause bodily injury to a police service canine;~~]

[~~(b) engage in conduct likely to cause bodily injury or death to a police service canine; or~~]

[~~(c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a police service canine.~~]

[~~(4) It is a class A misdemeanor for a person to intentionally or knowingly:~~]

[~~(a) taunt, torment, strike, or otherwise assault a police service canine;~~]

[~~(b) throw any object or substance at, or in the path of, a police service canine;~~]

[~~(c) interfere with or obstruct a police service canine, or attempt to, or interfere with the handler of the canine in a manner that inhibits, restricts, or deprives the handler of control of the canine;~~]

[~~(d) release a police service canine from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or~~]

[~~(e) place any food, object, or substance into a police service canine's area of control without the permission of the handler.~~]

[~~(5)~~] (4)(a) A police service canine is exempt from quarantine or other animal control ordinances if [~~it~~] the police service canine bites any [~~person~~] individual while under proper police supervision or routine veterinary care.

(b) The law enforcement agency and the [~~canine's~~] police service canine's handler shall make the [~~canine~~] police service canine available for examination at [~~any~~] a reasonable time and shall notify the local health officer if the police service canine exhibits any abnormal behavior.

[~~(6)~~] (5) In addition to any other penalty, [~~a person~~] an actor convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service canine for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Section 394. Section **76-13-210** is enacted to read:

76-13-210 . Interference with a police service canine.

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

(i) "Handler" means the same as that term is defined in Section 76-13-209.

(ii) "Police service canine" means the same as that term is defined in Section 76-13-209.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits interference with a police service canine if the actor intentionally or knowingly:

(a) taunts, torments, strikes, or otherwise assaults a police service canine;

(b) throws any object or substance at, or in the path of, a police service canine;

(c) interferes with or obstructs a police service canine, or attempts to, or interferes with the handler of the police service canine in a manner that inhibits, restricts, or deprives the handler of control of the police service canine;

(d) releases a police service canine from the police service canine's area of control, such as a vehicle, kennel, or pen, or trespasses in that area; or

(e) places any food, object, or substance into a police service canine's area of control without the permission of the handler.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) In addition to any other penalty, an actor convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service canine for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Section 395. Section **76-13-211**, which is renumbered from Section 76-9-307 is renumbered and amended to read:

[~~76-9-307~~] 76-13-211 . Injuring, harassing, or endangering a service animal.

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

[~~(a)~~] (i) "Disability" [~~has the same meaning as~~] means the same as that term is defined in Section 26B-6-801.

[~~(b)~~] (ii) "Search and rescue dog" means a dog:

[~~(i)~~] (A) with documented training to locate [~~persons~~] individuals who are:

[~~(A)~~] (I) lost, missing, or injured; or

[~~(B)~~] (II) trapped under debris as the result of a natural or man-made event; and

[~~(ii)~~] (B) affiliated with an established search and rescue dog organization.

[~~(c)~~] (iii) "Service animal" means:

[~~(i)~~] (A) a service animal as that term is defined in Section 26B-6-801; or

[~~(ii)~~] (B) a search and rescue dog.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits injuring, harassing, or endangering a service animal if the actor:

(a) [~~It is a class A misdemeanor for a person to~~]knowingly, intentionally, or recklessly [~~cause~~] causes substantial bodily injury or death to a service animal[~~.~~] ;

[~~(3)~~] (b) [~~It is a class A misdemeanor for a person who~~]owns, keeps, harbors, or exercises control over an animal [~~to~~] and knowingly, intentionally, or recklessly [~~fail~~] fails to exercise sufficient control over the animal to prevent [~~it~~] the animal from[~~causing~~]:

[~~(a)~~] (i) [~~any~~] causing substantial bodily injury to or the death of a service animal;[~~ or~~]

[~~(b)~~] (ii) [~~the~~] causing a service animal's subsequent inability to function as a service animal as a result of the animal's attacking, chasing, or harassing the service animal[~~.~~] ; or

(iii) chasing or harassing a service animal while the service animal is carrying out the service animal's functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out the service animal's functions; or

[~~(4)~~] (c) [~~It is a class B misdemeanor for a person to chase or harass~~] chases or harasses a service animal.

(3)(a) A violation of Subsection (2)(a), (2)(b)(i), or (2)(b)(ii) is a class A misdemeanor.

(b) A violation of Subsection (2)(b)(iii) or (2)(c) is a class B misdemeanor.

[~~(5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing a service animal while it is carrying out its functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out its functions.~~]

[~~(6)~~] (4)(a) A service animal is exempt from quarantine or other animal control ordinances if [~~it~~] the service animal bites [~~any person~~] an individual while [~~it~~] the service animal is subject to an offense under Subsection (2)[~~, (3), (4), or (5)~~].

(b) The owner of the service animal or the [~~person~~] individual with a disability whom the service animal serves shall make the service animal available for examination at [~~any~~] a reasonable time and shall notify the local health officer if the service animal exhibits any abnormal behavior.

[~~(7)~~] (5) In addition to any other penalty, [~~a person~~] an actor convicted of [~~any~~] a violation of this section is liable for restitution to the owner of the service animal or the [~~person~~] individual with a disability whom the service animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

[~~(8)~~] (6) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 396. Section **76-13-212**, which is renumbered from Section 76-9-304 is renumbered and amended to read:

[~~76-9-304~~] 76-13-212 . Allowing a vicious animal to go at large.

(1) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) [~~Any~~] An actor commits allowing a vicious animal to go at large if:

(a) the actor is an owner of a vicious animal, knowing [~~its~~] the animal's propensities, and:

(i) [~~who~~]willfully allows [~~it~~] the animal to go at large; or

(ii) [~~who~~]keeps [~~it~~] the animal without ordinary care[~~, and~~] ; and

(b) [~~any~~] the animal, while at large, or while not kept with ordinary care, causes injury to or the death of another animal or [~~to any~~] a human being who has taken reasonable [~~precaution which the circumstances permitted~~] precautions under the circumstances.

(3)(a) [~~, is guilty of~~] Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) [~~unless~~] A violation of Subsection (2) is a third degree felony if the animal causes the death of a human being[~~, whereupon the owner is guilty of a felony of the third degree~~].

Section 397. Section **76-13-213**, which is renumbered from Section 76-9-301.8 is renumbered and amended to read:

[~~76-9-301.8~~] 76-13-213 . Bestiality.

[~~(1) A person commits the crime of bestiality if the actor engages in any sexual activity~~

~~with an animal with the intent of sexual gratification of the actor.~~]

[~~(2)~~] (1)(a) For purposes of this section[~~ only~~]:

[~~(a)~~] (i) "Animal" means any live, nonhuman vertebrate creature, including fowl.

[~~(b)~~] (ii) "Sexual activity" means physical sexual contact:

[~~(i)~~] (A) between the actor and the animal involving the genitals of the actor and the genitals of the animal;

[~~(ii)~~] (B) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or

[~~(iii)~~] (C) through the actor's use of an object in contact with the genitals or anus of the animal.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) An actor commits bestiality if the actor engages in sexual activity with an animal with the intent to sexually gratify the actor.

(3) A [~~crime of bestiality~~] violation of Subsection (2) is a class B misdemeanor.

Section 398. Section **76-13-214**, which is renumbered from Section 76-9-308 is renumbered and amended to read:

[~~76-9-308~~] 76-13-214 . Harassment of livestock.

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

[~~(a)~~] (i) "Livestock" [~~has the same meaning~~] means the same as that term is defined in [~~Subsection 76-9-301(1)~~] Section 76-13-202.

[~~(b)~~] (ii) "Unmanned aircraft system" means the same as that term is defined in Section 72-10-102.

(b) Terms defined in Sections 76-1-101.5, 76-13-101, and 76-13-201 apply to this section.

(2) Except as provided in Subsection [~~(3), a person is guilty of~~] (4), an actor commits harassment of livestock if the [~~person~~] actor intentionally, knowingly, or recklessly chases, with the intent of causing distress, or harms livestock through the use of:

(a) a motorized vehicle or all-terrain vehicle;

(b) a dog; or

(c) an unmanned aircraft system.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor if:

(i) no livestock is seriously injured or killed as a result of the actor's actions; or

(ii) the actor's actions cause the livestock to be displaced onto property where the livestock is not legally entitled to be.

(b) A violation of Subsection (2) is a class A misdemeanor if:

(i) the offense is the actor's second or subsequent offense;

(ii) livestock is seriously injured or killed as a result of the actor's actions; or

(iii) livestock or property suffered damage in excess of $1,000, including money spent in recovering the livestock, as a result of the actor's actions.

[~~(3)~~] (4) [~~A person is not guilty of harassment of livestock~~] An actor does not commit a violation of Subsection (2) if:

(a) the [~~person~~] actor is:

(i) the owner of the livestock;

(ii) an employee or agent of the owner, or otherwise acting under the owner's general direction or with the owner's permission;

(iii) acting in an emergency situation to prevent damage to the livestock or property; or

(iv) an employee or agent of the state or a political subdivision and acting in the employee or agent's official capacity; or

(b) the action is in line with generally accepted animal husbandry practices.

[~~(4) A person who violates this section is guilty of:~~]

[~~(a) a class B misdemeanor if the violation is a first offense and:~~]

[~~(i) no livestock is seriously injured or killed as a result of the person's actions; or~~]

[~~(ii) the person's actions cause the livestock to be displaced onto property where the livestock is not legally entitled to be; and~~]

[~~(b) a class A misdemeanor if:~~]

[~~(i) the person has previously been convicted of harassment of livestock under this section;~~]

[~~(ii) livestock is seriously injured or killed as a result of the person's actions; or~~]

[~~(iii) livestock or property suffered damage in excess of $1,000, including money spent in recovering the livestock, as a result of the person's actions.~~]

Section 399. Section **76-13-215**, which is renumbered from Section 76-9-301.9 is renumbered and amended to read:

[~~76-9-301.9~~] 76-13-215 . Failure of an animal care facility to maintain required standards.

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

[~~(a)~~] (i) "Animal care facility" means an animal rescue, animal sanctuary, or animal shelter.

[~~(b)~~] (ii) "Animal rescue" means a person that:

[~~(i)~~] (A) accepts companion animals for the purpose of finding a permanent home for each companion animal;

[~~(ii)~~] (B) does not maintain a central facility for keeping companion animals; and

[~~(iii)~~] (C) uses a system of temporarily fostering the companion animals in a private residence or boarding facility.

[~~(c)~~] (iii) "Animal sanctuary" means a nonprofit entity, other than a government entity, that:

[~~(i)~~] (A) harbors companion animals; and

[~~(ii)~~] (B) is used exclusively for the purpose of indefinitely caring for, rehabilitating, or housing companion animals.

[~~(d)~~] (iv)[~~(i)~~] (A) "Animal shelter" means the same as that term is defined in Section 11-46-102.

[~~(ii)~~] (B) "Animal shelter" does not include an animal rescue.

[~~(e)~~] (v) "Boarding facility" means a facility where a companion animal is kept for the purpose of caring for the companion animal.

[~~(f)~~] (vi) "Companion animal" means an animal that is a domestic dog or a domestic cat.

[~~(g)~~] (vii) "Facility" means a location other than a private residence.

(2) An actor commits failure of an animal care facility to maintain required standards if the actor:

(a) is an animal care facility; and

(b) [~~For a dog in an animal care facility's possession, the animal care facility shall~~] fails to:

(i) ensure that:

[~~(a)~~] (A) a female dog does not produce more than one litter in any twelve-month period, unless a licensed veterinarian has examined the female dog and has determined that it is safe for the dog to produce more than one litter in a twelve-month period; [~~and~~] or

[~~(b)~~] (B) a dog under eight weeks [~~of age~~] old or a dog not properly weaned is not sold[~~.~~] ; or

[~~(3)~~] (ii) [~~An animal care facility shall~~]keep records:

[~~(a)~~] (A) identifying, to the best of the animal care facility's knowledge, an animal's owner at the time the animal care facility acquires the animal; [~~and~~] or

[~~(b)~~] (B) documenting dangerous behaviors, if any, heath conditions, and medical care for an animal in the animal care facility's possession.

[~~(4)~~] (3)[~~(a) An animal care facility's violation of a requirement described in this section~~] A violation of Subsection (2) is an infraction subject to a fine of $750.

[~~(b)~~] (4) A prosecution under this section does not preclude a prosecution for any other criminal offense.

(5) It is a defense to [~~the penalty imposed~~] a prosecution under this section that the conduct of the actor toward the animal was:

(a) performed by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) performed by a person who humanely destroys [~~any~~] an animal found suffering past recovery for any useful purpose; or

(e) performed by a person who humanely destroys [~~any~~] an apparently abandoned animal found on the person's property.

(6) This section does not prohibit the use of animals in lawful training.

(7) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement or the Department of Agriculture and Food in accordance with Section 4-2-903 may not be held civilly liable for making the report.

Section 400. Section **76-14-101** is enacted to read:

CHAPTER 14. OFFENSES RELATED TO IMMIGRATION STATUS

Part 1. General Provisions

76-14-101 . Definitions.

Reserved.

Section 401. Section **76-14-201**, which is renumbered from Section 76-9-1002 is renumbered and amended to read:

Part 2. Offenses Related to Immigration Status

[~~76-9-1002~~] 76-14-201 . Definitions.

As used in this part:

(1) "Alien" means [~~a person~~] an individual who is not a citizen or national of the United States.

(2) "ICE" means the federal Immigration and Customs Enforcement agency of the United States Department of Homeland Security.

(3) "Law enforcement officer" has the same meaning as in Section 53-13-103.

(4) "SAVE program" means the federal Systematic Alien Verification for Entitlements program operated by the federal Department of Homeland Security.

(5) "State or local governmental agency" includes [~~any~~] a private contractor or vendor that contracts with the agency to provide the agency's functions or services.

(6) "Verify immigration status" or "verification of immigration status" means the determination of [~~a person's~~] an individual's immigration status by:

(a) a law enforcement officer who is authorized by a federal agency to determine an alien's immigration status; or

(b) the United States Department of Homeland Security, ICE, or other federal agency authorized to provide immigration status as provided by 8 U.S.C. Sec. 1373(c).

Section 402. Section **76-14-202**, which is renumbered from Section 76-9-1003 is renumbered and amended to read:

[~~76-9-1003~~] 76-14-202 . Detention or arrest -- Determination of immigration status.

(1)(a) Except as provided in Subsection (1)(b), (c), or (d), [~~any~~] a law enforcement officer who, acting in the enforcement of [~~any~~] a state law or local ordinance, conducts [~~any~~] a lawful stop, detention, or arrest of [~~a person~~] an individual as specified in Subsection (1)(a)(i) or (ii), and the [~~person~~] individual is unable to provide to the law enforcement officer a document listed in Subsection [~~76-9-1004(1)~~] 76-14-203(1) and the law enforcement officer is otherwise unable to verify the identity of the [~~person~~] individual, the law enforcement officer:

(i) shall request verification of the citizenship or the immigration status of the [~~person~~] individual under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the [~~person~~] individual is arrested for an alleged offense that is a class A misdemeanor or a felony; and

(ii) may attempt to verify the immigration status of the [~~person~~] individual, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the [~~person~~] individual is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law

enforcement agency booking the [~~person~~] individual shall attempt to verify the immigration status of the [~~person~~] individual.

(b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.

(c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for [~~any~~] an elementary or secondary school.

(d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement agency is not available.

(2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the law enforcement officer makes observations that give the law enforcement officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-310, 76-5-310.1, or [~~76-10-2901~~] 76-14-209, which concern smuggling, human trafficking, [~~and~~] or transporting illegal aliens, the law enforcement officer shall, to the extent possible within a reasonable period of time:

(a) detain the occupants of the vehicle to investigate the suspected violations; and

(b) inquire regarding the immigration status of the occupants of the vehicle.

(3) When [~~a person~~] an individual under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked [~~person~~] individual is submitted as promptly as is reasonably possible.

(4) The law enforcement agency that has custody of [~~a person~~] an individual verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.

(5) A law enforcement officer may not consider race, color, or national origin in implementing this section, except to the extent permitted by the constitutions of the United States and this state.

Section 403. Section **76-14-203**, which is renumbered from Section 76-9-1004 is renumbered and amended to read:

[~~76-9-1004~~] 76-14-203 . Grounds for presumption of lawful presence in United States -- Statement to officer.

(1) [~~A person~~] An individual is presumed to be lawfully present in the United States for the purposes of this [~~part~~] chapter if the [~~person~~] individual provides one of the following documents to the law enforcement officer, unless the law enforcement officer has a reasonable suspicion that the document is false or identifies [~~a person~~] an individual other than the [~~person~~] individual providing the document:

(a) a valid Utah driver license issued on or after January 1, 2010;

(b) a valid Utah identification card issued under Section 53-3-804 and issued on or after January 1, 2010;

(c) a valid tribal enrollment card or other valid form of tribal membership identification that includes photo identification;

(d) a valid identification document that:

(i) includes a photo or biometric identifier of the holder of the document; and

(ii) is issued by a federal, state, or local governmental agency that requires proof or verification of legal presence in the United States as a condition of issuance of the document; or

(e) a valid resident immigrant permit issued under Section 63G-14-204.

(2) [~~A person~~] An individual is presumed to be a citizen or national of the United States for purposes of this part if the [~~person~~] individual makes a statement or affirmation to the law enforcement officer that the [~~person~~] individual is a United States citizen or national, unless the officer has a reasonable suspicion that the statement or affirmation is false.

Section 404. Section **76-14-204**, which is renumbered from Section 76-9-1005 is renumbered and amended to read:

[~~76-9-1005~~] 76-14-204 . Illegal alien -- Notification of federal government -- Transportation to federal facility.

A state or local law enforcement agency may securely transport an alien who is in the agency's custody and whom the agency has verified is unlawfully present in the United States to:

(1) [~~-~~]a federal detention facility in this state[~~ or,~~] ; or

(2) with the concurrence of the receiving federal agency, to a federal facility or other point of transfer to federal custody that is outside this state.

Section 405. Section **76-14-205**, which is renumbered from Section 76-9-1006 is renumbered and amended to read:

[~~76-9-1006~~] 76-14-205 . Enforcement of federal immigration laws.

A state or local governmental agency of this state, or [~~any~~] a representative of the

agency, may not:

(1) limit or restrict by ordinance, regulation, or policy the authority of [~~any~~] a law enforcement agency or other governmental agency to assist the federal government in the enforcement of any federal law or regulation governing immigration; or

(2) limit or restrict by ordinance, regulation, or policy the authority of [~~any~~] a law enforcement agency to investigate or enforce [~~any~~] a violation of the federal misdemeanor offenses of willful failure to register as an alien or willful failure to personally possess an alien registration document as required by 8 U.S.C. Sec. 1304(e) or 1306(a).

Section 406. Section **76-14-206**, which is renumbered from Section 76-9-1007 is renumbered and amended to read:

[~~76-9-1007~~] 76-14-206 . Determining an alien's immigration status -- Transfer or maintenance of information.

Except as limited by federal law, [~~any~~] a state or local governmental agency is not restricted or prohibited in any way from sending, receiving, or maintaining information related to the lawful or unlawful immigration status of [~~any person~~] an individual by communicating with [~~any~~] a federal, state, or local governmental entity for [~~any~~] a lawful purpose, including:

(1) determining [~~a person's~~] an individual's eligibility for [~~any~~] a public benefit, service, or license provided by [~~any~~] a federal agency, by this state, or by [~~any~~] a political subdivision of this state;

(2) confirming [~~a person's~~] an individual's claim of residence or domicile if determination is required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this state;

(3) if the [~~person~~] individual is an alien, determining if the [~~person~~] individual is in compliance with the federal registration laws of Title II, Part 7, Immigration and Nationality Act; or

(4) a valid request for verification of the citizenship or immigration status of [~~any person~~] an individual pursuant to 8 U.S.C. Sec. 1373.

Section 407. Section **76-14-207**, which is renumbered from Section 76-9-1008 is renumbered and amended to read:

[~~76-9-1008~~] 76-14-207 . Proof of immigration status required to receive public benefits.

(1)(a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec. 1621 shall comply with Section 63G-12-402 and shall also comply with this section,

except:

(i) as provided in Subsection 63G-12-402(3)(g) or (k); or

(ii) when compliance is exempted by federal law or when compliance could reasonably be expected to be grounds for the federal government to withhold federal Medicaid funding.

(b) The agency shall verify [~~a person's~~] an individual's lawful presence in the United States by requiring that the applicant under this section sign a certificate under penalty of perjury, stating that the applicant:

(i) is a United States citizen; or

(ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

(c) The certificate under Subsection (1)(b) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(d) The signature under this Subsection (1) may be executed in person or electronically.

(e) When an applicant who is a qualified alien has executed the certificate under this section, the applicant's eligibility for benefits shall be verified by the agency through the federal SAVE program or an equivalent program designated by the United States Department of Homeland Security.

(2) [~~Any person~~] An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in a certificate executed under this section is guilty of public assistance fraud by an applicant for public assistance under Section 76-8-1203.1.

(3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United States Attorney for the applicable federal judicial district based upon the venue in which the certificate was executed.

(4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to the requirements of the provisions of this section that provide for adjudication of unique individual circumstances [~~where~~] in which the verification procedures in this section would impose unusual hardship on a legal resident of this state.

(5) If an agency under Subsection (1) receives verification that [~~a person~~] an individual making an application for [~~any~~] a benefit, service, or license is not a qualified alien, the agency shall provide the information to the local law enforcement agency for enforcement of public assistance fraud by an applicant for public assistance under Section 76-8-1203.1 unless prohibited by federal mandate.

Section 408. Section **76-14-208**, which is renumbered from Section 76-9-1009 is renumbered and amended to read:

[~~76-9-1009~~] 76-14-208 . Implementation to be consistent with federal law and civil rights.

All state and local agencies shall implement this part in a manner that is consistent with federal laws that regulate immigration, protect the civil rights of all [~~persons~~] individuals, and establish the privileges and immunities of United States citizens.

Section 409. Section **76-14-209**, which is renumbered from Section 76-10-2901 is renumbered and amended to read:

[~~76-10-2901~~] 76-14-209 . Transporting or harboring an alien.

(1)(a) As used in this [~~part~~] section:

[~~(a)~~] (i) Except as provided in Subsection [~~(1)(b)~~] (1)(a)(ii), "alien" means an individual who is illegally present in the United States.

[~~(b)~~] (ii) On or after the program start date, as defined in Section 63G-12-102, "alien" does not include an individual who holds a valid permit, as defined in Section 63G-12-102.

(b) Terms defined in Sections 76-1-101.5, 76-14-101, and 76-14-201 apply to this section.

(2) [~~It is unlawful for a person to~~] An actor commits transporting or harboring an alien if the actor:

(a) [~~transport, move, or attempt~~] transports, moves, or attempts to transport into this state or within the state an alien for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law, in furtherance of the illegal presence of the alien in the United States;

(b) knowingly, with the intent to violate federal immigration law, [~~conceal, harbor, or shelter~~] conceals, harbors, or shelters from detection an alien in a place within this state, including a building or means of transportation for commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien is in the United States in violation of federal law;

(c) [~~encourage or induce~~] encourages or induces an alien to come to, enter, or reside in this state, knowing or in reckless disregard of the fact that the alien's coming to, entry, or residence is or will be in violation of law; or

(d) [~~engage~~] engages in a conspiracy, for commercial advantage or private financial gain,

to commit any of the offenses listed in [~~this~~]Subsection (2)(a), (b), or (c).

(3)(a) [~~A person who violates~~] A violation of Subsection (2)(a), (c), or (d) is [~~guilty of~~]a third degree felony.

(b) [~~A person who violates~~] A violation of Subsection (2)(b) is [~~guilty of~~]a class A misdemeanor.

(4) Nothing in this [~~part~~] section prohibits or restricts the provision of:

(a) a state or local public benefit described in 8 U.S.C. Sec. 1621(b); or

(b) charitable or humanitarian assistance, including medical care, housing, counseling, food, victim assistance, religious services and sacraments, [~~and~~] or transportation to and from a location where the assistance is provided, by a charitable, educational, or religious organization or [~~its~~] the employees, agents, or volunteers of a charitable, educational, or religious organization, using private funds.

(5)(a) It is not a violation of this [~~part~~] section for a religious denomination or organization or an agent, officer, or member of a religious denomination or organization to encourage, invite, call, allow, or enable an alien to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses.

(b) Subsection (5)(a) applies only to an alien who has been a member of the religious denomination or organization for at least one year.

(6) An individual's participation in Title 63G, Chapter 14, Utah Pilot Sponsored Resident Immigrant Program Act, either as a sponsor or resident alien, does not constitute encouraging or inducing an alien to come to, enter, or reside in this state in violation of Subsection (2)(c).

Section 410. Section **76-15-101** is enacted to read:

CHAPTER 15. EXPLOSIVES AND WEAPONS OF MASS DESTRUCTION

Part 1. General Provisions

76-15-101 . Definitions.

Reserved.

Section 411. Section **76-15-201** is enacted to read:

Part 2. Explosives

76-15-201 . Definitions.

Reserved.

Section 412. Section **76-15-202**, which is renumbered from Section 76-10-308 is renumbered and amended to read:

[~~76-10-308~~] 76-15-202 . Venue of prosecution for delivering for transmission an explosive, chemical, or incendiary device.

[~~Any person~~] An actor who knowingly, intentionally, or recklessly delivers [~~any~~] an explosive, chemical, or incendiary device to any person for transmission without the consent or direction of the lawful possessor may be prosecuted:

(1) in the county in which [~~he~~] the actor delivers [~~it~~] the explosive, chemical, or incendiary device; or

(2) in the county to which [~~it~~] the explosive, chemical, or incendiary device is transmitted.

Section 413. Section **76-15-203**, which is renumbered from Section 76-10-302 is renumbered and amended to read:

[~~76-10-302~~] 76-15-203 . Unlawful failure to mark a container of explosives before transportation or storage.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~Every person who~~] An actor commits unlawful failure to mark a container of explosives before transportation or storage if the actor knowingly leaves with or delivers to another, or to [~~any~~] an express or railway company or other common carrier, or to [~~any~~] a warehouse or storehouse, [~~any~~] a package containing nitroglycerin, dynamite, guncotton, gunpowder, or other highly explosive compound, or any benzine, gasoline, phosphorus, or other highly inflammable substance, or any vitriol, sulphuric, nitric, carbolic, muriatic, or other dangerous acid, chemical or compound, to be handled, stored, shipped, or transported, without plainly marking and indicating on [~~such~~] the package the name and nature of the contents [~~thereof, is guilty of~~] inside the package.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 414. Section **76-15-204**, which is renumbered from Section 76-10-303 is renumbered and amended to read:

[~~76-10-303~~] 76-15-204 . Unlawful construction or use of a powder house.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~Every person who~~] An actor commits unlawful construction or use of a powder house if the actor builds, constructs, or uses within 300 feet of [~~any~~] a residence or traveled county road [~~any~~] a powder house, magazine, or building in which powder, dynamite, or other explosive is kept in quantities exceeding 500 pounds[~~, is guilty of a~~

~~class B misdemeanor; provided that this section shall not apply to any magazine maintained at any mine or stone quarry~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) This section does not apply to a magazine maintained at a mine or stone quarry.

Section 415. Section **76-15-205**, which is renumbered from Section 76-10-304 is renumbered and amended to read:

[~~76-10-304~~] 76-15-205 . Unlawful failure to mark a container of a high explosive held for sale or use.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~It shall be a class A misdemeanor to sell or offer~~] An actor commits unlawful failure to mark a container of a high explosive for sale or use if the actor:

(a) sells or offers for sale, or [~~take or solicit~~] takes or solicits orders of sale, or [~~purchase or use, or have~~] purchases or uses, or has on hand or in store for the purpose of sale or use, [~~any~~] a giant, hercules, atlas, venture or any other high explosive containing nitroglycerin; and

(b) [~~, unless~~] fails to plainly stamp or print on each box or package and wrapper containing [~~any such~~] the high explosive:

(i) [~~there shall be plainly stamped or printed~~]the name and place of business of the person, partnership, or corporation by whom or by which [~~it~~] the high explosive was manufactured[~~, and~~] ;

(ii) the exact and true date of [~~its~~] the high explosive's manufacture[~~,~~] ; and

(iii) the percentage of nitroglycerin or other high explosive contained [~~therein~~] within the box or package.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 416. Section **76-15-206**, which is renumbered from Section 76-10-305 is renumbered and amended to read:

[~~76-10-305~~] 76-15-206 . Unlawful combination of dates in a box or package of high explosives.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) [~~It shall be unlawful for any person or persons, partnership, or corporation to have~~] An actor commits unlawful combination of dates in a box or package of high explosives if the actor puts two or more different dates on [~~any~~] a box or package containing a giant, hercules, atlas, or venture, or any other high explosive containing nitroglycerin. [~~It shall further be unlawful to use any box, package, or wrapper formerly used by any other~~

~~person or persons, partnership, or corporation in the packing of such giant, hercules, atlas, venture, or other high explosive containing nitroglycerin, and the name and date on the box or package shall be the same as on the wrapper containing the giant, hercules, atlas, venture, or other explosive containing nitroglycerin.~~]

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 417. Section **76-15-207** is enacted to read:

76-15-207 . Unlawful reuse of a high explosive box, package, or wrapper.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful reuse of a high explosive box, package, or wrapper if the actor uses a box, package, or wrapper that was formerly used by another person in the packing of a giant, hercules, atlas, venture, or other high explosive containing nitroglycerin.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 418. Section **76-15-208** is enacted to read:

76-15-208 . Unlawful failure to have a high explosive box or package match an enclosed high explosive wrapper.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful failure to have a high explosive box or package match an enclosed high explosive wrapper if:

(a) the actor puts a giant, hercules, atlas, venture, or other explosive containing nitroglycerin inside a box or package; and

(b) the name and date on the box or package do not match the name and date on the wrapper containing the high explosive.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 419. Section **76-15-209**, which is renumbered from Section 76-10-307 is renumbered and amended to read:

[~~76-10-307~~] 76-15-209 . Unlawful delivery or mailing of an explosive, chemical, or incendiary device.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful delivery or mailing of an explosive, chemical, or incendiary device if the actor:

(a) [~~Any person is guilty of a felony of the second degree who~~]delivers or causes to be delivered to [~~any~~] an express or railway company or other common carrier, or to any person, [~~any~~] an explosive, chemical, or incendiary device[~~, knowing it~~] ;

(b) knows the explosive, chemical, or incendiary device to be [~~the~~] an explosive, chemical, or incendiary device[~~, without informing~~] ; and

(c)(i) fails to inform the common carrier or person [~~of its nature~~] that the item is an explosive, chemical, or incendiary device; or

(ii) sends [~~it~~] the explosive, chemical, or incendiary device through the mail.

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

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

Section 420. Section **76-15-210**, which is renumbered from Section 76-10-306 is renumbered and amended to read:

[~~76-10-306~~] 76-15-210 . Unlawful conduct involving an explosive, chemical, or incendiary device.

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

[~~(a)~~] (i)(A) "Explosive, chemical, or incendiary device" means:

[~~(i)~~] (I) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

[~~(ii)~~] (II) any explosive bomb, grenade, missile, or similar device; [~~and~~] or

[~~(iii)~~] (III) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

[~~(b)~~] (ii) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

[~~(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an~~

~~explosive, chemical, or incendiary device. These substances or materials include:~~]

[~~(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;~~]

[~~(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and~~]

[~~(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.~~]

[~~(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.~~]

(b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary device if, under circumstances not amounting to a violation of Part 2, Weapons of Mass Destruction, the actor:

(a) intentionally, knowingly, or recklessly:

(i) possesses or controls an explosive, chemical, or incendiary device; or

(ii) removes or causes to be removed or carries away an explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer, without the consent or direction of the lawful possessor; or

(b) intentionally or knowingly:

(i) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(ii) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(iii) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-11-215, or 78A-2-203.

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

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

[~~(2)~~] (4) The provisions in [~~Subsections (3) and (6)~~] Subsection (2)(a)(i) do not apply to:

(a) [~~any~~] a public safety officer while acting in an official capacity transporting or

otherwise handling [~~explosives, chemical, or incendiary devices~~] an explosive, chemical, or incendiary device;

(b) [~~any~~] a member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) [~~any~~] a person possessing a valid permit issued under the provisions of the International Fire Code, Section 105 and Chapter 56, or [~~any~~] an employee of the permittee acting within the scope of employment;

(d) [~~any~~] a person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; [~~and~~] or

(e) [~~any~~] a person or entity possessing or controlling an explosive, chemical, or incendiary device as part of [~~its~~] the person's or entity's lawful business operations.

[~~(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.~~]

[~~(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:~~]

[~~(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;~~]

[~~(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or~~]

[~~(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.~~]

[~~(5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.~~]

[~~(6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.~~]

Section 421. Section **76-15-211** is enacted to read:

76-15-211 . Unlawful conduct involving an explosive, chemical, or incendiary part.

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

(i) "Explosive, chemical, or incendiary device" means the same as that term is defined in Section 76-15-210.

(ii)(A) "Explosive, chemical, or incendiary part" means an explosive, chemical, or incendiary part substance or material, or combination of explosive, chemical, or incendiary part substances or materials, that has been prepared or altered for use in the creation of an explosive, chemical, or incendiary device.

(B) "Explosive, chemical, or incendiary part" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(iii) "Explosive, chemical, or incendiary part substance or material" includes:

(A) a timing device, clock, or watch that has been altered in such a manner as to be used as the arming device in an explosive;

(B) a pipe, end cap, or metal tubing that has been prepared for a pipe bomb; and

(C) a mechanical timer, mechanical trigger, chemical time delay, electronic time delay, or commercially made or improvised items that, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for an explosive, chemical, or incendiary device.

(b) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-201 apply to this section.

(2) An actor commits unlawful conduct involving an explosive, chemical, or incendiary part if, under circumstances not amounting to a violation of Part 3, Weapons of Mass Destruction, the actor intentionally, knowingly, or recklessly possesses an explosive, chemical, or incendiary part.

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

(4) The provisions in Subsection (2) do not apply to:

(a) a public safety officer while acting in an official capacity transporting or otherwise handling an explosive, chemical, or incendiary device;

(b) a member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) a person possessing a valid permit issued under the provisions of the International Fire Code, Section 105 and Chapter 56, or an employee of the permittee acting within the scope of employment;

(d) a person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; or

(e) a person or entity possessing or controlling an explosive, chemical, or incendiary device as part of the person's or entity's lawful business operations.

Section 422. Section **76-15-301**, which is renumbered from Section 76-10-401 is renumbered and amended to read:

Part 3. Weapons of Mass Destruction

[~~76-10-401~~] 76-15-301 . Definitions.

As used in this part:

(1) "Biological agent" means [~~any~~] a microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or [~~any~~] a naturally occurring or bioengineered component of [~~any~~] a microorganism, virus, infectious substance, or biological product, that is capable of causing:

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(b) deterioration of food, water, equipment, supplies, or material of any kind; or

(c) deleterious alteration of the environment.

(2) "Delivery system" means:

(a) [~~any~~] an apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(b) [~~any~~] a vector.

(3) "Hoax weapon of mass destruction" means [~~any~~] a device or object that by [~~its~~] the device's or object's design, construction, content, or characteristics appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction as defined in this section, but which is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction [~~which~~] that does not:

(a) meet the definition of a weapon of mass destruction; or

(b) actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(4) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or

infectious substances, or a recombinant molecule, whatever its origin or method of production, including:

(a) [~~any~~] a poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(b) [~~any~~] a poisonous isomer or biological product, homolog, or derivative of the substance under Subsection (4)(a).

(5) "Vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(6)(a) "Weapon of mass destruction" means:

(i) [~~any~~] an item or instrumentality that is designed or intended to cause widespread death or serious bodily injury to multiple victims;

(ii) [~~any~~] an item or instrumentality that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or [~~their~~] the precursors of toxic or poisonous chemicals;

(iii) [~~any~~] a disease organism, including [~~any~~] a biological agent, toxin, or vector [~~which~~] that is used or intended to be used as a weapon;

(iv) [~~any~~] an item or instrumentality that is designed to release radiation or radioactivity at a level dangerous to human life and that is used or intended to be used as a weapon; or

(v) [~~any~~] a substance or material or combination [~~which~~] that has been prepared or altered for use in the creation of a weapon described in Subsections (6)(a)(i) through (iv).

(b) "Weapon of mass destruction" does not include [~~firearms~~] a firearm or rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

Section 423. Section **76-15-302**, which is renumbered from Section 76-10-402 is renumbered and amended to read:

[~~76-10-402~~] 76-15-302 . Unlawful manufacture, possession, sale, use, or attempted use of a weapon of mass destruction.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.

(2) [~~A person who~~] An actor commits unlawful manufacture, possession, sale, use, or attempted use of a weapon of mass destruction if the actor, without lawful authority, intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a weapon of mass destruction or a

delivery system for a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system[~~ as those terms are defined in this section, is guilty of a first degree felony~~].

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

(4) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity, for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(5) This section does not apply to a member or employee of the armed forces of the United States, allied armed forces personnel, a federal or state governmental agency, or a private entity, who is engaged in lawful activity within the scope of the actor's employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section, and if the actor is in compliance with applicable federal and state law.

Section 424. Section **76-15-303**, which is renumbered from Section 76-10-403 is renumbered and amended to read:

[~~76-10-403~~] 76-15-303 . Unlawful manufacture, possession, sale, use, or attempted use of a hoax weapon of mass destruction.

(1) Terms defined in Sections 76-1-101.5, 76-15-101, and 76-15-301 apply to this section.

(2) [~~Any person who~~] An actor commits unlawful manufacture, possession, sale, use, or attempted use of a hoax weapon of mass destruction if the actor, without lawful authority, intentionally or knowingly manufactures, possesses, sells, delivers, displays, uses, attempts to use, solicits the use of, or conspires to use a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction is a weapon of mass destruction[~~ is guilty of a second degree felony~~].

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

(4) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity, for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(5) This section does not apply to a member or employee of the armed forces of the United

States, allied armed forces personnel, a federal or state governmental agency, or a private entity, who is engaged in lawful activity within the scope of the actor's employment, if the actor is authorized or licensed to manufacture, possess, sell, deliver, display, or otherwise engage in activity relative to this section, and if the actor is in compliance with applicable federal and state law.

Section 425. Section **76-16-101** is enacted to read:

CHAPTER 16. OFFENSES CONCERNING BUSINESS PRACTICES

Part 1. General Provisions

76-16-101 . Definitions.

Reserved.

Section 426. Section **76-16-201**, which is renumbered from Section 76-10-701 is renumbered and amended to read:

Part 2. Corporation and Association Offenses

[~~76-10-701~~] 76-16-201 . Definitions.

As used in this part:

(1) "Bona fide stockholder of record" means a stockholder of record who has acquired stock in good faith and is acting for a proper purpose reasonably related to [~~his~~] the stockholder's interests as a stockholder.

(2) "Director" means [~~any of the persons~~] a person having by law the direction or management of the affairs of a corporation, by whatever name the [~~persons are~~] person is described in [~~its~~] the corporation's charter or is known by law.

Section 427. Section **76-16-202**, which is renumbered from Section 76-10-709 is renumbered and amended to read:

[~~76-10-709~~] 76-16-202 . Presumption of director's knowledge of affairs.

[~~Every~~] A director of a corporation or joint stock association is deemed to possess a knowledge of the affairs of [~~his~~] the corporation or association so as to enable [~~him~~] the director to determine whether [~~any~~] an act, proceeding, or omission of [~~its~~] the corporation's or association's directors is a violation of this part.

Section 428. Section **76-16-203**, which is renumbered from Section 76-10-710 is renumbered and amended to read:

[~~76-10-710~~] 76-16-203 . Presumption of director's concurrence in action if present at meeting -- Exception.

[~~Every~~]

(1) Except as provided in Subsection (2), a director of a corporation or joint stock association who is present at a meeting of the directors at which [~~any~~] an act, proceeding, or omission of the directors in violation of this part occurs is deemed to have concurred [~~therein, unless he~~] in the act, proceeding, or omission.

(2) A director is not deemed to have concurred in an act, proceeding, or omission of the directors if, at the time of the act, proceeding, or omission, the director:

(a) causes, or in writing requires, [~~his~~] the director's dissent [~~therefrom~~] from the act, proceeding, or omission to be entered in the minutes of the directors; or

(b) forwards [~~his~~] the director's dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting.

Section 429. Section **76-16-204**, which is renumbered from Section 76-10-711 is renumbered and amended to read:

[~~76-10-711~~] 76-16-204 . Foreign corporations subject to Utah laws.

It is no defense to a prosecution for a violation of [~~any of the provisions of~~]this part that the corporation was [~~one~~]created by the laws of another state, government, or country if [~~it was one~~] the corporation is carrying on business or keeping an office [~~therefor~~]within this state.

Section 430. Section **76-16-205**, which is renumbered from Section 76-10-702 is renumbered and amended to read:

[~~76-10-702~~] 76-16-205 . Fraudulent signing of a stock subscription or agreement.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every person who~~] An actor commits fraudulent signing of a stock subscription or agreement if the actor:

(a) signs the name of a fictitious person to [~~any~~] a subscription for, or agreement to take, stock in [~~any~~] a proposed or existing corporation[~~, existing or proposed, and every person who~~] ; or

(b) signs [~~to any subscription or agreement~~]the name of any person to a subscription for, or agreement to take, stock in a proposed or existing corporation, knowing that the person has no means or does not intend in good faith to comply with all the terms [~~thereof~~] of the subscription or agreement, or under any understanding or agreement that the terms of the subscription or agreement are not to be complied with or enforced[~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 431. Section **76-16-206**, which is renumbered from Section 76-10-703 is renumbered

and amended to read:

[~~76-10-703~~] 76-16-206 . Exhibition of a fraudulent document relating to a corporation or an increase of capital stock.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits exhibition of a fraudulent document relating to a corporation or an increase of capital stock if the actor:

(a) [~~Every~~] is:

(i) an officer, agent, or clerk of [~~any~~] a corporation[~~, or any~~] ; or

(ii) a person proposing to organize a corporation[~~,~~] or to increase the capital stock of [~~any~~] a corporation[~~, who~~] ; and

(b) knowingly exhibits [~~any~~] a false, forged, or altered book, paper, voucher, security, or other instrument of evidence to [~~any~~] a public officer or board authorized by law to examine the organization of the corporation, or to investigate [~~its~~] the corporation's affairs, or to allow an increase of [~~its~~] the corporation's capital, with the intent to deceive the officer or board [~~in respect thereto, shall be guilty of a felony of the third degree~~] with respect to the examination, investigation, or increase of capital.

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

Section 432. Section **76-16-207**, which is renumbered from Section 76-10-704 is renumbered and amended to read:

[~~76-10-704~~] 76-16-207 . Misrepresentation of a person as an officer, agent, member, or promoter.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every person who,~~] An actor commits misrepresentation of a person as an officer, agent, member, or promoter if the actor, without being authorized [~~so~~]to do so, subscribes the name of another person to, or inserts the name of another person in, [~~any~~] a prospectus, circular, or other advertisement or announcement of [~~any~~] an existing corporation or joint stock association, existing or intended to be formed, with the intent to permit [~~it~~] the prospectus, circular, or other advertisement or announcement to be published, and thereby to lead persons to believe that the person whose name is [~~so subscribed~~] included in the prospectus, circular, or other advertisement or announcement is an officer, agent, member, or promoter of [~~such~~] the corporation or association[~~, is guilty of~~] .

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 433. Section **76-16-208**, which is renumbered from Section 76-10-705 is renumbered

and amended to read:

[~~76-10-705~~] 76-16-208 . Illegal concurrence by a director in a dividend or division of capital.

(1)(a) For purposes of this section, "director" does not include a director of:

(i) a savings and loan association; or

(ii) a building and loan association.

(b) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits illegal concurrence by a director in a dividend or division of capital if the actor:

(a) [~~Every director of any~~] is a director of a stock corporation[~~except savings and loan or building and loan associations who~~] ; and

(b) concurs in [~~any~~] a vote or act of [~~the~~] one or more directors of the corporation[~~or any of them, by~~] , which [~~it~~] vote or act is intended to either:

[~~(1)~~] (i) [~~to make any~~] make a dividend except as permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

[~~(2)~~] (ii) [~~to~~]divide, withdraw, or in any manner pay to [~~the~~] one or more stockholders[~~, or any of them,~~] any part of the stated capital of the corporation except as permitted by Title 16, Chapter 10a, Utah Revised Business Corporation Act.

(3) [~~,~~] A violation of Subsection (2) is [~~guilty of~~]a class B misdemeanor.

Section 434. Section **76-16-209**, which is renumbered from Section 76-10-706 is renumbered and amended to read:

[~~76-10-706~~] 76-16-209 . Unlawful omission or entry in a corporate or association record with the intent to defraud.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful omission or entry in a corporate or association record with the intent to defraud if the actor:

(a) [~~Every~~] is:

(i) a director, officer, or agent of [~~any~~] a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) [~~who~~]knowingly receives or possesses [~~himself of any~~] for the actor's self property of [~~such~~] the corporation or association, otherwise than in payment of a just demand[~~, and who,~~] ; and

(c) with intent to defraud, omits to make, or to cause or direct to be made, a full and true

entry [~~thereof~~] of the property described in Subsection (2)(b) in the books or accounts of the corporation or association[~~; and every director, officer, agent, or member of any corporation or association who embezzles, abstracts, or willfully misapplies any of the money, funds, or credits of the corporation or association; or who, without authority from the directors, issues or puts in circulation any of the notes of the corporation or association; or who, without the authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of the corporation or association; or who issues any fraudulent, fictitious, or illegal stock in any such corporation or association, with intent in either case to injure or defraud the corporation or association, or any other company, body politic, or corporate, or any individual person, or to deceive any officer of the corporation or association, or any agent appointed to examine the affairs of any such corporation or association; and every person who, with like intent, aids or abets any officer, clerk, or agent in any violation of this section is guilty of a felony of the third degree~~].

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

Section 435. Section **76-16-210** is enacted to read:

76-16-210 . Embezzlement, abstraction, or misapplication of corporate or association funds.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful embezzlement, abstraction, or misapplication of corporate or association funds if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) embezzles, abstracts, or willfully misapplies money, funds, or credits of the corporation or association.

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

Section 436. Section **76-16-211** is enacted to read:

76-16-211 . Unlawful circulation of a corporate or association note.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful circulation of a corporation or association note if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) without the authority from a corporation's or association's directors, issues or puts in circulation a note of the corporation or association.

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

Section 437. Section **76-16-212** is enacted to read:

76-16-212 . Unauthorized corporate or association action.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unauthorized corporate or association action if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) without having the authority to do so:

(i) issues or puts forth a certificate of deposit;

(ii) draws an order or bill of exchange;

(iii) makes an acceptance; or

(iv) assigns a note, bond, draft, bill of exchange, mortgage, judgment, or decree.

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

Section 438. Section **76-16-213** is enacted to read:

76-16-213 . False entry in a corporate or association book, report, or statement.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits false entry in a corporate or association book, report, or statement if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) makes a false entry in a corporate or association book, report, or statement, with the intent:

(i) to injure or defraud:

(A) the corporation or association;

(B) any other company;

(C) a body politic; or

(D) an individual person; or

(ii) to deceive:

(A) an officer of the corporation or association; or

(B) an agent appointed to examine the affairs of the corporation or association.

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

Section 439. Section **76-16-214** is enacted to read:

76-16-214 . Unlawful stock issuance.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) An actor commits unlawful stock issuance if the actor:

(a) is:

(i) a director, officer, agent, or member of a corporation or association; or

(ii) a person who aids or abets a person described in Subsection (2)(a)(i); and

(b) issues fraudulent, fictitious, or illegal stock in the corporation or association, with the intent:

(i) to injure or defraud:

(A) the corporation or association;

(B) any other company;

(C) a body politic; or

(D) an individual person; or

(ii) to deceive:

(A) an officer of the corporation or association; or

(B) an agent appointed to examine the affairs of the corporation or association.

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

Section 440. Section **76-16-215**, which is renumbered from Section 76-10-707 is renumbered and amended to read:

[~~76-10-707~~] 76-16-215 . Making or publishing a report containing a false material statement.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every~~] An actor commits making or publishing a report containing a false material statement if the actor:

(a) is a director, officer, or agent of [~~any~~] a corporation or joint stock association; and

(b) [~~who~~]knowingly makes or concurs in making or publishing [~~any~~] a written report, exhibit, or statement of [~~its~~] the corporation's or association's affairs or pecuniary condition[~~, containing any~~] that contains a false material statement[~~ which is false is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 441. Section **76-16-216**, which is renumbered from Section 76-10-708 is renumbered and amended to read:

[~~76-10-708~~] 76-16-216 . Prohibited refusal of inspection or copying of corporate books.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-201 apply to this section.

(2) [~~Every~~] An actor commits prohibited refusal of inspection or copying of corporate books if the actor:

(a) is an officer or agent of [~~any~~] a corporation having or keeping an office within this state[~~, who~~] ;

(b) has in [~~his~~] the actor's custody or control the books of [~~such~~] the corporation[~~, and who~~] ; and

(c) refuses to give to a bona fide stockholder of record or member of the corporation, lawfully [~~demanding~~] demanded during office hours, the right to inspect or take a copy of [~~it or of any part thereof, is guilty of a class B misdemeanor~~] all or part of the corporation's books.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 442. Section **76-16-301**, which is renumbered from Section 76-10-1001 is renumbered and amended to read:

Part 3. Offenses Concerning Trademarks, Trade Names, and Devices

[~~76-10-1001~~] 76-16-301 . Definitions.

[~~For the purpose of~~] As used in this part:

(1) "Forged trademark," "forged trade name," "forged trade device," and "counterfeited trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents[~~, as used in this part,~~] include every alteration or imitation of [~~any~~] a trademark, trade name, or trade device [~~so resembling~~] that resembles the original so as to be likely to deceive.

(2) "Trademark" or "trade name" or ["~~trade device," as used in this part,~~] "trade device" includes every trademark registrable with the Division of Corporations and Commercial Code.

Section 443. Section **76-16-302**, which is renumbered from Section 76-10-1002 is renumbered and amended to read:

[~~76-10-1002~~] 76-16-302 . Forging or counterfeiting a trademark, trade name, or trade device.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~] An actor commits forging or counterfeiting a trademark, trade name, or trade device if the actor:

(a) willfully forges or counterfeits, or procures to be forged or counterfeited, [~~any~~] a trademark, trade name, or trade device, that:

(i) is usually affixed by [~~any~~] a person to the person's goods, or by [~~any~~] an association or union of [~~workingmen, to his or its~~] working people to the association's or union's goods[~~,~~] ; and

(ii) [~~which~~]has been filed with the Division of Corporations and Commercial Code[~~,~~] ; and

(b) performs the action described in Subsection (2)(a) with the intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed, or intended to be affixed, as the goods of the person or association or union of [~~workingmen, is guilty of a class B misdemeanor~~] working people.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 444. Section **76-16-303**, which is renumbered from Section 76-10-1003 is renumbered and amended to read:

[~~76-10-1003~~] 76-16-303 . Selling goods under a counterfeited trademark, trade name, or trade device.

(1) [~~Every person who~~] Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) An actor commits selling goods under a counterfeited trademark, trade name, or trade device if the actor:

(a) sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after [~~it~~] the trademark, trade name, or trade device has been filed with the Division of Corporations and Commercial Code[~~,~~ ~~intending~~] ;

(b) [~~-~~] intends to represent the goods as the genuine goods of another[~~, knowing it to be~~] person; and

(c) knows the goods are counterfeited.

(3) [~~, is guilty of a class B misdemeanor.~~] A violation of Subsection (2) is a class B misdemeanor.

Section 445. Section **76-16-304**, which is renumbered from Section 76-10-1004 is renumbered and amended to read:

[~~76-10-1004~~] 76-16-304 . Sale in a container bearing a registered trademark of a

substituted article.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~] An actor commits sale in a container bearing a registered trademark of a substituted article if the actor:

(a) has or uses [~~any~~] a container or similar article [~~bearing or having~~] that bears or is in any way connected with [~~it~~]the registered trademark of another person; and

(b) has or uses the container or article described in Subsection (2)(a) for the purpose of disposing, with intent to deceive or defraud, of [~~any~~] an article or substance other than that which the container or similar article originally contained or was connected with by the owner of [~~such~~] the trademark[~~ is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 446. Section **76-16-305**, which is renumbered from Section 76-10-1005 is renumbered and amended to read:

[~~76-10-1005~~] 76-16-305 . Using, destroying, concealing, or possessing an article with a registered trademark or service mark to deprive the owner of use or possession.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~] An actor commits using, destroying, concealing, or possessing an article with a registered trademark or service mark to deprive the owner of use or possession if the actor, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, and with the intent to deprive the owner of the use or possession of the article:

(a) uses, destroys, conceals, or possesses the article; or[~~ who~~]

(b) defaces or otherwise conceals the trademark or service mark [~~upon~~] on the article[~~with intent to deprive the owner of the use or possession of the article~~] .

(3) [~~is guilty of~~] A violation of Subsection (2) is a class B misdemeanor.

(4) [~~; provided, however, that nothing contained in this part shall be construed to apply to or restrict~~] This section does not apply to the transfer or use of a wooden [~~boxes~~] box or the re-use of a burlap or cotton [~~bags or sacks~~] bag or sack when [~~those bags or sacks have~~] the bag or sack has been reversed inside out or the markings [~~thereon~~] on the box, bag, or sack have been concealed or obliterated to effectively demonstrate that the [~~products~~] product contained [~~therein do~~] in the box, bag, or sack does not purport to be the [~~products~~] product of the owner of the registered trademark or service mark [~~theretofore put upon those bags~~] that appeared on the box, bag, or sack.

Section 447. Section **76-16-306**, which is renumbered from Section 76-10-1006 is renumbered

and amended to read:

[~~76-10-1006~~] 76-16-306 . Selling, trafficking, or withholding an article bearing a registered trademark or service mark with intent to defraud.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~] An actor commits selling, trafficking, or withholding an article bearing a registered trademark or service mark with intent to defraud if the actor, without the consent of the owner of an article [~~bearing~~] that bears the owner's validly registered trademark or service mark, and with the intent to defraud the owner of the article, knowingly:

(a) [~~,~~]sells or traffics [~~in the articles~~] the article; or

(b) [~~who~~]withholds the [~~articles~~] article from the article's owner[~~ thereof with intent to defraud the owner thereof is guilty of~~] .

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 448. Section **76-16-307**, which is renumbered from Section 76-10-1007 is renumbered and amended to read:

[~~76-10-1007~~] 76-16-307 . Use of a registered trademark without consent.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-301 apply to this section.

(2) [~~Every person who~~] An actor commits use of a registered trademark without consent if the actor adopts or in any way uses [~~the~~] a registered trademark [~~of~~] owned by another person without the person's consent[~~ of the owner thereof, is guilty of~~] .

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 449. Section **76-16-401** is enacted to read:

Part 4. Offenses Concerning Unfair Market Discrimination

76-16-401 . Definitions.

Reserved.

Section 450. Section **76-16-402**, which is renumbered from Section 76-10-3002 is renumbered and amended to read:

[~~76-10-3002~~] 76-16-402 . Unfair discrimination in competitive practices.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

(2) [~~Every~~] An actor commits unfair discrimination in competitive prices if the actor:

(a) is a person engaged in the production, manufacture, or distribution of [~~any~~] a commodity in general use[~~ who~~] ; and

(b) intentionally, for the purpose of destroying the competition of [~~any~~] a regular, established dealer in [~~such~~] the commodity, or to prevent the competition of [~~any~~] a

person who in good faith intends and attempts to become a dealer, discriminates between different sections, communities, or cities of this state by selling the commodity at a lower rate in one section, community, or city, or any portion [~~thereof~~] of the section, community, or city, than the [~~person~~] actor charges for the commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution and freight rates[~~, therefrom, is guilty of unfair discrimination~~].

(3) A violation of this section is subject to:

(a) a fine of not less than $500 and no more than $4,000 for each offense; and

(b) sanctions described in Subsection (4).

(4)(a) If a complaint is made to the attorney general that a corporation has violated this section, the attorney general shall investigate the complaint, and for that purpose, may subpoena witnesses, administer oaths, take testimony, and require the production of books or other documents.

(b) If in the attorney general's opinion, sufficient grounds exist for a prosecution after an investigation under Subsection (4)(a), the attorney general may prosecute an action in the name of the state to annul the charter or revoke the license of the corporation, and to permanently enjoin the corporation from doing business in this state.

(c) If, in an action described in Subsection (4)(b), the court finds that the corporation is guilty of unfair discrimination under this section, the court shall annul the charter or revoke the license of the corporation and may permanently enjoin the corporation from transacting business in this state.

Section 451. Section **76-16-403**, which is renumbered from Section 76-10-3001 is renumbered and amended to read:

[~~76-10-3001~~] 76-16-403 . Fraudulent practice to affect market price.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

(2) [~~Every person who~~] An actor commits fraudulent practice to affect market price if the actor willfully makes or publishes [~~any~~] a false statement, spreads [~~any~~] a false rumor, or employs any other false or fraudulent means or device, with the intent to affect the market price of any kind of property[~~, is guilty of a class B misdemeanor~~].

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

(a) a class B misdemeanor; and

(b) subject to a fine of not less than $500 and no more than $4,000 for each offense.

Section 452. Section **76-16-404**, which is renumbered from Section 76-10-3005 is renumbered

and amended to read:

[~~76-10-3005~~] 76-16-404 . Unfair discrimination by a buyer of milk, cream, or butterfat.

(1) Terms defined in Sections 76-1-101.5, 76-16-101, and 76-16-401 apply to this section.

(2) [~~Any~~] An actor commits unfair discrimination by a buyer of milk, cream, or butterfat if the actor:

(a) is:

(i) a person doing business in this state [~~and~~] that is engaged in the business of buying milk, cream, or butterfat for the purpose of sale or storage[~~, who,~~] ; or

(ii) an officer or agent of a person described in Subsection (2)(a)(i); and

(b) for the purpose of creating a monopoly or destroying the business of a competitor, discriminates between different sections, communities, localities, cities, or towns of this state by purchasing [~~the commodity or commodities~~] milk, cream, or butterfat at a higher price or rate in one section, community, location, city, or town than is paid for the same [~~commodity~~] milk, cream, or butterfat by the [~~person~~] actor in another section, community, locality, city, or town, after making due allowance for the difference, if any, in the grade or quality, and in the actual cost of transportation from the point of purchase to the point of manufacture, sale, or storage[~~, is guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful; and any person, firm, company, association, or corporation, or any officer, agent, receiver, or member of such firm, company, association, or corporation, found guilty of unfair discrimination as herein defined shall be guilty of a class B misdemeanor~~].

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

(a) a class B misdemeanor; and

(b) subject to a fine of not less than $500 and no more than $4,000 for each offense.

Section 453. Section **76-16-501**, which is renumbered from Section 76-10-3103 is renumbered and amended to read:

Part 5. Antitrust Offenses

[~~76-10-3103~~] 76-16-501 . Definitions.

As used in this part:

(1) "Attempt to monopolize" means action taken without a legitimate business purpose and with a specific intent of destroying competition or controlling prices to substantially lessen competition, or creating a monopoly, where there is a dangerous probability of creating a monopoly.

(2) "Attorney general" means the attorney general of the state or one of the attorney general's assistants.

(3) "Commodity" includes [~~any~~] a product of the soil, [~~any~~] an article of merchandise or trade or commerce, and any other kind of real or personal property.

(4) "Manufacturer" means the producer or originator of [~~any~~] a commodity or service.

(5) "Service" includes [~~any~~] an activity that is performed in whole or in part for the purpose of financial gain including, but not limited to, personal service, professional service, rental, leasing or licensing for use.

(6) "Trade or commerce" includes all economic activity involving, or relating to, [~~any~~] a commodity, service, or business activity, including the cost of exchange or transportation.

Section 454. Section **76-16-502**, which is renumbered from Section 76-10-3102 is renumbered and amended to read:

[~~76-10-3102~~] 76-16-502 . Legislative findings -- Interpretation of part.

(1)(a) The Legislature finds and determines that competition is fundamental to the free market system and that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic, political and social institutions.

(b) The purpose of this [~~act is, therefore, to~~] part is to encourage free and open competition in the interest of the general welfare and economy of this state by prohibiting monopolistic and unfair trade practices, combinations and conspiracies in restraint of trade or commerce and by providing adequate penalties for the enforcement of [~~its~~] the part's provisions.

(2) The Legislature intends that the courts, in construing this part, will be guided by interpretations given by the federal courts to comparable federal antitrust statutes and by other state courts to comparable state antitrust statutes.

Section 455. Section **76-16-503**, which is renumbered from Section 76-10-3117 is renumbered and amended to read:

[~~76-10-3117~~] 76-16-503 . Statute of limitations.

(1) [~~Any~~] An action brought by the attorney general pursuant to this [~~act~~] part is barred if [~~it~~] the action is not commenced within four years after the cause of action accrues.

(2) Any other action pursuant to this [~~act~~] part is barred if [~~it~~] the action is not commenced within four years after the cause of action accrues, or within one year after the

conclusion of an action brought by the state pursuant to this act based in whole or in part on any matter complained of in the subsequent action, whichever is the latter.

Section 456. Section **76-16-504**, which is renumbered from Section 76-10-3105 is renumbered and amended to read:

[~~76-10-3105~~] 76-16-504 . Exempt activities.

(1) This act may not be construed to prohibit:

(a) the activities of [~~any~~] a public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of [~~any~~] an insurer, insurance producer, independent insurance adjuster, or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation by the commissioner of insurance;

(c) the activities of securities dealers, issuers, or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of [~~any~~] a state or national banking institution, to the extent that the activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of [~~any~~] a state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;

(f) the activities of a political subdivision to the extent authorized or directed by state law, consistent with the state action doctrine of federal antitrust law; or

(g) the activities of an emergency medical service provider licensed under Title 53, Chapter 2d, Emergency Medical Services Act, to the extent that those activities are regulated by state government officers or agencies under that act.

(2)(a) The labor of a human being is not a commodity or article of commerce.

(b) Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of these organizations from lawfully carrying

out [~~their~~] the organizations' legitimate objects; nor may these organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

(3)(a) As used in this section, an entity is also a [~~municipality~~] political subdivision if the entity was formed under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity is:

(i) a project entity as defined in Section 11-13-103;

(ii) an electric interlocal entity as defined in Section 11-13-103; or

(iii) an energy services interlocal entity as defined in Section 11-13-103.

(b) The activities of the entities under Subsection (3)(a) are authorized or directed by state law.

Section 457. Section **76-16-505**, which is renumbered from Section 76-10-3106 is renumbered and amended to read:

[~~76-10-3106~~] 76-16-505 . Attorney general's powers -- Investigations -- Institution of actions -- Cooperation.

(1) The attorney general may investigate a suspected [~~violations~~] violation of this [~~act~~] part and institute an appropriate [~~actions~~] action regarding [~~those~~] the suspected [~~violations~~] violation as provided in this [~~act~~] part.

(2)(a) [~~Any violations of this act which come~~] A violation of this part that comes to the attention of [~~any~~] a state government officer or agency shall be reported to the attorney general.

(b) All state government officers and agencies shall cooperate with, and assist in, [~~any~~] a prosecution for violation of this [~~act~~] part.

(3) The attorney general may proceed under any antitrust laws in the state or federal courts on behalf of this state, any of [~~its~~] the state's political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state.

Section 458. Section **76-16-506**, which is renumbered from Section 76-10-3107 is renumbered and amended to read:

[~~76-10-3107~~] 76-16-506 . Civil antitrust investigations -- Demand for production of documents and responses to written interrogatories -- Oral examination -- Judicial order for compliance -- Confidentiality -- Subpoenas precluded.

(1) When the attorney general has reasonable cause to believe that [~~any~~] a person may be in possession, custody, or control of any information, including [~~any~~] a document, material, or testimony, relevant to a civil antitrust investigation, the attorney general may, [~~prior to~~]

before the commencement of a civil action, issue and cause to be served upon that person a written civil investigative demand requesting that person to:

(a) produce any document or material for inspection, copying, or reproduction by the state where the document or material is located or produced;

(b) give oral testimony under oath, concerning the subject of the investigation;

(c) respond to written interrogatories; or

(d) furnish any combination of these.

(2)(a) Each demand shall state:

(i) the nature of the activities under investigation, constituting the alleged antitrust violation, which may result in a violation of this part and the applicable provision of law;

(ii) that the recipient is entitled to counsel;

(iii) that the information received in response to the demand may be used in a civil or criminal proceeding;

(iv) that if the recipient does not comply with the demand, the attorney general may compel compliance by appearance, upon reasonable notice to the recipient, before the [~~district~~]court in the judicial district where the recipient resides or does business and only upon a showing before that [~~district~~]court that the requirements of Subsection (7) have been met;

(v) that the recipient has the right at any time before the return date of the demand, or within 30 days, whichever period is shorter, to seek a court order determining the validity of the demand; and

(vi) that at any time during the proceeding the person may assert any applicable privilege.

(b) If the demand is for production of [~~any~~] a document or material, the demand shall also:

(i) describe the document or material to be produced with sufficient definiteness and certainty as to permit the document or material to be fairly identified;

(ii) prescribe return dates that provide a reasonable period of time within which the document or material demanded may be assembled and made available for inspection and reproduction; and

(iii) identify the individual at the Office of the Attorney General to whom the document or material shall be made available.

(c) If the demand is for the giving of oral testimony, the demand shall also:

(i) prescribe the date, time, and place at which oral testimony shall be commenced;

(ii) state that an employee of the Office of the Attorney General shall conduct the examination; and

(iii) state that the recording or the transcript of the examination shall be submitted to and maintained by the Office of the Attorney General.

(d) If the demand is for responses to written interrogatories, the demand shall also:

(i) state that each interrogatory shall be answered separately and fully in writing and under oath, unless the person objects to the interrogatory, in which event the reasons for objection shall be stated in lieu of an answer;

(ii) state that the answers are to be signed by the person making them, and the objections are to be signed by the attorney making them;

(iii) identify by name and address the individual at the Office of the Attorney General on whom answers and objections provided under this Subsection (2)(d) are to be served; and

(iv) prescribe the date on or before which these answers and objections are to be served on the identified individual.

(3) The civil investigative demand may be served upon any person who is subject to the jurisdiction of any Utah court and shall be served upon the person in the manner provided for service of a subpoena.

(4)(a) [~~Any~~] A document or material submitted in response to a demand served under this section shall be accompanied by an affidavit, in the form the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person having knowledge of the facts and circumstances relating to the production.

(b) The affidavit shall state that every document or material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has in good faith been produced and made available to the Office of the Attorney General.

(c) The affidavit shall identify any demanded document or material that is not produced and state the reason why each item was not produced.

(5)(a)(i) An examination of [~~any~~] a person pursuant to a demand for oral testimony served under this section may only be taken before an officer authorized to administer oaths or affirmations by the laws of the United States or of the place where the examination is held.

(ii) The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness.

(iii) If the testimony is taken stenographically, [~~it~~] the testimony shall be transcribed and the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the Office of the Attorney General.

(b) When taking oral testimony, all persons other than personnel from the Office of the Attorney General, the witness, counsel for the witness, and the officer before whom the testimony is to be taken shall be excluded from the place where the examination is held.

(c) The oral testimony of [~~any~~] a person taken pursuant to a demand served under this section shall be taken in the county where the person resides or transacts business or in any other place agreed upon by the attorney general and the person.

(d)(i) When testimony is fully transcribed, the transcript shall be certified by the officer before whom the testimony was taken and submitted to the witness for examination and signing, in accordance with Rule 30(e) of the Utah Rules of Civil Procedure[~~, Rule 30(e)~~].

(ii) A copy of the deposition shall be furnished free of charge to a witness upon the witness's request.

(e) [~~Any~~] A change in testimony recorded by nonstenographic means shall be made in the manner provided in Rule 30 of the Utah Rules of Civil Procedure[~~, Rule 30,~~] for changing deposition testimony recorded by nonstenographic means.

(f)(i) [~~Any~~] A person compelled to appear under a demand for oral testimony under this section may be accompanied, represented, and advised by counsel.

(ii) Counsel may advise the person, in confidence, either upon the request of the person or upon counsel's own initiative, with respect to any question asked of the person.

(iii) The person or counsel may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection.

(iv) An objection may properly be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination.

(v) If the person refuses to answer any question, the attorney general may petition the

district court for an order compelling the person to answer the question.

(g) If [~~any~~] a person compelled to appear under a demand for oral testimony or other information pursuant to this section refuses to answer any questions or produce information on grounds of the privilege against self-incrimination, the testimony of that person may be compelled as in criminal cases.

(h)(i) [~~Any~~] A person appearing for oral examination pursuant to a demand served under this section is entitled to the same fees and mileage [~~which~~] that are paid to witnesses in the district courts of the state of Utah.

(ii) Witness fees and expenses shall be tendered and paid as in any civil action.

(6) The providing of [~~any~~]information in response to a civil investigative demand issued pursuant to the provisions of this part shall be considered part of an official proceeding as defined in Section 76-8-501.

(7)(a)(i) If a person fails to comply with the demand served upon [~~him~~] the person under this section, the attorney general may file in the district court of the county in which the person resides, is found, or does business, a petition for an order compelling compliance with the demand.

(ii) Notice of hearing of the petition and a copy of the petition shall be served upon the person, who may appear in opposition to the petition.

(iii) If the court finds that the demand is proper, that there is reasonable cause to believe there has been a violation of this part, and that the information sought is relevant to the violation, [~~it~~] the court shall order the person to comply with the demand, subject to modifications the court may prescribe.

(b)(i)(A) At any time before the return date specified in a demand or within 30 days after the demand has been served, whichever period is shorter, the person who has been served may file a petition for an order modifying or setting aside the demand.

(B) This petition shall be filed in the [~~district~~]court in the county of the person's residence, principal office, or place of business, or in the [~~district~~]court in Salt Lake County.

(C) The petition shall specify each ground upon which the petitioner relies in seeking the relief sought.

(D) The petition may be based upon [~~any~~] a failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner.

(E) The petitioner shall serve notice of hearing of the petition and a copy of the petition upon the attorney general.

(F) The attorney general may submit an answer to the petition within 30 days after receipt of the petition.

(ii)(A) After a hearing on the petition described in Subsection (7)(b)(i), and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

(B) At [~~any~~] a hearing pursuant to this section it is the attorney general's burden to establish that the demand is proper, that there is reasonable cause to believe that there has been a violation of this part, and that the information sought is relevant to the violation.

(8)(a) The attorney general may enter into a confidentiality agreement in lieu of, or in addition to, issuing a civil investigative demand, when the attorney general has reasonable cause to believe that [~~any~~] a person may be in possession, custody, or control of [~~any~~]information relevant to a civil antitrust investigation or civil antitrust action.

(b) In [~~any~~] a civil antitrust action, the court may issue a confidentiality order, which may incorporate a confidentiality agreement.

(c)(i) The confidentiality agreement or confidentiality order may address any procedure, testimony taken, or document or material produced under this section.

(ii) The agreement or order may define to whom access will be given, the conditions and the restrictions to the access, and how the testimony, document, or material will be safeguarded.

(iii) The agreement or order may require that documentation of testimony and any other document or material:

[~~(i)~~] (A) be returned to the designated person; or

[~~(ii)~~] (B) notwithstanding the provisions of Section 63A-12-105 and any retention schedule promulgated pursuant to Section 63G-2-604, be destroyed by the attorney general at a designated time, in which case this requirement is binding upon the attorney general.

(9)(a) Any procedure, testimony taken, or document or material produced under this section, whether produced pursuant to a civil investigative demand, confidentiality agreement, or confidentiality order, shall be kept confidential by the attorney general

unless confidentiality is waived in writing by the person who has testified, or produced a document or material.

(b) Any testimony taken or document or material produced under this section may be used in a civil antitrust action, provided that the use is not restricted or prohibited under a confidentiality agreement or confidentiality order, unless that restriction or prohibition is waived by the person from whom the information was obtained.

(c) Notwithstanding any other provision of this section, the attorney general may disclose testimony taken or a document or material obtained under this section, without either the consent of the person from whom it was received or the person being investigated, to:

(i) [~~any~~] a grand jury; and

(ii) officers and employees of federal or state law enforcement agencies, provided the person from whom the information was obtained is notified 20 days prior to disclosure, and the federal or state law enforcement agency certifies that the information will be:

(A) maintained in confidence, as required by Subsection (9)(a); and

(B) used only for official law enforcement purposes.

(10) Use of a civil investigative demand under this action precludes the invocation by the attorney general of Section 77-22-2.

Section 459. Section **76-16-507**, which is renumbered from Section 76-10-3116 is renumbered and amended to read:

[~~76-10-3116~~] 76-16-507 . Venue of an action brought by the state -- Transfer.

[~~Any~~] An action brought by the state pursuant to this [~~act~~] part shall be brought in any county [~~wherein~~] in which the defendant resides or does business, or at the option of the defendant, [~~such~~] the action shall be transferred, upon motion made within 30 days after commencement of the action, to Salt Lake County.

Section 460. Section **76-16-508**, which is renumbered from Section 76-10-3115 is renumbered and amended to read:

[~~76-10-3115~~] 76-16-508 . Attorney general to advocate for the policy of competition.

The attorney general [~~shall have~~] has the authority and responsibility to advocate for the policy of competition before all political subdivisions of this state and all public agencies whose actions may affect the interests of persons in this state.

Section 461. Section **76-16-509**, which is renumbered from Section 76-10-3108 is renumbered

and amended to read:

[~~76-10-3108~~] 76-16-509 . Attorney general may bring action for injunctive relief, damages, and civil penalty.

(1) The attorney general may bring an action for appropriate injunctive relief, a civil penalty, and damages in the name of the state, any of [~~its~~] the state's political subdivisions or agencies, or as parens patriae on behalf of natural persons in this state, for a violation of this [~~act~~] part.

(2) Actions may be brought under this [~~section~~] part regardless of whether the plaintiff dealt directly or indirectly with the defendant.

(3) This remedy is an additional remedy to any other remedies provided by law[~~. It~~] and may not diminish or offset any other remedy.

[~~(2)~~] (4) [~~Any~~] An individual who violates this act is subject to a civil penalty of not more than $100,000 for each violation.

(5) [~~Any~~] A person, other than an individual, who violates this act is subject to a civil penalty of not more than $500,000 for each violation.

Section 462. Section **76-16-510**, which is renumbered from Section 76-10-3104 is renumbered and amended to read:

[~~76-10-3104~~] 76-16-510 . Illegal anticompetitive activities.

(1) Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is declared to be illegal.

(2) It [~~shall be~~] is unlawful for any person to monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, any part of trade or commerce.

Section 463. Section **76-16-511**, which is renumbered from Section 76-10-3109 is renumbered and amended to read:

[~~76-10-3109~~] 76-16-511 . Person may bring action for injunctive relief and damages -- Treble damages -- Recovery of actual damages or civil penalty by state or political subdivisions -- Immunity of political subdivisions from damages, costs, or attorney fees -- Conviction as prima facie evidence.

(1)(a)(i) A person who is a citizen of this state or a resident of this state and who is injured or is threatened with injury in [~~his~~] the person's business or property by a violation of [~~the Utah Antitrust Act~~] this part may bring an action for injunctive relief and damages, regardless of whether the person dealt directly or indirectly with the defendant.

(ii) This remedy is in addition to any other remedies provided by law[. It] and may not diminish or offset any other remedy.

(b) Subject to the provisions of Subsections (3), (4), and (5), the court shall award three times the amount of damages sustained, plus the cost of suit and a reasonable attorney fees, in addition to granting any appropriate temporary, preliminary, or permanent injunctive relief.

(2)(a) If the court determines that a judgment in the amount of three times the damages awarded plus attorney fees and costs will directly cause the insolvency of the defendant, the court shall reduce the amount of judgment to the highest sum that would not cause the defendant's insolvency.

(b) The court may not reduce a judgment to an amount less than the amount of damages sustained plus the costs of suit and reasonable attorney fees.

(3) The state or any of its political subdivisions may recover three times the amount of damages it sustains and the civil penalty provided by [the Utah Antitrust Act] this part, in addition to injunctive relief, costs of suit, and reasonable attorney fees.

(4) No damages, costs, or attorney fees may be recovered under this section:

(a) from any political subdivision;

(b) from the official or employee of any political subdivision acting in an official capacity; or

(c) against any person based on any official action directed by a political subdivision or [its] the political subdivision's official or employee acting in an official capacity.

(5) Subsection (4) does not apply to cases filed before April 27, 1987, unless the defendant establishes and the court determines that in light of all the circumstances, including the posture of litigation and the availability of alternative relief, it would be inequitable not to apply Subsection (4) to a pending case.

(6)(a) When a defendant has been sued in one or more actions by both direct and indirect purchasers, whether in state court or federal court, a defendant shall be entitled to prove as a partial or complete defense to a claim for damages that the damages incurred by the plaintiff or plaintiffs have been passed on to others who are entitled to recover so as to avoid duplication of recovery of damages.

(b) In an action by indirect purchasers, any damages or settlement amounts paid to direct purchasers for the same alleged antitrust violations shall constitute a defense in the amount paid on a claim by indirect purchasers under this [chapter] part so as to avoid duplication of recovery of damages.

(7)(a) It shall be presumed, in the absence of proof to the contrary, that the injured persons who dealt directly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages.

(b) It shall also be presumed, in the absence of proof to the contrary, that the injured persons who dealt indirectly with the defendant incurred at least 1/3 of the damages, and shall, therefore, recover at least 1/3 of the awarded damages.

(c) The final 1/3 of the damages shall be awarded by the court to those injured persons determined by the court as most likely to have absorbed the damages.

(8)(a) There is a presumption, in the absence of proof to the contrary and subject to Subsection (7), that each level in a product's or service's distribution chain passed on any and all increments in its cost due to an increase in the cost of an ingredient or a component product or service that was caused by a violation of this [~~chapter~~] part.

(b) [~~This~~] The amount described in Subsection (8)(a) will be presumed, in the absence of evidence to the contrary, to be equal to the change in the cost, in dollars and cents, of the ingredient, component product, or service to its first purchaser.

(9)(a) The attorney general shall be notified by the plaintiff about the filing of [~~any~~] a class action involving antitrust violations that includes plaintiffs from this state.

(b) The attorney general shall receive a copy of each filing described in Subsection (9)(a) from each plaintiff.

(c) The attorney general may, in his or her discretion, intervene or file amicus briefs in the case, and may be heard on the question of the fairness or appropriateness of any proposed settlement agreement.

(10) If, in a class action or parens patriae action filed under this [~~chapter~~] part, including the settlement of [~~any~~] an action, it is not feasible to return any part of the recovery to the injured plaintiffs, the court shall order the residual funds be applied to benefit the specific class of injured plaintiffs, to improve antitrust enforcement generally by depositing the residual funds into the Attorney General Litigation Fund created by Section [~~76-10-3114~~] 67-5-40, or both.

(11) In [~~any~~] an action brought under this [~~chapter~~] part, the court shall approve all attorney fees and arrangements for the payment of attorney fees, including contingency fee agreements.

(12)(a) Except as provided in Subsection (12)(b), in an action brought by the state, a final judgment or decree determining that a person has criminally violated this part is prima facie evidence against that person in an action brought under this section as to

all matters with respect to which the judgment or decree would be an estoppel between the parties to the judgment or decree.

(b) Subsection (12)(a) does not apply to a judgment entered under a no contest plea or a decree entered before any testimony has been taken.

Section 464. Section **76-16-512**, which is renumbered from Section 76-10-3112 is renumbered and amended to read:

[~~76-10-3112~~] 76-16-512 . Fine for violation -- Certain vertical agreements excluded -- Nolo contendere.

(1)(a) Any person who violates Section [~~76-10-3104~~] 76-16-510 by price fixing, bid rigging, agreeing among competitors to divide customers or territories, or by engaging in a group boycott with specific intent of eliminating competition is guilty of a third degree felony and, notwithstanding Sections 76-3-301 and 76-3-302, is subject to:

(i) if an individual, a fine not to exceed $100,000; or

(ii) if by a person other than an individual, a fine not to exceed $500,000.

(b) Subsection (1)(a) may not be construed to include vertical agreements between a manufacturer, its distributors, or their subdistributors dividing customers and territories solely involving the manufacturer's commodity or service where the manufacturer distributes its commodity or service both directly and through distributors or subdistributors in competition with itself.

(2) A defendant may plead nolo contendere to a charge brought under this title but only with the consent of the court.

(3) The court may accept the plea only after due consideration of the views of the parties and the interest of the public in the effective administration of justice.

Section 465. Section **76-17-101** is enacted to read:

CHAPTER 17. OFFENSES CONCERNING KICKBACKS, PYRAMID SCHEMES, AND PATTERNS OF UNLAWFUL ACTIVITY

Part 1. General Provisions

76-17-101 . Definitions.

Reserved.

Section 466. Section **76-17-201** is enacted to read:

Part 2. Offenses Concerning Kickbacks

76-17-201 . Definitions.

As used in this part:

(1) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:

(a) direct or indirect;

(b) overt or covert; or

(c) in cash or in kind.

(2) "Kickback or bribe" does not include:

(a) a fee that is:

(i) shared between two or more individuals, each of whom is licensed to practice law; and

(ii) charged for services provided in the individual's capacity as a licensee described in Subsection (2)(a)(i); or

(b) payment for medical services rendered.

Section 467. Section **76-17-202**, which is renumbered from Section 76-10-3201 is renumbered and amended to read:

[~~76-10-3201~~] 76-17-202 . Unlawful conduct concerning a kickback or bribe.

[~~(1) As used in this section:~~]

[~~(a) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:~~]

[~~(i) direct or indirect;~~]

[~~(ii) overt or covert; or~~]

[~~(iii) in cash or in kind.~~]

[~~(b) "Kickback or bribe" does not include:~~]

[~~(i) a fee that is:~~]

[~~(A) shared between two or more individuals, each of whom is licensed to practice law; and~~]

[~~(B) charged for services provided in the individual's capacity as a licensee described in Subsection (1)(b)(i)(A); or~~]

[~~(ii) payment for medical services rendered.~~]

[~~(2)~~] (1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-201 apply to this section.

(2)[~~(a)~~] An actor commits unlawful conduct concerning a kickback or bribe if the actor:

(a) [~~may not solicit or receive~~] solicits or receives a kickback or bribe in return for the

referral of a person to another person for the furnishing of [~~any~~] a good or service that relates to [~~any~~] an insurance claim or a claim for damages[~~.~~] ; or

(b) [~~An actor may not offer or pay~~] offers or pays a kickback or bribe to induce the referral of a person to another person for the furnishing of [~~any~~] a good or service that relates to [~~any~~] an insurance claim or a claim for damages.

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

(4)(a) This section does not apply to an individual licensed to practice law or a medical provider when referring a client for medical treatment or evaluation, if the referral is made without compensation.

[~~(5)~~] (b) This section does not apply to an individual licensed to practice law when:

[~~(a)~~] (i) paying a lien, contractual reimbursement, or medical bill on behalf of a client from proceeds of a settlement or judgment; or

[~~(b)~~] (ii) marketing to, or engaging in client development activities with, an individual licensed to provide medical treatment or evaluation, if the marketing or client development activities are not for the purpose of inducing the individual licensed to provide medical treatment or evaluation to refer a particular person to the individual licensed to practice law.

Section 468. Section **76-17-301**, which is renumbered from Section 76-6a-101 is renumbered and amended to read:

Part 3. Offenses Concerning Pyramid Schemes

[~~76-6a-101~~] 76-17-301 . Definitions.

As used in this [~~chapter~~] part:

(1)(a)[~~(i)~~] "Compensation" means money, money bonuses, overrides, prizes, or other real or personal property, tangible or intangible.

[~~(ii)~~] (b) "Compensation" does not include payment based on the sale of goods or services to anyone purchasing the goods or services for actual personal use or consumption.

[~~(b)~~] (2) "Consideration" does not include:

[~~(i)~~] (a) payment for sales demonstration equipment or materials furnished at cost for use in making sales and not for resale; or

[~~(ii)~~] (b) time or effort spent in selling or recruiting activities.

[~~(c)~~] (3) "Person" includes a business trust, estate, trust, joint venture, or any other legal or commercial entity.

[~~(d)~~] (4) "Pyramid scheme" means [~~any~~] a sales device or plan under which a person gives

consideration to another person in exchange for compensation or the right to receive compensation that is derived primarily from the introduction of other persons into the sales device or plan rather than from the sale of goods, services, or other property.

[~~(2) Terms defined in Section 76-1-101.5 apply to this part.~~]

Section 469. Section **76-17-302**, which is renumbered from Section 76-6a-104 is renumbered and amended to read:

[~~76-6a-104~~] 76-17-302 . Rights of person giving consideration in pyramid scheme.

(1) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

(2)(a) [~~Any~~] A person giving consideration in connection with a pyramid scheme may, notwithstanding any agreement to the contrary, declare the person's giving of consideration and the related sale or contract for sale void, and may bring a court action to recover the consideration.

(b) In an action brought under Subsection [~~(1)(a)~~] (2)(a), the court shall, in addition to any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff interest as provided in Section 15-1-4, reasonable [~~attorneys'~~] attorney fees, and the costs of the action reduced by any compensation paid by the defendant to the plaintiff in connection with the pyramid scheme.

[~~(2)~~] (3)(a) The rights, remedies, and penalties provided in this [~~chapter~~] part are independent of and supplemental to each other and to any other right, remedy or penalty available in law or equity.

(b) Nothing contained in this [~~chapter~~] part shall be construed to diminish or abrogate any other right, remedy or penalty.

Section 470. Section **76-17-303**, which is renumbered from Section 76-6a-102 is renumbered and amended to read:

[~~76-6a-102~~] 76-17-303 . Conducting a pyramid scheme.

(1) Terms defined in [~~Section~~] Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

(2) An actor commits [~~the offense of~~]conducting a pyramid scheme if the actor knowingly organizes, establishes, promotes, or administers a pyramid scheme.

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

(4) It is not a defense to an action brought under this section that:

(a) the sales device or plan limits the number of persons who may be introduced into the sales device or plan;

(b) the sales device or plan includes additional conditions affecting eligibility for

introduction into the sales device or plan or when compensation may be received from the sales device or plan; or

(c) a person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

(5) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting a criminal violation of this section.

(6)(a) A violation under this section constitutes a violation of Section 13-11-4.

(b) A criminal conviction under this section is prima facie evidence of a violation of Section 13-11-4.

(c) In addition to prosecution under this section, a violation of this section shall be civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Section 471. Section **76-17-304**, which is renumbered from Section 76-6a-103 is renumbered and amended to read:

[~~76-6a-103~~] 76-17-304 . Participating in a pyramid scheme.

(1) Terms defined in [~~Section~~] Sections 76-1-101.5, 76-17-101, and 76-17-301 apply to this section.

(2) An actor commits[~~the offense of~~] participating in a pyramid scheme if the actor participates in a pyramid scheme only by receiving compensation for the introduction of another person into the pyramid scheme rather than from the sale of goods, services, or other property.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) It is not a defense to an action brought under this section that:

(a) the sales device or plan limits the number of persons who may be introduced into the sales device or plan;

(b) the sales device or plan includes additional conditions affecting eligibility for introduction into the sales device or plan or when compensation may be received from the sales device or plan; or

(c) a person receives property or services in addition to the compensation or right to receive compensation in connection with a pyramid scheme.

(5) The appropriate county attorney or district attorney has primary responsibility for investigating and prosecuting a criminal violation of this section.

(6)(a) A violation under this section constitutes a violation of Section 13-11-4.

(b) A criminal conviction under this section is prima facie evidence of a violation of

Section 13-11-4.

(c) In addition to prosecution under this section, a violation of this section shall be civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales Practices Act.

Section 472. Section **76-17-401**, which is renumbered from Section 76-10-1602 is renumbered and amended to read:

Part 4. Offenses Concerning Patterns of Unlawful Activity

[~~76-10-1602~~] 76-17-401 . Definitions.

As used in this part:

(1)(a) "Enterprise" means [~~any~~] an individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and [~~any~~] a union or group of individuals associated in fact although not a legal entity[~~, and~~] .

(b) "Enterprise" includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct [~~which~~] that constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes [~~any~~] an individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct [~~which~~] that would constitute [~~any~~] an offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act [~~which~~] that would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by [~~any~~] an authority or is classified as a misdemeanor or a felony:

(a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) an act prohibited by the criminal provisions under Title 19, Environmental Quality

Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault under Section 76-5-102;

(k) aggravated assault under Section 76-5-103;

(l) a threat of terrorism under Section 76-5-107.3;

(m) a criminal homicide offense under Section 76-5-201;

(n) kidnapping under Section 76-5-301;

(o) aggravated kidnapping under Section 76-5-302;

(p) human trafficking for labor under Section 76-5-308;

(q) human trafficking for sexual exploitation under Section 76-5-308.1;

(r) human smuggling under Section 76-5-308.3;

(s) human trafficking of a child under Section76-5-308.5;

(t) benefiting from trafficking and human smuggling under Section 76-5-309;

(u) aggravated human trafficking under Section 76-5-310;

(v) sexual exploitation of a minor under Section 76-5b-201;

(w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(x) arson under Section 76-6-102;

(y) aggravated arson under Section76-6-103;

(z) causing a catastrophe under Section 76-6-105;

(aa) burglary under Section 76-6-202;

(bb) aggravated burglary under Section 76-6-203;

(cc) burglary of a vehicle under Section 76-6-204;

(dd) manufacture or possession of an instrument for burglary or theft under Section 76-6-205;

(ee) robbery under Section 76-6-301;

(ff) aggravated robbery under Section 76-6-302;

(gg) theft under Section 76-6-404;

(hh) theft by deception under Section 76-6-405;

(ii) theft by extortion under Section 76-6-406;

(jj) receiving stolen property under Section 76-6-408;

(kk) theft of services under Section 76-6-409;

(ll) forgery under Section 76-6-501;

(mm) unlawful use of financial transaction card under Section 76-6-506.2;

(nn) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3;

(oo) financial transaction card offenses under Section 76-6-506.6;

(pp) deceptive business practices under Section 76-6-507;

(qq) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods under Section 76-6-508;

(rr) bribery of a labor official under Section 76-6-509;

(ss) defrauding creditors under Section 76-6-511;

(tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;

(uu) unlawful dealing with property by fiduciary under Section 76-6-513;

(vv) [~~bribery or threat to influence~~] unlawful influence of a contest under Section 76-6-514;

(ww) making a false credit report under Section 76-6-517;

(xx) criminal simulation under Section 76-6-518;

(yy) criminal usury under Section 76-6-520;

(zz) insurance fraud under Section 76-6-521;

(aaa) retail theft under Section 76-6-602;

(bbb) computer crimes under Section 76-6-703;

(ccc) identity fraud under Section 76-6-1102;

(ddd) mortgage fraud under Section 76-6-1203;

(eee) sale of a child under Section 76-7-203;

(fff) bribery [~~to influence official or political actions~~] or offering a bribe under Section 76-8-103;

(ggg) threat to influence official or political action under Section 76-8-104;

(hhh) receiving bribe or bribery by public servant under Section 76-8-105;

(iii) receiving bribe for endorsement of person as a public servant under Section 76-8-106;

(jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;

(kkk) official misconduct based on unauthorized act or failure of duty under Section 76-8-201;

(lll) official misconduct concerning inside information under Section 76-8-202;

(mmm) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;

(nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section 76-8-308;

(ooo) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

(ppp) making a false or inconsistent material statement under Section 76-8-502;

(qqq) making a false or inconsistent statement under Section 76-8-503;

(rrr) making a written false statement under Section 76-8-504;

(sss) tampering with a witness under Section 76-8-508;

(ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(www) tampering with evidence under Section 76-8-510.5;

(xxx) falsification or alteration of a government record under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

(yyy) public assistance fraud by an applicant for public assistance under Section 76-8-1203.1;

(zzz) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

(aaaa) public assistance fraud by a provider under Section 76-8-1203.5;

(bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

(cccc) false statement to obtain or increase unemployment compensation under Section 76-8-1301;

(dddd) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

(eeee) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

(ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

(gggg) intentionally or knowingly causing one animal to fight with another under Subsection [~~76-9-301(2)(d) or (e), or Section 76-9-301.1~~] 76-13-202(2)(d) or (3), or Section 76-13-205 or 76-13-206 concerning dog fighting;

(hhhh) [~~possession, use, or removal of explosives, chemical, or incendiary devices or parts~~] unlawful conduct involving an explosive, chemical, or incendiary device under Section [~~76-10-306~~] 76-15-210;

(iiii) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;

[~~(iiii)~~] (jjjj) [~~delivery to common carrier, mailing, or placement on premises of an~~] unlawful delivery or mailing of an explosive, chemical, or incendiary device under Section [~~76-10-307~~] 76-15-209;

[~~(jjjj)~~] (kkkk) possession of a [~~deadly~~] dangerous weapon with criminal intent [~~to assault~~] under Section [~~76-10-507~~] 76-11-206;

[~~(kkkk)~~] (llll) unlawful marking of [~~pistol or revolver~~] a handgun under Section [~~76-10-521~~] 53-5a-105;

[~~(llll)~~] (mmmm) alteration of number or mark on [~~pistol or revolver~~] a handgun under Section [~~76-10-522~~] 53-5a-106;

[~~(mmmm)~~] (nnnn) forging or counterfeiting trademarks, trade name, or trade device under Section [~~76-10-1002~~] 76-16-302;

[~~(nnnn)~~] (oooo) selling goods under counterfeited trademark, trade name, or trade devices under Section [~~76-10-1003~~] 76-16-303;

[~~(oooo)~~] (pppp) sales in containers bearing registered trademark of substituted articles under Section [~~76-10-1004~~] 76-16-304;

[~~(pppp)~~] (qqqq) selling or dealing with article bearing registered trademark or service mark with intent to defraud under Section [~~76-10-1006~~] 76-16-306;

[~~(qqqq)~~] (rrrr) participating in gambling under Section [~~76-10-1102~~] 76-9-1402;

(ssss) permitting gambling under Section 76-9-1403;

(tttt) online gambling prohibition under Section 76-9-1404;

(uuuu) gambling promotion under Section 76-9-1405;

[~~(rrrr)~~] (vvvv) gambling fraud under Section [~~76-10-1103~~] 76-9-1406;

[~~(ssss) gambling promotion under Section 76-10-1104;~~]

[~~(tttt)~~] (wwww) possessing a gambling device or record under Section [~~76-10-1105~~] 76-9-1407;

[~~(uuuu)~~] (xxxx) obtaining a benefit from a confidence game under Section [~~76-10-1109~~] 76-9-1410;

[~~(vvvv)~~] (yyyy) distributing pornographic material under Section [~~76-10-1204~~] 76-5c-202;

(zzzz) aiding or abetting a minor in distributing pornographic material under Section 76-5c-203;

[~~(wwww)~~] (aaaaa) inducing acceptance of pornographic material under Section [~~76-10-1205~~] 76-5c-204;

[~~(xxxx)~~] (bbbbb) [~~dealing in harmful material to a minor~~] distributing material harmful to minors under Section [~~76-10-1206~~] 76-5c-205;

(ccccc) aiding or abetting a minor in distributing material harmful to minors under Section 76-5c-206;

[~~(yyyy)~~] (ddddd) distribution of [~~pornographic films~~] a pornographic file for exhibition under Section [~~76-10-1222~~] 76-5c-305;

[~~(zzzz)~~] (eeeee) indecent public [~~displays~~] display in the presence of a minor under Section [~~76-10-1228~~] 76-5c-207;

[~~(aaaaa)~~] (fffff) prostitution under Section [~~76-10-1302~~] 77-5d-202;

[~~(bbbbb)~~] (ggggg) aiding prostitution under Section [~~76-10-1304~~] 76-5d-206;

[~~(ccccc)~~] (hhhhh) exploiting prostitution under Section [~~76-10-1305~~] 76-5d-207;

[~~(ddddd)~~] (iiiii) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208;

[~~(eeeee)~~] (jjjjj) communications fraud under Section [~~76-10-1801~~] 76-6-525;

[~~(fffff)~~] (kkkkk) an act prohibited by the criminal provisions of [~~Part 19, Money Laundering and Currency Transaction Reporting Act~~] Chapter 9, Part 16, Money Laundering and Currency Transaction Reporting;

[~~(ggggg)~~] (lllll) vehicle compartment for contraband under Section [~~76-10-2801~~] 76-9-1902 or 76-9-1903;

[~~(hhhhh)~~] (mmmmm) an act prohibited by the criminal provisions of the laws governing

taxation in this state; or

[~~(iiiii)~~] (nnnnn) an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 473. Section **76-17-402**, which is renumbered from Section 76-10-1604 is renumbered and amended to read:

[~~76-10-1604~~] 76-17-402 . Enforcement authority of peace officers.

Notwithstanding any law to the contrary, peace officers in [~~the state of Utah shall~~] this state have the authority to enforce the criminal provisions of this [~~act~~] part by initiating investigations, assisting grand juries, obtaining indictments, filing informations, and assisting in the prosecution of criminal cases through the attorney general or county attorneys' offices.

Section 474. Section **76-17-403**, which is renumbered from Section 76-10-1605 is renumbered and amended to read:

[~~76-10-1605~~] 76-17-403 . Remedies of person injured by a pattern of unlawful activity -- Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of limitations -- Authorized orders of a court.

(1)(a) A person injured in [~~his~~] the person's person, business, or property by a person engaged in conduct forbidden by [~~any provision of Section 76-10-1603~~] Section 76-17-407 may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether:

[~~(a)~~] (i) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

[~~(b)~~] (ii) the conduct has been adjudged criminal by [~~any~~] a court of the state or of the United States.

(2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.

(3) All actions arising under this section [~~which~~] that are grounded in fraud are subject to arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(4)(a) In all actions under this section, a principal is liable for actual damages for harm caused by an agent acting within the scope of either [~~his~~] the agent's employment or apparent authority.

(b) A principal is liable for double damages only if the pattern of unlawful activity

alleged and proven as part of the cause of action was authorized, solicited, requested, commanded, undertaken, performed, or recklessly tolerated by the board of directors or a high managerial agent acting within the scope of [~~his~~] the agent's employment.

(5) In all actions arising under this section, the burden of proof is clear and convincing evidence.

(6) The attorney general, county attorney, or, if within a prosecution district, the district attorney may maintain [~~actions~~] an action under this section on behalf of the state, the county, or any person injured by a person engaged in conduct forbidden by [~~any provision of Section 76-10-1603~~] Section 76-17-407, to prevent, restrain, or remedy injury as defined in this section and may recover the damages and costs allowed by this section.

(7) In all actions under this section, the elements of each claim or cause of action shall be stated with particularity against each defendant.

(8) If an action, claim, or counterclaim brought or asserted by a private party under this section is dismissed [~~prior to~~] before trial or disposed of on summary judgment, or if it is determined at trial that there is no liability, the prevailing party shall recover from the party who brought the action or asserted the claim or counterclaim the amount of [~~its~~] the prevailing party's reasonable expenses incurred because of the defense against the action, claim, or counterclaim, including a reasonable [~~attorney's~~] attorney fee.

(9)(a) An action or proceeding brought under this section shall be commenced within three years after the conduct prohibited by Section [~~76-10-1603~~] 76-17-407 terminates or the cause of action accrues, whichever is later.

(b) [~~This provision~~] Subsection (9)(a) supersedes any limitation to the contrary.

(10)(a) In any action brought under this section, the court may prevent, restrain, or remedy injury as defined by this section by issuing appropriate orders after making provisions for the rights of innocent persons.

(b) Before liability is determined in any action brought under this section, the court may:

(i) issue restraining orders and injunctions;

(ii) require satisfactory performance bonds or any other bond [~~it~~] the court considers appropriate and necessary in connection with any property or [~~any~~]requirement imposed upon a party by the court; and

(iii) enter any other order the court considers necessary and proper.

(c) After a determination of liability, the court may, in addition to granting the relief allowed in Subsection (1), do any one or all of the following:

(i) order [~~any~~] a person to divest [~~himself~~] the person's self of any interest in or any control, direct or indirect, of [~~any~~] an enterprise;

(ii) impose reasonable restrictions on the future activities or investments of [~~any~~] a person, including prohibiting [~~any~~] a person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(iii) order the dissolution or reorganization of [~~any~~] an enterprise.

(d)(i) However, if an action is brought to obtain any relief provided by this section, and if the conduct prohibited by [~~Section 76-10-1603~~] Section 76-17-407 has for its pattern of unlawful activity acts or conduct illegal under Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222,~~] 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, the court may not enter [~~any~~] an order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States, or Article I, Sec. 15 of the Utah Constitution.

(ii) The court shall, upon the request of [~~any~~] an affected party, and upon the notice to all parties, [~~prior to~~] before the issuance of [~~any~~] an order provided for in this subsection, and at any later time, hold hearings as necessary to determine whether any materials at issue are obscene or pornographic and to determine if there is probable cause to believe that any act or conduct alleged violates Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222~~] 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305.

(iii) In making [~~its~~] the court's findings, the court shall be guided by the same considerations required of a court making similar findings in criminal cases brought under Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222~~] 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, including, but not limited to, the definitions in Sections [~~76-10-1201, 76-10-1203, and 76-10-1216~~] 76-5c-101 and 76-5c-301, and the exemptions in Section [~~76-10-1226~~] 76-5c-302.

Section 475. Section **76-17-404**, which is renumbered from Section 76-10-1607 is renumbered and amended to read:

[~~76-10-1607~~] 76-17-404 . Evidentiary value of a criminal judgment in a civil proceeding.

A final judgment or decree rendered in favor of the state or a county in [~~any~~] a criminal

proceeding brought by this state or a county shall preclude the defendant from denying the essential allegations of the criminal offense in [~~any~~] a subsequent civil proceeding.

Section 476. Section **76-17-405**, which is renumbered from Section 76-10-1609 is renumbered and amended to read:

[~~76-10-1609~~] 76-17-405 . Prospective application.

(1) [~~The amendments to the Utah Pattern of Unlawful Activity Act~~] Except as provided in Subsection (2), amendments to this part are prospective in nature and apply only to civil causes of action accruing after [~~the effective date of this act~~] April 27, 1987.

(2) [~~However, crimes committed prior to the effective date of this act~~] A crime committed before April 27, 1987, may comprise part of a pattern of unlawful activity if at least one of the criminal episodes comprising that pattern occurs after [~~the effective date of this act~~] April 27, 1987, and the pattern otherwise meets the definition of pattern of unlawful activity as defined in Section [~~76-10-1602~~] 76-17-401.

Section 477. Section **76-17-406**, which is renumbered from Section 76-10-1608 is renumbered and amended to read:

[~~76-10-1608~~] 76-17-406 . Severability clause.

If any part or application of [~~the Utah Pattern of Unlawful Activity Act~~] this part is held invalid, the remainder of this part, or [~~its~~] the part's application to other situations or persons, is not affected.

Section 478. Section **76-17-407**, which is renumbered from Section 76-10-1603 is renumbered and amended to read:

[~~76-10-1603~~] 76-17-407 . Prohibited conduct concerning a pattern of unlawful activity.

(1)(a) As used in this section, "net proceeds" of a violation of this section means property acquired as a result of the violation minus the direct costs of acquiring the property.

(b) Terms defined in Sections 76-1-101.5, 76-17-101, and 76-17-401 apply to this section.

(2) An actor commits prohibited conduct concerning a pattern of unlawful activity if the actor:

(a) [~~It is unlawful for any person who~~]

(i) has received [~~any~~]proceeds derived, whether directly or indirectly, from a pattern of unlawful activity in which the [~~person~~] actor has participated as a principal[~~, to use or invest,~~] ; and

(ii) uses or invests, directly or indirectly, any part of [~~that~~] the income described in Subsection (2)(a)(i), or the proceeds of the income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of [~~any~~] an interest in, or the establishment or operation of, [~~any~~] an enterprise[~~.~~] ;

[~~(2)~~] (b) [~~It is unlawful for any person through a pattern of unlawful activity to acquire or maintain~~] acquires or maintains, directly or indirectly, [~~any~~] through a pattern of unlawful activity, an interest in or control of [~~any~~] an enterprise[~~.~~] ;

[~~(3)~~] (c)(i) [~~It is unlawful for any person~~] is employed by or associated with [~~any~~] an enterprise; and

(ii) [~~to conduct or participate~~] conducts or participates, whether directly or indirectly, in the conduct of [~~that~~] the enterprise's affairs through a pattern of unlawful activity[~~.~~] ; or

[~~(4)~~] (d) [~~It is unlawful for any person to conspire to violate any provision of Subsection (1), (2), or (3)~~] conspires to violate Subsection (2)(a), (b), or (c).

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

(4) In addition to penalties prescribed by law, the court may order an actor to pay to the state, if the attorney general brought the action, or to the county, if the county attorney or district attorney brought the action, the costs of investigating and prosecuting the offense and the costs of securing the forfeitures provided for in this section.

(5) In lieu of a fine otherwise authorized by law for a violation of this section, an actor who derives net proceeds from a conduct prohibited by this section may be fined not more than twice the amount of the net proceeds.

(6) Upon a conviction for a violation of this section, and in addition to a penalty prescribed by law, the court may do any or all of the following:

(a) order restitution to any victim or rightful owner of property obtained, directly or indirectly, from:

(i) the conduct constituting the pattern of unlawful activity; or

(ii) any act or conduct constituting the pattern of unlawful activity that is proven as part of the violation of this section;

(b) order the actor to divest the actor of any interest in or any control, direct or indirect, of an enterprise;

(c) impose reasonable restrictions on the future activities or investments of any person, including prohibiting the person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the

United States permit; or

(d) order the dissolution or reorganization of an enterprise.

(7) If a violation of this section is based on a pattern of unlawful activity consisting of acts or conduct in violation of Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, the court may not enter an order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

Section 479. Section **77-2-9** is amended to read:

77-2-9 . Offenses ineligible for diversion.

(1) A magistrate may not grant a diversion for:

(a) a capital felony;

(b) a felony in the first degree;

(c) any case involving a sexual offense against a victim who is under 14 years old;

(d) any motor vehicle related offense involving alcohol or drugs;

(e) any case involving using a motor vehicle in the commission of a felony;

(f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended license;

(g) any case involving operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of:

(i) manslaughter under Section 76-5-205; or

(ii) negligent homicide under Section 76-5-206; or

(h) a crime of domestic violence as defined in Section 77-36-1.

(2) When an individual is alleged to have committed any violation of Title 76, Chapter 5, Part 4, Sexual Offenses, other than a violation of Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, while the individual is under 16 years old, the court may enter a diversion in the matter if the court enters on the record the court's findings that:

(a) the offenses could have been adjudicated in juvenile court but for the delayed reporting or delayed filing of the information in the district court, unless the offenses are before the court in accordance with Section 80-6-502 or 80-6-504;

(b) the individual did not use coercion or force;

(c) there is no more than three years' difference between the ages of the participants; and

(d) it would be in the best interest of the person to grant diversion.

Section 480. Section **77-7a-104** is amended to read:

77-7a-104 . Activation and use of body-worn cameras.

(1) An officer using a body-worn camera shall verify that the equipment is properly functioning as is reasonably within the officer's ability.

(2) An officer shall report any malfunctioning equipment to the officer's supervisor if:

(a) the body-worn camera issued to the officer is not functioning properly upon initial inspection; or

(b) an officer determines that the officer's body-worn camera is not functioning properly at any time while the officer is on duty.

(3) An officer shall wear the body-worn camera so that it is clearly visible to the person being recorded.

(4) An officer shall activate the body-worn camera prior to any law enforcement encounter, or as soon as reasonably possible.

(5) An officer shall record in an uninterrupted manner until after the conclusion of a law enforcement encounter, except as an interruption of a recording is allowed under this section.

(6) When going on duty and off duty, an officer who is issued a body-worn camera shall record the officer's name, identification number, and the current time and date, unless the information is already available due to the functionality of the body-worn camera.

(7) If a body-worn camera was present during a law enforcement encounter, the officer shall document the presence of the body-worn camera in any report or other official record of a contact.

(8) When a body-worn camera has been activated, the officer may not deactivate the body-worn camera until the officer's direct participation in the law enforcement encounter is complete, except as provided in Subsection (9).

(9) An officer may deactivate a body-worn camera:

(a) to consult with a supervisor or another officer;

(b) during a significant period of inactivity;

(c) during a conversation with a sensitive victim of crime, a witness of a crime, or an individual who wishes to report or discuss criminal activity if:

(i) the individual who is the subject of the recording requests that the officer deactivate the officer's body-worn camera; and

(ii) the officer believes that the value of the information outweighs the value of the potential recording and records the request by the individual to deactivate the body-worn camera; or

(d) during a conversation with a victim of a domestic violence offense as defined in

Section 77-36-1, or a sexual offense, as described in Title 76, Chapter 5, Part 4, Sexual Offenses,[~~or domestic violence, as defined in Section 77-36-1,~~] other than Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420 if:

(i) the officer is conducting an evidence-based lethality assessment;

(ii) the victim or the officer believes that deactivating the body-worn camera recording:

(A) will encourage complete and accurate information sharing by the victim; or

(B) is necessary to protect the safety or identity of the victim; and

(iii) the officer's body-worn camera is reactivated as soon as reasonably possible after the evidence-based lethality assessment is complete.

(10) If an officer deactivates or fails to activate a body-worn camera in violation of this section, the officer shall document the reason for deactivating or for failing to activate a body-worn camera in a written report.

(11)(a) For purposes of this Subsection (11):

(i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

(ii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iii) "Hospital" means the same as that term is defined in Section 78B-3-403.

(iv) "Human service program" means the same as that term is defined in Section 26B-2-101.

(b) An officer may not activate a body-worn camera in a hospital, health care facility, human service program, or the clinic of a health care provider, except during a law enforcement encounter, and with notice under Section 77-7a-105.

(12) A violation of this section may not serve as the sole basis to dismiss a criminal case or charge.

(13) Nothing in this section precludes a law enforcement agency from establishing internal agency policies for an officer's failure to comply with the requirements of this section.

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

Section 481. Section **77-11a-402** is amended to read:

77-11a-402 . Disposition of seized property and contraband -- Return of seized property.

(1)(a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

(i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(ii) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:

(A) is the individual who committed the offense for which the weapon was seized; or

(B) may not lawfully possess the weapon; or

(iii) notify the agency with custody of the property or contraband that:

(A) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or

(B) the contraband may be disposed of or destroyed.

(b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under Subsection [~~76-10-529(2)(a)(i)~~] 76-11-215(2)(a) no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.

(2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.

(3)(a) Except as provided in Subsection (3)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.

(4) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

(5) If a peace officer seizes property that at the time of seizure is held by a pawn or

secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

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

Section 482. Section **77-11b-102** is amended to read:

77-11b-102 . Property subject to forfeiture.

(1)(a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:

(i) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; or

(ii) seized proceeds.

(b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or an interest holder.

(2) If seized property is used to facilitate an offense that is a violation of Section [~~76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222~~] 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520.1;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

(H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (G); or

(ii) the denial, suspension, revocation, or disqualification described in Subsection (3)(b)(i):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsection (3)(b)(i).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

(5) If a peace officer seizes an individual's firearm as the result of an offense under Section [~~76-10-529~~] 76-11-215, an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the firearm.

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

Section 483. Section **77-11d-101** is amended to read:

77-11d-101 . Definitions.

As used in this chapter:

(1) "Interest holder" means the same as that term is defined in Section 77-11a-101.

(2)(a) "Lost or mislaid property":

(i) means any property that comes into the possession of a peace officer or law enforcement agency:

(A) that is not claimed by anyone who is identified as the owner of the property; or

(B) for which no owner or interest holder can be found after a reasonable and diligent search;

(ii) includes any property received by a peace officer or law enforcement agency from a person claiming to have found the property; and

(iii) does not include property seized by a peace officer in accordance with Chapter 11a, Seizure of Property and Contraband.

(b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by a law enforcement agency at an airport under Subsection [~~76-10-529(6)~~] 76-11-215(7).

(3) "Owner" means the same as that term is defined in Section 77-11a-101.

(4) "Public interest use" means:

(a) use by a governmental agency as determined by the agency's legislative body; or

(b) donation to a nonprofit charity registered with the state.

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

Section 484. Section **77-11d-105** is amended to read:

77-11d-105 . Disposition of unclaimed property.

(1)(a) Except as provided in Subsection (6), if the owner of any lost or mislaid property cannot be determined or notified, or if the owner of the property is determined and notified, and fails to appear and claim the property after three months of the property's receipt by the local law enforcement agency, the agency shall:

(i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b);

(ii) post a similar notice on the public website of the political subdivision within which the law enforcement agency is located; and

(iii) post a similar notice in a public place designated for notice within the law enforcement agency.

(b) The notice shall:

(i) give a general description of the item; and

(ii) the date of intended disposition.

(c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of publication and posting.

(2)(a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section 77-11d-103.

(b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:

(i) pays the costs incurred for advertising and storage; and

(ii) signs a receipt for the item.

(3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:

(a) apply the property to a public interest use as provided in Subsection (4);

(b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(c) destroy the property if it is unfit for a public interest use or sale.

(4)(a) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:

(i) permission to apply the property to a public interest use; and

(ii) the designation and approval of the public interest use of the property.

(b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102(4), the agency may apply the lost or mislaid property to a public interest use as provided in Subsection (4)(a) after obtaining the permission, designation, and approval of the legislative body of the municipality in which the agency is located.

(5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.

(6)(a) If the lost or mislaid property is a firearm or other dangerous weapon received by a law enforcement agency under Subsection [~~76-10-529(6)~~] 76-11-215(7), the law enforcement agency may dispose of the firearm or other dangerous weapon three months after the property's receipt by the law enforcement agency if the owner of the firearm or other dangerous weapon, or the owner's agent:

(i) fails to retrieve the firearm or other dangerous weapon; or

(ii) is legally prohibited from possessing the firearm or other dangerous weapon.

(b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by

following the procedures described in Section 77-11a-403, disposition of firearms no longer needed as evidence.

Section 485. Section **77-20-203** is amended to read:

77-20-203 . County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a)(i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection [~~76-9-101(4)~~] 76-9-101(3)(b);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(4)(a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released

on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained; and

(ii) release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

(6) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 486. Section **77-20-204** is amended to read:

77-20-204 . County jail authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation

under:

(a) Section 23A-4-501 or 23A-4-502;

(b) Section 23A-5-311;

(c) Section 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

[~~(o) Title 76, Chapter 6a, Pyramid Scheme Act;~~]

[~~(p)~~] (o) Title 76, Chapter 7, Offenses Against the Family;

[~~(q)~~] (p) Title 76, Chapter 7a, Abortion Prohibition;

(q) Title 76, Chapter 12, Part 2, Electronic Communication Abuse;

(r) Title 76, Chapter 12, Part 3, Privacy Offenses;

(s) Title 76, Chapter 13, Offenses Involving Cruelty to Animals; or

(t) Title 76, Chapter 17, Part 3, Offenses Concerning Pyramid Schemes.

[~~(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;~~]

[~~(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;~~]

[~~(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;~~]

[~~(u) Title 76, Chapter 9, Part 5, Libel; or~~]

[~~(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.~~]

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

(a)(i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C

misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b)(i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

(a) the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a county jail official in accordance with this section.

(6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a county jail official may not fix or modify a financial condition for an individual; and

(b) if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

(9) This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 487. Section **77-22-2.5** is amended to read:

77-22-2.5 . Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a)(i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

(A) a wire or oral communication;

(B) a communication made through a tone-only paging device;

(C) a communication from a tracking device; or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means a service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means a wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and a computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" means the same as that term is defined in Section [~~76-10-1230~~] 76-5c-401.

(e) "Prosecutor" means the same as that term is defined in Section 77-22-4.5.

(f) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(g)(i) "Sexual offense against a minor" means:

[~~(i)~~] (A) sexual exploitation of a minor or attempted sexual exploitation of a minor in violation of Section 76-5b-201;

[~~(ii)~~] (B) aggravated sexual exploitation of a minor or attempted aggravated sexual exploitation of a minor in violation of Section 76-5b-201.1;

[~~(iii)~~] (C) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(iv)~~] (D) dealing in or attempting to deal in material harmful to a minor in violation of [~~Section 76-10-1206~~] Section 76-5c-205 or 76-5c-206;

[~~(v) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401;~~]

[~~(vi)~~] (E) human trafficking of a child in violation of Section 76-5-308.5; or

[~~(vii)~~] (F) aggravated sexual extortion of a child in violation of Section 76-5b-204.

(ii) "Sexual offense against a minor" does not include an offense described in Section 76-5-418, 76-5-419, or 76-5-420.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec. 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier is suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including a temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce a record under Subsections (2)(c)(i) through (v) that is reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4)(a) An electronic communications system or service or remote computing service provider that provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that the provider does not have the information.

(7) There is no cause of action against a provider or wire or electronic communication service, or the provider or service's officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8)(a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) A prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 488. Section **77-23a-8** is amended to read:

77-23a-8 . Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) an act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt under Section 76-4-101;

(B) conspiracy under Section 76-4-201;

(C) criminal solicitation of an adult, Section 76-4-203; or

(D) criminal solicitation of a minor, Section 76-4-205; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year under Section 76-5-107.3;

(e)(i) aggravated murder under Section 76-5-202;

(ii) murder under Section 76-5-203; or

(iii) manslaughter under Section 76-5-205;

(f)(i) kidnapping under Section 76-5-301;

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human trafficking for sexual exploitation under Section 76-5-308.1;

(vi) human trafficking of a child under Section 76-5-308.5;

(vii) human smuggling under Section 76-5-308.3;

(viii) aggravated human trafficking under Section 76-5-310; or

(ix) aggravated human smuggling under Section 76-5-310.1;

(g)(i) arson under Section 76-6-102; or

(ii) aggravated arson under Section 76-6-103;

(h)(i) burglary under Section 76-6-202; or

(ii) aggravated burglary under Section 76-6-203;

(i)(i) robbery under Section 76-6-301; or

(ii) aggravated robbery under Section 76-6-302;

(j) an offense:

(i) of:

(A) theft under Section 76-6-404;

(B) theft by deception under Section 76-6-405; or

(C) theft by extortion under Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year under Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official under Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest under Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year under Section 76-6-518;

(p) criminal usury under Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year under Section 76-6-521;

(r) a violation under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year under Section 76-6-703;

(s) bribery to influence official or political actions under Section 76-8-103;

(t) misusing public money or public property under Section 76-8-402;

(u) tampering with a witness under Section 76-8-508;

(v) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(w) tampering or retaliating against a juror under Section 76-8-508.5;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(y) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

(z) obstruction of justice in a criminal investigation or proceeding under Section 76-8-306;

(aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

(bb) destruction of property to interfere with preparations for defense or war under Section 76-8-802;

(cc) an attempt to commit crimes of sabotage under Section 76-8-804;

(dd) conspiracy to commit crimes of sabotage under Section 76-8-805;

(ee) advocating criminal syndicalism or sabotage under Section 76-8-902;

(ff) assembling for advocating criminal syndicalism or sabotage under Section 76-8-903;

(gg) riot punishable by a maximum term of imprisonment of more than one year under Section 76-9-101;

(hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year under Section [~~76-9-301.1~~] 76-13-205;

[~~(ii) possession, use, or removal of an explosive, chemical, or incendiary device and parts under Section 76-10-306;~~]

[~~(jj)~~] (ii) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device under Section [~~76-10-307~~] 76-15-209;

(jj) unlawful conduct involving an explosive, chemical, or incendiary device under Section 76-15-210;

(kk) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211;

[~~(kk)~~] (ll) exploiting prostitution under Section [~~76-10-1305~~] 76-5d-207;

[~~(ll)~~] (mm) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208;

[~~(mm)~~] (nn) bus hijacking[~~ or assault with intent to commit hijacking~~] under Section [~~76-10-1504~~] 76-9-1502;

(oo) assault with intent to commit bus hijacking under Section 76-9-1503;

[~~(nn)~~] (pp) [~~discharging firearms and hurling missiles~~] unlawful discharge of a firearm or hurling of a missile into a bus or terminal under Section [~~76-10-1505~~] 76-9-1504;

[~~(oo)~~] (qq) violations under [~~Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act~~] Title 76, Chapter 17, Part 4, Offenses Concerning a Pattern of Unlawful Activity, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act under Section [~~76-10-1602~~] 76-17-401;

[~~(pp)~~] (rr) communications fraud under Section [~~76-10-1801~~] 76-6-525;

[~~(qq)~~] (ss) money laundering under Sections [~~76-10-1903 and 76-10-1904~~] 76-9-1602 and 76-9-1603; or

[~~(rr)~~] (tt) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year under Section [~~76-10-1906~~] 76-9-1604.

Section 489. Section **77-36-1** is amended to read:

77-36-1 . Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 81, Chapter 4, Part 4, Divorce.

(4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

(b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

(i) aggravated assault under Section 76-5-103;

(ii) aggravated cruelty to an animal under [~~Subsection 76-9-301(4)~~] Section 76-13-203, with the intent to harass or threaten the other cohabitant;

(iii) assault under Section 76-5-102;

(iv) criminal homicide under Section 76-5-201;

(v) harassment under Section 76-5-106;

(vi) electronic communication harassment under [~~Section 76-9-201~~] Sections

76-12-202, 76-12-203, and 76-12-204;

(vii) kidnapping, child kidnapping, or aggravated kidnapping under Sections 76-5-301, 76-5-301.1, and 76-5-302;

(viii) mayhem under Section 76-5-105;

(ix) propelling a bodily substance or material, as described in Section 76-5-102.9;

(x) sexual offenses under Title 76, Chapter 5, Part 4, Sexual Offenses, and [-]sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

(xi) stalking under Section 76-5-106.5;

(xii) unlawful detention and unlawful detention of a minor under Section 76-5-304;

(xiii) violation of a protective order or ex parte protective order under Section 76-5-108;

(xiv) an offense against property under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(xv) possession of a deadly weapon with criminal intent under Section [~~76-10-507~~] 76-11-206;

(xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle under Section [~~76-10-508~~] 76-11-207;

(xvii) disorderly conduct under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(xviii) child abuse under Section 76-5-114;

(xix) threatening use of a dangerous weapon under Section [~~76-10-506~~] 76-11-205;

(xx) threatening violence under Section 76-5-107;

(xxi) tampering with a witness under Section 76-8-508;

(xxii) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(xxiii) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

(xxiv) unlawful distribution of an intimate image under Section 76-5b-203;

(xxv) unlawful distribution of a counterfeit intimate image under Section 76-5b-205;

[~~(xxvi) sexual battery under Section 76-9-702.1;~~]

[~~(xxvii)~~] (xxvi) voyeurism under Section [~~76-9-702.7~~] 76-12-306;

(xxvii) recorded or photographed voyeurism under Section 76-12-307;

(xxviii) distribution of images obtained through voyeurism under Section 76-12-308;

[~~(xxviii)~~] (xxix) damage to or interruption of a communication device under Section 76-6-108; or

[~~(xxix)~~] (xxx) an offense under Subsection 78B-7-806(1).

(c) "Domestic violence" or "domestic violence offense" does not include:

(i) enticing a minor under Section 76-5-417;

(ii) lewdness under in Section 76-5-419; or

(iii) lewdness involving a child under Section 76-5-420.

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 81-2-305 or 81-2-407 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 81-2-305 or 81-2-407 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 490. Section **77-36-2.1** is amended to read:

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

(1) As used in this section:[}]

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

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

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

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

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

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

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

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

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

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

(d) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

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

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

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

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

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

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

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

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

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

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

the victim if the allegation of domestic violence:

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

(B) results, or would result, in the owner cohabitant becoming a restricted person under Section [~~76-10-503~~] 76-11-302; or

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

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

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

(b) The written notice shall include:

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

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

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

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

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

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

(b) if the aggressor has ever threatened to kill the victim or the victim's children;

(c) if the victim believes the aggressor will try to kill the victim;

(d) if the aggressor has ever tried to choke the victim;

(e) if the aggressor has a gun or could easily get a gun;

(f) if the aggressor is violently or constantly jealous, or controls most of the daily

activities of the victim;

(g) if the victim left or separated from the aggressor after they were living together or married;

(h) if the aggressor is unemployed;

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

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

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

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

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

(a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through (d);

(b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

(c) as a result of the victim's response to the question in Subsection (5)(l), the law enforcement officer believes the victim is in a potentially lethal situation.

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

(a) advise the victim of the results of the assessment;

(b) refer the victim to a nongovernment organization victim advocate at a primary purpose domestic violence organization; and

(c) refer the victim to a criminal justice system victim advocate if the responding law enforcement agency has a criminal justice system victim advocate available.

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

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

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

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

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

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

(10) The Department of Public Safety shall:

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

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

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

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

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

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

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

Section 491. Section **77-37-2** is amended to read:

77-37-2 . Definitions.

As used in this chapter:

(1) "Alleged sexual offender" means the same as that term is defined in Section 53-10-801.

(2) "Child" means a person who is younger than 18 years old, unless otherwise specified in statute. The rights to information as extended in this chapter also apply to the parents, custodian, or legal guardians of children.

(3) "Family member" means spouse, child, sibling, parent, grandparent, or legal guardian.

(4) "HIV infection" means the same as that term is defined in Section 53-10-801.

(5) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.

(6)(a) "Sexual offense" means any conduct described in:

[~~(a)~~] (i) Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(b)~~] (ii) Title 76, Chapter 5b, Sexual Exploitation Act; or

[~~(c)~~] (iii) Section 76-7-102, incest[~~;~~] .

[~~(d) Section 76-9-702, lewdness; or~~]

[~~(e) Section 76-9-702.1, sexual battery.~~]

(b) "Sexual offense" does not include conduct described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-420, lewdness involving a child; or

(iii) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(7) "Victim" means an individual, including a minor, against whom an offense has been allegedly committed.

(8) "Witness" means any person who has been subpoenaed or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether any action or proceeding has commenced.

Section 492. Section **77-38-3** is amended to read:

77-38-3 . Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4)(a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5)(a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10)(a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12)(a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14)(a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section [~~76-10-1306~~] 76-5d-208 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place

frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c)(i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15)(a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 493. Section **77-38-601** is amended to read:

77-38-601 . Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10)(a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the Safe at Home Program created in Section 77-38-602.

(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17)(a) "Sexual offense" means:

[~~(a)~~] (i) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

[~~(b)~~] (ii) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(b) "Sexual offense" does not include an offense under:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness;

(iv) Section 76-5-420, lewdness involving a child; or

(v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, special district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 494. Section **77-39-101** is amended to read:

77-39-101 . Investigation of sales of alcohol, tobacco products, electronic cigarette products, nicotine products, and cannabinoid products to underage individuals.

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(b) "Electronic cigarette product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(c) "Nicotine product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(d) "Peace officer" means the same as the term is described in Section 53-13-109.

(e) "Tobacco product" means the same as that term is defined in Section [~~76-10-101~~] 76-9-1101.

(2)(a) A peace officer may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment;

(ii) Section [~~76-10-114~~] 76-9-1116 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product; or

(iii) Subsection 4-41-105(2)(d) by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of a cannabinoid product that contains THC or a THC analog from a retail establishment.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol;

(ii)(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product; or

(iii) a cannabinoid product that contains THC or a THC analog.

(d) If a citation or information is issued, the citation or information shall be issued within seven days after the day on which the purchase occurs.

(3)(a) If an individual under 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained before the individual participates in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, electronic cigarette products, nicotine products, or cannabinoid products that contain THC or a THC analog.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may use false identification in attempting the purchase if:

(a) the Department of Public Safety created in Section 53-1-103 provides the false identification;

(b) the false identification:

(i) accurately represents the individual's age; and

(ii) displays a current photo of the individual; and

(c) the peace officer maintains possession of the false identification at all times outside the attempt to purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product,

a nicotine product, or a cannabinoid product that contains THC or a THC analog if a peace officer directs, supervises, and monitors the individual.

(6)(a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted within a 12-month period:

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol;

(ii) a minimum of two times at a retail establishment that sells tobacco products, electronic cigarette products, or nicotine products for the attempted purchase of a tobacco product, an electronic cigarette product, or a nicotine product; and

(iii) a minimum of one time at a retail establishment that sells a cannabinoid product that contains THC or a THC analog.

(b) This section does not prohibit an investigation or an attempt to purchase alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a tobacco product, an electronic cigarette product, a nicotine product, or a cannabinoid product that contains THC or a THC analog to an individual under the age established by Section 32B-4-403, Section[~~76-10-114~~] 76-9-1116, or Subsection 4-41-105(2)(d); and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7)(a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

Section 495. Section **77-40a-101** is amended to read:

77-40a-101 . Definitions.

As used in this chapter:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

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

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

(7) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.

(8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(9) "Court" means a district court or a justice court.

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

(11) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

(12) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

(13) "Department" means the Department of Public Safety established in Section 53-1-103.

(14) "Drug possession offense" means:

(a) an offense described in Subsection 58-37-8(2), except for:

(i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;

(ii) an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or

(iii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) an offense described in Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) an offense described in Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (14).

(15)(a) "Expunge" means to remove a record from public inspection by:

(i) sealing the record; or

(ii) restricting or denying access to the record.

(b) "Expunge" does not include the destruction of a record.

(16) "Indigent" means a financial status that results from a court finding that a petitioner is financially unable to pay the fee to file a petition for expungement under Section 78A-2-302.

(17) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(18)(a) "Minor regulatory offense" means, except as provided in Subsection (18)(c), a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section [~~76-9-701~~] 76-9-110 or [~~76-10-105~~] 76-9-1106.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection (18)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections (18)(c)(i) through (iv).

(19) "Petitioner" means an individual applying for expungement under this chapter.

(20) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

(21) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material, regardless of physical form or characteristics, that:

(a) is contained in the agency's file regarding the arrest, detention, investigation, conviction, sentence, incarceration, probation, or parole of an individual; and

(b) is prepared, owned, received, or retained by an agency, including a court.

(22) "Special certificate" means a document issued as described in Subsection 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with the case that is the subject of a petition for expungement is eligible for expungment.

(23)(a) "Traffic offense" means, except as provided in Subsection (23)(b):

(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to an offense listed in Subsections (23)(a)(i) through (iii).

(b) "Traffic offense" does not mean:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to an offense listed in Subsection (23)(b)(i) or (ii).

(24) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 496. Section **77-40a-205** is amended to read:

77-40a-205 . Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described

in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a)(i) each conviction within the case is a conviction for:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

(B) at least six years for the conviction of a class B misdemeanor offense; or

(C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

(b)(i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

(ii) each charge within the case is:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(iii) the following time periods have passed after the day on which the case is dismissed:

(A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

(B) at least six years for a charge in the case for a class B misdemeanor offense; or

(C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8 (2)(a)(i).

(3) A case is not eligible for expungement under this section if:

(a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

(i) the exception in Subsection 77-40a-303(7); or

(ii) any infraction, traffic offense, or minor regulatory offense;

(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

(c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections;

(d) the case resulted in the individual being found not guilty by reason of insanity;

(e) the case establishes a criminal accounts receivable that:

(i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

(ii) has not been satisfied according to court records; or

(f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

(i) any of the offenses listed in Subsection 77-40a-303(2)(a);

(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(iii) a weapons offense in violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons;

(iv) sexual battery in violation of Section [~~76-9-702.1~~] 76-5-418;

(v) an act of lewdness in violation of Section [~~76-9-702~~] 76-5-419 or [~~76-9-702.5~~] 76-5-420;

(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(vii) damage to or interruption of a communication device in violation of Section 76-6-108;

(viii) a domestic violence offense as defined in Section 77-36-1; or

(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency

that appears to be eligible for automatic expungement under this section.

(5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;

(b) the individual has not paid restitution to the victim as ordered by the court; or

(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.

(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 497. Section **77-40a-403** is amended to read:

77-40a-403 . Release and use of expunged records -- Agencies.

(1)(a) An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:

(i) specifically authorized by Subsection (4) or Section 77-40a-404; or

(ii) subject to Subsection (1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record to another agency or person, or allow another agency or person

access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.

(2) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

(4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would require the individual to register as a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102; or

(d) a weapons offense under [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter

11, Weapons.

(5) Except as provided in Subsection (7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(6) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

(7) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.

(8)(a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 498. Section **77-41-102** is amended to read:

77-41-102 . Definitions.

As used in this chapter:

(1) "Child abuse offender" means an individual:

(a) who has been convicted in this state of a violation of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

(ii) attempting, soliciting, or conspiring to commit aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii)(A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a child abuse offender in another jurisdiction of original conviction;

(B) who is required to register as a child abuse offender by a state, a federal, or a military court; or

(C) who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of the offense listed in Subsection (1)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) who is found not guilty by reason of insanity in this state or in another jurisdiction of the offense listed in Subsection (1)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection (1)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public

Safety established in section 53-10-201.

(3) "Business day" means a day on which state offices are open for regular business.

(4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(5)(a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(6) "Department" means the Department of Public Safety.

(7) "Division" means the Division of Juvenile Justice and Youth Services.

(8) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(9) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(10) "Jurisdiction" means any state, Indian Country, United States Territory, or property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(11) "Kidnap offender" means an individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) kidnapping under Subsection 76-5-301(2)(c) or (d);

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302;

(iv) human trafficking for labor under Section 76-5-308;

(v) human smuggling under Section 76-5-308.3;

(vi) human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

(vii) aggravated human trafficking under Section 76-5-310;

(viii) aggravated human smuggling under Section 76-5-310.1;

(ix) human trafficking of a vulnerable adult for labor under Section 76-5-311; or

(x) attempting, soliciting, or conspiring to commit a felony offense listed in Subsections (11)(a)(i) through (ix);

(b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (11)(a); and

(ii)(A) who isa Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a kidnap offender in another jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by a state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection (11)(a) or any substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (11)(a);

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction

of one or more offenses listed in Subsection (11)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (11)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(12) "Natural parent" means a minor's biological or adoptive parent, including the minor's noncustodial parent.

(13) "Offender" means a child abuse offender, kidnap offender, or sex offender.

(14) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(15) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at a future date.

(16) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(17) "Registration website" means the Sex, Kidnap, and Child Abuse Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(18) "Secondary residence" means real property that the offender owns or has a financial interest in, or a location where the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

(19) "Sex offender" means an individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of enticing a minor under Section [

~~76-4-401~~] 76-5-417;

(ii) sexual exploitation of a vulnerable adult under Section 76-5b-202;

(iii) human trafficking for sexual exploitation under Section 76-5-308.1;

(iv) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5 (4)(b);

(v) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(vi) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(vii) unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) sexual abuse of a minor under Section 76-5-401.1, except as provided in Subsection 76-5-401.1(3);

(ix) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(x) rape under Section 76-5-402;

(xi) rape of a child under Section 76-5-402.1;

(xii) object rape under Section 76-5-402.2;

(xiii) object rape of a child under Section 76-5-402.3;

(xiv) a felony violation of forcible sodomy under Section 76-5-403;

(xv) sodomy on a child under Section 76-5-403.1;

(xvi) forcible sexual abuse under Section 76-5-404;

(xvii) sexual abuse of a child under Section 76-5-404.1;

(xviii) aggravated sexual abuse of a child under Section 76-5-404.3;

(xix) aggravated sexual assault under Section 76-5-405;

(xx) custodial sexual relations under Section 76-5-412, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xxi) sexual exploitation of a minor under Section 76-5b-201;

(xxii) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(xxiii) sexual extortion or aggravated sexual extortion under Section 76-5b-204;

(xxiv) incest under Section 76-7-102;

(xxv) lewdness under Section [~~76-9-702~~] 76-5-419, if the individual has been convicted of the offense four or more times;

(xxvi) sexual battery under Section [~~76-9-702.1~~] 76-5-418, if the individual has been convicted of the offense four or more times;

(xxvii) any combination of convictions of lewdness under Section [~~76-9-702~~] 76-5-419, and of sexual battery under Section [~~76-9-702.1~~] 76-5-418, that total four or more convictions;

(xxviii) lewdness involving a child under Section [~~76-9-702.5~~] 76-5-420;

(xxix) a felony or class A misdemeanor violation of:

(A) [~~-~~]voyeurism under Section [~~76-9-702.7~~] 76-12-306;

(B) recorded or photographed voyeurism under Section 76-12-307; or

(C) distribution of images obtained through voyeurism under Section 76-12-308;

(xxx) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208; or

(xxxi) attempting, soliciting, or conspiring to commit a felony offense listed in this Subsection (19)(a);

(b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (19)(a); and

(ii)(A) who isa Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a sex offender in another jurisdiction of original conviction;

(B) who is required to register as a sex offender by a state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection (19)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's jurisdiction of residence based on a conviction for an offense that is not substantially equivalent to an offense

listed in Subsection (19)(a);

(e) who is found not guilty by reason of insanity in this state, or in another jurisdiction of one or more offenses listed in Subsection (19)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (19)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(21) "Vehicle" means a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

Section 499. Section **77-41-106** is amended to read:

77-41-106 . Offenses requiring lifetime registration.

Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime registration are:

(1) an offense listed in Subsection 77-41-102(1), (11), or (19) if, at the time of the conviction for the offense, the offender has previously been convicted of an offense listed in Subsection 77-41-102(1), (11), or (19) or has previously been required to register as a sex offender, kidnap offender, or child abuse offender for an offense committed as a juvenile;

(2) a conviction for a following offense, including attempting, soliciting, or conspiring to commit a felony of:

(a) child kidnapping under Section 76-5-301.1, except if the offender is a natural parent of the victim;

(b) rape under Section 76-5-402;

(c) rape of a child under Section 76-5-402.1;

(d) object rape under Section 76-5-402.2;

(e) object rape of a child under Section 76-5-402.3;

(f) sodomy on a child under Section 76-5-403.1;

(g) aggravated sexual abuse of a child under Section 76-5-404.3; or

(h) aggravated sexual assault under Section 76-5-405;

(3) human trafficking for sexual exploitation under Section 76-5-308.1;

(4) human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(5) aggravated human trafficking for sexual exploitation under Section 76-5-310;

(6) human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(7) aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the victim;

(8) forcible sodomy under Section 76-5-403;

(9) sexual abuse of a child under Section 76-5-404.1;

(10) sexual exploitation of a minor under Section 76-5b-201;

(11) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

(12) aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

(13) aggravated exploitation of prostitution under Section [~~76-10-1306~~] 76-5d-208, on or after May 10, 2011; or

(14) a felony violation of enticing a minor under Section [~~76-4-401~~] 76-5-417 if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (2) through (13).

Section 500. Section **77-41-112** is amended to read:

77-41-112 . Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex, Kidnap, and Child Abuse Offender Registry may petition the court for an order removing the offender from the Sex, Kidnap, and Child Abuse Offender Registry if:

(a)(i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense;

(b)(i) the offender is required to register in accordance with Subsection 77-41-105 (3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c)(i) the offender is required to register in accordance with Subsection 77-41-105 (3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) enticing a minor under Section [~~76-4-401~~] 76-5-417, if the offense is a class A misdemeanor;

(b) kidnapping under Section 76-5-301;

(c) unlawful detention under Section 76-5-304, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at the time of the offense, the offender is not more than 15 years older than the victim;

(g) voyeurism under Section [~~76-9-702.7~~] 76-12-306 or recorded or photographed voyeurism under Section 76-12-307, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection 77-41-102 (1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense described in Subsection 77-41-102(1)(a), (11)(a), or (19)(a).

(3)(a)(i) An offender seeking removal from the Sex, Kidnap, and Child Abuse Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of

a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b)(i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility; and

(B) determine whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), (c)(ii), (c)(iv), or (c)(v).

(ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(4)(a)(i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5)(a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex, Kidnap, and Child Abuse Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry,

and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) other information the office of the prosecutor determines the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6)(a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk

assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex, Kidnap, and Child Abuse Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77-41-105(3)(b) may petition for early removal from the registry under Subsection (1)(b) if the offender:

(a) meets the requirements of Subsections (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; and

(c) intends to primarily reside in this state.

(9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early removal from the registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77-41-106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; and

(d) the offender intends to primarily reside in this state.

Section 501. Section **77-41-113** is amended to read:

77-41-113 . Removal for offenses or convictions for which registration is no longer required.

(1) The department shall automatically remove an individual who is currently on the Sex,

Kidnap, and Child Abuse Offender Registry because of a conviction if:

(a) the only offense or offenses for which the individual is on the registry are listed in Subsection (2); or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry have been reversed, vacated, or pardoned.

(2) The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor under Section [~~76-4-401~~] 76-5-417;

(b) kidnapping under Subsection 76-5-301(2)(a) or (b);

(c) child kidnapping under Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention under Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or

(f) sodomy, but not forcible sodomy, under Section 76-5-403.

(3)(a) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1).

(b) The notice described in Subsection (3)(a) shall include a statement that the individual is no longer required to register as a sex offender or kidnap offender.

(4) An individual who is currently on the Sex, Kidnap, and Child Abuse Offender Registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under this section.

(5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's

determination. The department's determination is final and not subject to administrative review.

(8) Neither the department nor an employee of the department may be civilly liable for a determination made in good faith in accordance with this section.

(9)(a) The department shall provide a response to a request for removal within 30 days of receipt of the request.

(b) If the response under Subsection (9)(a) cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

Section 502. Section **77-42-105** is amended to read:

77-42-105 . Registerable offenses.

A person shall be required to register with the Office of the Attorney General for a conviction of any of the following offenses as a second degree felony:

(1) Section 61-1-1 or Section 61-1-2, securities fraud;

(2) Section 76-6-405, theft by deception;

(3) Section 76-6-513, unlawful dealing of property by fiduciary;

(4) Section 76-6-521, insurance fraud;

(5) Section 76-6-1203, mortgage fraud;

(6) Section [~~76-10-1801~~] 76-6-525, communications fraud;

(7) Section [~~76-10-1903~~] 76-9-1602, money laundering;

(8) Section 76-9-1603, accepting the proceeds of unlawful activity; and

[~~(8)~~] (9) Section [~~76-10-1603,~~] 76-17-407, prohibited conduct concerning a pattern of unlawful activity, if at least one of the unlawful activities used to establish the pattern of unlawful activity is an offense listed in Subsections (1) through (7).

Section 503. Section **78A-2-203** is amended to read:

78A-2-203 . Rules -- Right to make -- Limitation -- Security.

(1) Every court of record may make rules, not inconsistent with law, for its own government and the government of its officers; but such rules must neither impose any tax or charge upon any legal proceeding nor give any allowance to any officer for service.

(2)(a) The judicial council may provide, through the rules of judicial administration, for security in or about a courthouse or courtroom, or establish a secure area as prescribed in Section 76-8-311.1.

(b)(i) If the council establishes a secure area under Subsection (2)(a), it shall provide

a secure firearms storage area on site so that persons with lawfully carried firearms may store them while they are in the secure area.

(ii) The entity operating the facility with the secure area shall be responsible for the firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).

(iii) The entity may not charge a fee to individuals for storage of their firearms under Subsection (2)(b)(i).

(3)(a) Unless authorized by the rules of judicial administration, any person who knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a secure area established by the judicial council under this section is guilty of a third degree felony.

(b) Any person is guilty of violating Section [~~76-10-306~~] 76-15-210 who transports, possesses, distributes, or sells an explosive, chemical, or incendiary device, as defined by Section [~~76-10-306~~] 76-15-210, within a secure area, established by the Judicial Council under this section.

Section 504. Section **78A-5a-103** is amended to read:

78A-5a-103 . Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b)(i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a

commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~] Title 76, Chapter 16, Part 5, Antitrust Offenses; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization;

(iii) that is a shareholder derivative action; or

(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

(2) Except as provided in Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of the Business and Chancery Court under Subsection (1) if the claim arises from the same set of facts or circumstances as the action.

(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including a personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a violation of Title 13, Chapter 7, Civil Rights;

(iv) Title 20A, Election Code;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

(vi) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

(vii) Title 78B, Chapter 6, Part 5, Eminent Domain;

(viii) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is brought against a commercial tenant;

(ix) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(x) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(xi) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(xii) Title 78B, Chapter 15, Utah Uniform Parentage Act;

(xiii) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act;

(xiv) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act;

(xv) Title 81, Utah Domestic Relations Code; or

(b) any action in which a governmental entity is a party; or

(c) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over a claim that is barred under Subsection (3):

(a) if the claim is a compulsory counterclaim;

(b) if there would be a material risk of inconsistent outcomes if the claim were tried in a separate action; or

(c) solely to resolve a request for a provisional remedy related to the claim before the Business and Chancery Court transfers the claim as described in Subsection (5).

(5) If an action contains a claim for which the Business and Chancery Court may not exercise supplemental jurisdiction under this section, the Business and Chancery Court shall bifurcate the action and transfer any claim for which the Business and Chancery Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) Before the Business and Chancery Court transfers a claim as described in Subsection (5), the Business and Chancery Court may resolve:

(a) all claims for which the Business and Chancery Court has jurisdiction; and

(b) any request for a provisional remedy related to a claim that is being transferred.

Section 505. Section **78B-4-511** is amended to read:

78B-4-511 . Regulation of firearms reserved to state -- Lawsuits prohibited.

(1) As prescribed by Section [~~76-10-500~~] 53-5a-102, all authority to regulate firearms is

reserved to the state through the Legislature.

(2) A person who lawfully designs, manufactures, markets, advertises, transports, or sells firearms or ammunition to the public may not be sued by the state or any of its political subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or ammunition purchased by the state or political subdivision.

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

Section 506. Section **78B-5-505** is amended to read:

78B-5-505 . Property exempt from execution.

(1)(a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii)(A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or

otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms, as defined in Section [~~76-10-501~~] 76-11-101, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b)(i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement

accounts without regard to the date on which the account was created.

(c)(i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2)(a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against the victim and ordered by the sentencing court to pay restitution to the victim.

(b) The exemption from execution under this Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4)(a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.

(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Section 507. Section **78B-6-111** is amended to read:

78B-6-111 . Criminal sexual offenses.

(1) As used in this section:

(a) "Sexual offense" means:

(i) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or

(ii) an offense under the laws of the state where the child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Sexual offense" does not include:

(i) an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(ii) an offense under the laws of the state where the child was conceived that is substantially similar to an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

(2) An unmarried biological father is not entitled to notice of an adoption proceeding, nor is the consent of an unmarried biological father required in connection with an adoption proceeding, in cases where it is shown that the child who is the subject of the proceeding was conceived as a result of conduct that constitutes a sexual offense[~~under Title 76, Chapter 5, Part 4, Sexual Offenses, or under the laws of the state where the child was conceived~~], regardless of whether the unmarried biological father is formally charged with or convicted of [~~a criminal offense~~] the sexual offense.

Section 508. Section **78B-6-1101** is amended to read:

78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in [~~Title 76, Chapter 10, Part 11, Gambling~~] Title 76, Chapter 9, Part 14, Gambling;

(c) criminal activity committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~] Title 76, Chapter 5d, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 509. Section **78B-6-1103** is amended to read:

78B-6-1103 . Manufacturing facility in operation over three years -- Limited application of restrictions.

(1) Notwithstanding Sections [~~76-10-803~~] 76-9-1301 and 78B-6-1101, a manufacturing facility or operation may not be considered a nuisance, private or public, by virtue of any changed circumstance in land uses near the facility after it has been in operation for more than three years if the manufacturing facility or operation was not a nuisance at the time it began operation. The manufacturing facility may not increase the condition asserted to be a nuisance. The provisions of this Subsection (1) do not apply if a nuisance results from the negligent or improper operation of a manufacturing facility.

(2) The provisions of Subsection (1) may not affect or defeat the right of any person to recover damages for any injuries or damage sustained because of any pollution of, or change in the condition of, the waters of any stream or the overflow of the lands of any person.

(3) Any and all ordinances now or in the future adopted by any county or municipal corporation in which a manufacturing facility is located and which makes its operation a nuisance or providing for an abatement as a nuisance in the circumstances set forth in

this section are null and void. The provisions of this Subsection (3) may not apply whenever a nuisance results from the negligent or improper operation of a manufacturing facility.

Section 510. Section **78B-6-1107** is amended to read:

78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in [~~Title 76, Chapter 10, Part 11, Gambling~~] Title 76, Chapter 9, Part 14, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with three or more persons as provided in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in [~~Title 76, Chapter 10, Part 13, Prostitution~~] Title 76, Chapter 5d, Prostitution; and

(h) a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons, occurs on the premises.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.

(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

Section 511. Section **78B-6-1701** is amended to read:

78B-6-1701 . Cause of action for identity theft.

(1) A petitioner who has been injured by a violation of Section 76-6-1102, Identity Fraud, or Section [~~76-10-1801~~] 76-6-525, Communications Fraud, may recover from the

perpetrator:

(a) compensatory damages in the amount of $1,000 or up to three times the amount of actual damages, whichever is greater;

(b) attorney fees; and

(c) court costs.

(2) Actual damages may include:

(a) replacement or reissuance costs for checks and any personal identification documents;

(b) the value of the petitioner's time spent:

(i) repairing their credit history or rating; and

(ii) attending civil or administrative hearings necessary to resolve any debt, lien, or other obligation arising from the offense;

(c) lost wages; and

(d) any other verifiable costs the court may choose to include.

(3) The court may award punitive damages in addition to compensatory damages.

(4) A perpetrator who is not tried or found not guilty of a violation of Section 76-6-1102, Identity Fraud, or Section [~~76-10-1801~~] 76-6-525, Communications Fraud, may be found liable under this section if the court finds by a preponderance of the evidence that the perpetrator participated in a violation and the petitioner was injured as a result.

(5)(a) A perpetrator who is found guilty of a violation of Section 76-6-1102, Identity Fraud, or Section [~~76-10-1801~~] 76-6-525, Communications Fraud, shall be found liable under this section.

(b) If restitution was ordered in the criminal action, the amount ordered shall be deducted from any damages awarded under this section.

Section 512. Section **78B-6-2102** is amended to read:

78B-6-2102 . Exemptions.

(1) If the conditions of Subsection (2) are met, this part does not apply to:

(a) the following, as defined in the Communications Act of 1934, as amended:

(i) an interactive computer service;

(ii) a telecommunications service, information service, or mobile service, including a commercial mobile service; or

(iii) a multichannel video programming distributor;

(b) an Internet service provider;

(c) a provider of an electronic communications service;

(d) a distributor of Internet-based video services;

(e) a [~~host~~] hosting company as defined in Section [~~76-10-1230~~] 76-5c-401; or

(f) a distributor of electronic or computerized game software that users manipulate through interactive devices.

(2) This part does not apply to an entity described in Subsection (1) if:

(a) the distribution of pornographic material by the entity occurs only incidentally through the entity's function of:

(i) transmitting or routing data from one person to another person;

(ii) providing a connection between one person and another person; or

(iii) providing data storage space or data caching to a person; and

(b) the entity does not intentionally aid or abet in the distribution of the pornographic material.

Section 513. Section **78B-6-2105** is amended to read:

78B-6-2105 . Civil action for enforcement -- Penalties.

(1) A person who distributes or otherwise provides pornographic material to consumers may not distribute any obscene material or performance as defined in Section [~~76-10-1203~~] 76-5c-101 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance.

(2) The warning of the harm shall be prominently displayed in the following form:

STATE OF UTAH WARNING

Exposing minors to obscene material may damage or negatively impact minors.

(3)(a) For print publications created after May 12, 2020, the warning in Subsection (2) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section [~~76-10-1201~~] 76-5c-101.

(b) For digital publications:

(i) the warning in Subsection (2) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section [~~76-10-1201~~] 76-5c-101; or

(ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection (2) prior to each video or image contained on the website.

(4) A person who violates this section shall be liable for a civil penalty not to exceed $2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law, and enjoined from further violations.

(5) The civil penalty may be assessed and recovered in a civil action brought in any court of

competent jurisdiction.

(6) Each of the following violations shall create a separate liability per violation:

(a) the sale or display of potentially harmful content without the warning required in Subsection (2), in accordance with Subsection (3); or

(b) the absence of the following searchable text within the website's metadata - utahobscenitywarning.

(7) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.

(8) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.

(9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:

(a) the nature and extent of the violation;

(b) the number and severity of the violations;

(c) the economic effect of the penalty on the violator;

(d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;

(e) the willfulness of the violator's misconduct;

(f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and

(g) any other factor that the court determines justice requires.

(10) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection (11).

(11) A private person may bring an action in the public interest pursuant to this section if:

(a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;

(b) the attorney general's office has not provided a letter to the noticing party within 60 days of receipt of the notice of an alleged violation indicating that:

(i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or

(ii) the attorney general believes that there is no merit to the action; and

(c) the alleged violator has not responded to the notice of alleged violation or returned

the proof of compliance form provided in Subsection (17).

(12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.

(13) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by the noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged violation. The notice of alleged violation shall:

(a) state that the person executing the notice believes that there is a violation; and

(b) provide factual information sufficient to establish the basis for the alleged violation.

(14) A person who serves a notice of alleged violation identified in Subsection (13) shall complete and provide to the alleged violator at the time the notice of alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection (17). The person may file an action against the alleged violator, or recover from the alleged violator if:

(a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and

(b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:

(i) corrected the alleged violation and all similar violations known to the alleged violator;

(ii) agreed to pay a penalty for the alleged violation in the amount of $500 per violation; and

(iii) notified, in writing, the noticing party that the violation has been corrected.

(15) The written notice required in Subsection (14)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (17). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.

(16) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.

(17) The notice required to be provided to an alleged violator pursuant to Subsection (14) shall be presented as follows:

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2103.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

(1) you have not actually taken the corrective steps that you have certified in this form;

(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice; and

(3) the Noticing Party does not receive the required $500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B-6-2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of receipt of this notice, a penalty of $500 for each violation alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):

[ ] Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.

[ ] Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under Utah Code [~~Section 76-10-1206~~] Sections 76-5c-205 and 76-5c-206.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:

(18) An alleged violator may satisfy the conditions set forth in Subsection (17) only one time for a specific violation.

(19) Notwithstanding Subsection (17), the attorney general may file an action pursuant to Subsection (10) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection (17) for the same alleged violation.

(20) Payments shall be made in accordance with this section.

(a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.

(b) A penalty paid in accordance with the special compliance procedure in Subsection (17) shall be made directly to the noticing party.

(21) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited into the Crime Victim Reparations Fund created in Section 63M-7-526. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.

(a) If the penalty is paid to a noticing party in accordance with Subsection (17), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.

(b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.

(22) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection (16).

(23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.

(24) The Utah Office for Victims of Crime shall:

(a) maintain a record of documents and payments submitted pursuant to Subsections (21), (22), and (23);

(b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:

(i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

(25) This section does not apply to:

(a) a person portrayed in obscene or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or

(b) a person who is coerced or blackmailed into distributing obscene or pornographic material.

(26) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection (4) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

Section 514. Section **78B-6-2301** is amended to read:

78B-6-2301 . Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section [~~53-5a-102~~] 53-5a-102.1.

(3) "Legislative firearm preemption" means the preemption provided for in [~~Sections 53-5a-102 and 76-10-500~~] Section 53-5a-102.

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town, special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 515. Section **78B-7-502** is amended to read:

78B-7-502 . Definitions.

As used in this part:

(1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent under this part.

(2) "Protective order" means:

(a) a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

(3)(a) "Sexual violence" means the commission or the attempt to commit:

[~~(a)~~] (i) any sexual offense described in:

(A) Title 76, Chapter 5, Part 4, Sexual Offenses[~~,~~] ; or

(B) Title 76, Chapter 5b, Part 2, Sexual Exploitation;

[~~(b)~~] (ii) human trafficking for sexual exploitation under Section 76-5-308.1; or

[~~(c)~~] (iii) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

(b) "Sexual violence" does not include an offense described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-418, sexual battery;

(iii) Section 76-5-419, lewdness;

(iv) Section 76-5-420, lewdness involving a child; or

(v) Section 76-5b-206, failure to report child sexual abuse material by a computer technician.

(4) "Sexual violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Section 516. Section **78B-7-801** is amended to read:

78B-7-801 . Definitions.

As used in this part:

(1)(a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(i) under which the arrested or cited individual agrees to not engage in any of the following:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 80-6-201.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim, unless, after a law enforcement officer or the law enforcement officer's employing agency notifies or attempts to notify the alleged victim, the individual enters the premises while accompanied by a law enforcement officer for the purpose of retrieving the individual's personal belongings; and

(b) specifies other conditions of release from jail.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in:

(a) Section 76-5-109, child abuse;

(b) Section 76-5-109.2, aggravated child abuse;

(c) Section 76-5-109.3, child abandonment;

(d) Section 76-5-110, abuse or neglect of a child with a disability;

(e) Section 76-5-111, abuse of a vulnerable adult;

(f) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(g) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(h) Section 76-5-111.4, financial exploitation of a vulnerable adult;

(i) Section 76-5-114, commission of domestic violence in the presence of a child; or

(j) Section [~~76-9-702.1~~] 76-5-418, sexual battery.

(5)(a) "Qualifying offense" means:

[~~(a)~~] (i) domestic violence;

[~~(b)~~] (ii) an offense against a child or vulnerable adult; or

[~~(c)~~] (iii) the commission or attempted commission of an offense described in Section [~~76-9-702.1~~] 76-5-418, sexual battery, or Title 76, Chapter 5, Part 4, Sexual Offenses.

(b) "Qualifying offense" does not include an offense described in:

(i) Section 76-5-417, enticing a minor;

(ii) Section 76-5-419, lewdness; or

(iii) Section 76-5-420, lewdness involving a child.

Section 517. Section **78B-8-503** is amended to read:

78B-8-503 . Definitions.

As used in this part:

(1) "Prevail" means to obtain favorable final judgment, the right to all appeals having been exhausted, on the merits, on substantially all counts or charges in the action and with respect to the most significant issue or set of issues presented, but does not include the settlement of any action, either by stipulation, consent decree or otherwise, whether or not settlement occurs before or after any hearing or trial.

(2) "Reasonable litigation expenses" means court costs, administrative hearing costs, attorney fees, and witness fees of all necessary witnesses, not in excess of $25,000 which a court finds were reasonably incurred in opposing action covered under this part.

(3) "Small business" means a commercial or business entity, including a sole

proprietorship, which does not have more than 250 employees, but does not include an entity which is a subsidiary or affiliate of another entity which is not a small business.

(4) "State" means any department, board, institution, hospital, college, or university of the state of Utah or any political subdivision thereof, except with respect to actions brought under [~~Title 76, Chapter 10, Part 31, Utah Antitrust Act~~] Title 76, Chapter 16, Part 5, Antitrust Offenses.

Section 518. Section **78B-9-104** is amended to read:

78B-9-104 . Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;

(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section 77-11c-101, relevant to the

petitioner's conviction was not preserved in accordance with Title 77, Chapter 11c, Part 4, Preservation of Biological Evidence for Violent Felony Offenses;

(ii)(A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

(g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section [~~76-10-1304~~] 76-5d-206, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) any offense in Title 76, Chapter 6, Part 6, Retail Theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section [~~76-9-702~~] 76-5-419, lewdness;

(ix) Section [~~76-10-1302~~] 76-5d-202, prostitution;[~~or~~]

(x) Section [~~76-10-1313~~] 76-5d-209, sexual solicitation; or

(xi) Section 76-5d-210, sexual solicitation of a child.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3)(a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 519. Section **80-1-102** is amended to read:

80-1-102 . Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1)(a) "Abuse" means:

(i)(A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or

recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3)(a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4)(a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18

years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12)(a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13)(a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39)(a) "Incest" means engaging in sexual intercourse with an individual whom the

perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45)(a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i)(A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii)(A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii)(A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,

or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58)(a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection [~~76-10-2202(2)~~] 76-5-115(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b)(i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64)(a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69)(a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70)(a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79)(a) "Sexual abuse" means:

[~~(a)~~] (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

[~~(b)~~] (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

[~~(i)~~] (A) there is an indication of force or coercion;

[~~(ii)~~] (B) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

[~~(iii)~~] (C) there have been repeated incidents of sexual contact between the two

children, unless the children are 14 years old or older; or

[~~(iv)~~] (D) there is a disparity in chronological age of four or more years between the two children;

[~~(c)~~] (iii) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

[~~(i)~~] (A) Title 76, Chapter 5, Part 4, Sexual Offenses[~~, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor~~];

[~~(ii)~~] (B) child bigamy, Section 76-7-101.5;

[~~(iii)~~] (C) incest, Section 76-7-102;

[~~(iv) lewdness, Section 76-9-702;~~]

[~~(v) sexual battery, Section 76-9-702.1;~~]

[~~(vi) lewdness involving a child, Section 76-9-702.5; or~~]

[~~(vii)~~] (D) voyeurism, Section [~~76-9-702.7~~] 76-12-306;

(E) recorded or photographed voyeurism, Section 76-12-307; or

(F) distribution of images obtained through voyeurism, Section 76-12-308; or

[~~(d)~~] (iv) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(b) "Sexual abuse" does not include engaging in any conduct with a child that would constitute an offense described in:

(i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator of the offense is a minor; or

(ii) Section 76-5-417, enticing a minor.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 520. Section **80-2-301** is amended to read:

80-2-301 . Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections [~~76-10-1302~~] 76-5d-202

and [~~76-10-1313~~] 76-5d-210;

and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405;

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) approve an individual to provide short-term relief care to a foster parent if the individual:

(A) provides the relief care for less than six consecutive nights;

(B) provides the relief care in the short-term relief care provider's home;

(C) is direct access qualified, as that term is defined in Section 26B-2-120; and

(D) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i);

(p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and

(q) perform other duties and functions required by law.

(3)(a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4)(a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5)(a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth

Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7)(a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 521. Section **80-4-302** is amended to read:

80-4-302 . Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to

the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in Section 80-4-203.

(2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior;

(g) whether the parent has intentionally exposed the child to:

(i) pornography; or

(ii) material harmful to a minor, as defined in Section [~~76-10-1201~~] 76-5c-101; or

(h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.

(3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26B-4-201 or a medical cannabis device, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide

specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5)(a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances are prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 522. Section **80-6-103** is amended to read:

80-6-103 . Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

(b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(c) "School official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school.

(d) "Serious offense" means:

(i) a violent felony as defined in Section 76-3-203.5;

(ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or

(iii) an offense that is a violation of [~~Title 76, Chapter 10, Part 5, Weapons~~] Title 76, Chapter 11, Weapons.

(e) "Transferee school official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3)(a) If a minor is taken into temporary custody under Section 80-6-201 for a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

(ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

(iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(4) After a detention hearing for a minor who is alleged to have committed a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(6)(a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.

(8)(a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(9)(a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

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

Section 523. Section **80-6-104** is amended to read:

80-6-104 . Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section [~~76-10-501~~] 76-11-101.

(b) "Firearm-related offense" means a criminal offense involving a firearm.

(c) "School is in session" means the same as that term is defined in Section 53E-3-516.

(d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down

by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

(i) the number of guilty pleas entered into by minors in the juvenile court;

(j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and

(k) for each minor charged in the juvenile court with a firearm-related offense:

(i) the minor's age at the time the offense was committed or allegedly committed;

(ii) the minor's zip code at the time that the offense was referred to the juvenile court;

(iii) whether the minor is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (1)(b)(iii)~~] 76-11-302(1)(a)(iv) or (1)(b)(iii);

(iv) the type of offense for which the minor is charged;

(v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and

(vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

(3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.

(4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:

(a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;

(b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;

(c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(d) dosages of programming.

(5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this Subsection (5).

(6) After submitting the written report described in Subsection (5), the State Commission on Criminal and Juvenile Justice may supplement the report at a later time with updated data and information the State Board of Education collects under Section 53E-3-516.

(7) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 524. Section **80-6-302** is amended to read:

80-6-302 . Citation -- Procedure -- Time limits -- Failure to appear.

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

(e) an infraction or misdemeanor designated as a citable offense by a general order of the

Board of Juvenile Court Judges; or

(f) a violation of Subsection [~~76-10-105(2)~~] 76-9-1106(3)(b).

(2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the minor into temporary custody as provided in Section 80-6-201;

(i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) An offense alleged to have been committed by an enrolled child on school property, or related to school attendance, may only be referred to the prosecuting attorney or the

juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 80-6-303.5(4).

(8)(a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section 78A-6-353.

(12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the juvenile court with the consent of:

(a) the juvenile court; and

(b) if the minor is a child, the parent or guardian of the child cited.

Section 525. Section **80-6-303.5** is amended to read:

80-6-303.5 . Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with

this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3)(a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Sections 76-9-112, 76-12-306, 76-12-307, 76-12-309, or Title 76, Chapter 5, Offenses Against the Individual[~~, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions~~].

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old; or

(c) the minor is referred for being a habitual truant.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a

single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section [~~76-9-702.1~~] 76-5-418, sexual battery;

(G) Section [~~76-10-505.5~~] 76-11-204, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(H) Section [~~76-10-506~~] 76-11-205, threatening with or using a dangerous weapon in fight or quarrel;

(I) Section [~~76-10-507~~] 76-11-206, possession of a deadly weapon with criminal intent; or

(J) Section [~~76-10-509.4~~] 76-11-209, possession of a dangerous weapon by a minor; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 526. Section **80-6-304** is amended to read:

80-6-304 . Nonjudicial adjustments.

(1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than $250 to the juvenile court, subject to the terms established under Subsection (4);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(2)(a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or

out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.

(3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

(4)(a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (1).

(b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

(5)(a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(b) A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (5)(a):

(i) for a minor who is:

(A) offered a nonjudicial adjustment for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, other than an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(B) referred to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, other than an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; and

(ii) the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the

specific treatment, but the judge may only grant each extension for 90 days at a time.

(6) If a minor violates Section [~~76-10-105~~] 76-9-1106, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

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

Section 527. Section **80-6-305** is amended to read:

80-6-305 . Petition for a delinquency proceeding -- Amending a petition -- Continuance.

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

(b) Section 80-6-302;

(c) Section 80-6-502; and

(d) Section 80-6-503.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.

(4)(a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

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

Section 528. Section **80-6-503** is amended to read:

80-6-503 . Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.

(1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:

(a)(i) the minor was 16 or 17 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(B) Section 76-5-202, attempted aggravated murder;

(C) Section 76-5-203, attempted murder;

(D) Section 76-5-302, aggravated kidnapping;

(E) Section 76-5-405, aggravated sexual assault;

(F) Section 76-6-103, aggravated arson;

(G) Section 76-6-203, aggravated burglary;

(H) Section 76-6-302, aggravated robbery;

(I) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm; or

(J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I) involving the use of a dangerous weapon if the offense would be a felony had an adult committed the offense, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

(b)(i) the minor was 14 or 15 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

(B) Section 76-5-203, murder or attempted murder.

(2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

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

Section 529. Section **80-6-605** is amended to read:

80-6-605 . Extension of juvenile court jurisdiction -- Procedure.

(1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a minor who is 14 years old or older, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:

(a) the minor was the principal actor in the offense; and

(b) the petition or information alleges a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery;

(ix) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm; or

(x)(A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and

(B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.

(2)(a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section 80-6-504.

(3) The juvenile court shall make a determination on a motion under Subsection (1) or (2)

at the time of disposition.

(4) The juvenile court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.

(5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile court shall consider and base the juvenile court's decision on:

(a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;

(b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history; and

(d) the criminal record and previous history of the minor.

(6) The amount of weight that each factor in Subsection (5) is given is in the juvenile court's discretion.

(7)(a) The juvenile court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.

(8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Section 530. Section **80-6-608** is amended to read:

80-6-608 . When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.

(1) The division shall take a photograph and fingerprints of a minor who is:

(a) 14 years old or older at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and

(b) admitted to a detention facility for the alleged commission of the offense.

(2) The juvenile court shall order a minor who is 14 years old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility or a local law enforcement agency if the minor is:

(a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18

years old or older; or

(b) adjudicated for an offense that would be a felony if the minor were 18 years old or older and the minor was not admitted to a detention facility.

(3) The juvenile court shall take a photograph of a minor who is:

(a) 14 years old or older at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and

(b) adjudicated for the offense described in Subsection (3)(a).

(4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.

(5) Except for an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:

(a) the victim;

(b) the parent or guardian of a victim who is younger than 14 years old; or

(c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201.

(6) Except for an offense under Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420, HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses:

(a) upon the request of:

(i) the victim;

(ii) the parent or guardian of a victim who is younger than 14 years old; or

(iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201; and

(b) in which:

(i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.

(7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger

than 14 years old without the consent of the juvenile court.

(8)(a) Photographs taken under this section may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary; and

(iii) the division.

(b) Fingerprints may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary;

(iii) the division; and

(iv) agencies participating in the Western Identification Network.

(9)(a) A DNA specimen shall be obtained from a minor who is adjudicated by the juvenile court as described in Subsection 53-10-403(1)(e).

(b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:

(i) designated employees of the juvenile court; or

(ii) if the minor is committed to the division, designated employees of the division.

(c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Section 531. Section **80-6-707** is amended to read:

80-6-707 . Suspension of driving privileges.

(1) This section applies to a minor who:

(a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and

(b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2)(a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

(i) suspend the minor's driving privileges; and

(ii) take possession of the minor's driver license.

(b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.

(c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

(i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and

(ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a)(i) the violation is the minor's first violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(F) Subsection 76-5-102.1(2)(b);

(G) Subsection 76-5-207(2)(b); or

(H) Subsection [~~76-9-701(1)~~] 76-9-110(2); and

(ii)(A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment; or

(b)(i) the violation is the minor's second or subsequent violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(F) Subsection 76-5-102.1(2)(b);

(G) Subsection 76-5-207(2)(b); or

(H) Subsection [~~76-9-701(1)~~] 76-9-110(2);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii)(A) the minor is 18 years old or older and provides a sworn statement to the

juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or

(B) the minor is under 18 years old and the minor's parent or guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4)(a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

(i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii)(A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii)(A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

(B) the minor is under 18 years old and has the minor's parent or guardian provide

an affidavit or sworn statement to the court certifying that to the parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).

(5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

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

Section 532. Section **80-6-712** is amended to read:

80-6-712 . Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2)(a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4)(a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) the minor has not completed community or compensatory service hours;

(iv) there is an outstanding fine; or

(v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

(a) one time for no more than three months; and

(b) as intake probation.

(7)(a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

(A) extend jurisdiction up to four times for no more than three months at a time;

(B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and

(C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the

juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

(8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm;

(p)(i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

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

Section 533. Section **80-6-804** is amended to read:

80-6-804 . Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2)(a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.

(c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.

(f) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(g) Records under Subsection (2)(f) shall be tracked in the data system used by the

juvenile court and the division.

(h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:

(i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or

(ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.

(3)(a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay

parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section [~~76-10-508.1~~] 76-11-208, felony discharge of a firearm;

(p)(i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.

Section 534. Section **80-6-1002** is amended to read:

80-6-1002 . Vacatur of an adjudication.

(1)(a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:

(i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;

(ii) Section [~~76-10-1302~~] 76-5d-202, prostitution; or

(iii) Section [~~76-10-1304~~] 76-5d-206, aiding prostitution[~~; or~~] .

[~~(iv) Section 76-10-1313, sexual solicitation.~~]

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any records related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the prosecuting attorney.

(2)(a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:

(A) that a petition has been filed; and

(B) of the date of the hearing.

(b)(i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other

person who may have relevant information about the petitioner may testify.

(3)(a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication.

(b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

(c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

(4) If the petition seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

(5)(a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(6)(a) The petitioner shall be responsible for service of the vacatur and expungement order to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7)(a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

(ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.

(b) Upon petition, any record expunged under this section may only be released to or

viewed by:

(i) the individual who is the subject of the record; or

(ii) a person named in the petition of vacatur.

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

Section 535. Section **80-6-1004.1** is amended to read:

80-6-1004.1 . Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.

(1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:

(a) the individual was adjudicated for an offense in the juvenile court;

(b) the individual has reached 18 years old; and

(c) at least one year has passed from the day on which:

(i) the juvenile court's continuing jurisdiction was terminated; or

(ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.

(2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:

(a) the age requirement under Subsection (1)(b) for a petition; or

(b) the one-year requirement under Subsection (1)(c) for a petition.

(4)(a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(i) set a date for a hearing; and

(ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:

(A) that the petition has been filed; and

(B) of the date of the hearing.

(b)(i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).

(ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is

scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.

(c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(d) The juvenile court may waive the hearing for the petition if:

(i)(A) there is no victim; or

(B) if there is a victim, the victim agrees to the waiver; and

(ii) the prosecuting attorney agrees to the waiver.

(5)(a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).

(b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

(i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;

(ii) the petitioner's response to programs and treatment;

(iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;

(iv) the petitioner's behavior subsequent to adjudication;

(v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and

(vi) if the petitioner is a restricted person under Subsection [~~76-10-503(1)(a)(iv) or (b)(iii)~~] 76-11-302(1)(a)(iv) or (1)(b)(iii):

(A) whether the offense for which the petitioner is a restricted person was committed with a weapon;

(B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and

(C) the amount of time that has passed since the adjudication of the offense for

which the petitioner is a restricted person.

(6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:

(a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;

(b) there are delinquency or criminal proceedings pending against the petitioner;

(c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;

(d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or

(e) the petitioner's juvenile record contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

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

Section 536. Section **80-6-1004.5** is amended to read:

80-6-1004.5 . Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section 41-6a-502, driving under the influence;

(b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section 76-5-206, negligent homicide;

(d) Section [~~76-9-702.1~~] 76-5-418, sexual battery;

(e) Section [~~76-10-505.5~~] 76-11-204, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(f) Section [~~76-10-509.4~~] 76-11-209, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were

completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old;

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and

(b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section 537. Section **81-9-202** is amended to read:

81-9-202 . Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern a custody and parent-time arrangement between parents.

(2) A parent-time schedule mutually agreed upon by both parents is preferable to a court-imposed solution.

(3) A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.

(4) Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

(5)(a) The court shall determine the responsibility for the pick up, delivery, and return of the minor child when the parent-time order is entered.

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

(c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the minor child ready for parent-time at the time the minor child is to be picked up ; and

(ii) be present at the custodial home or make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.

(d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the minor child; and

(ii) have the minor child ready to be picked up at the appointed time and place or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.

(6) A parent may not interrupt regular school hours for a school-age minor child for the exercise of parent-time.

(7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 81-9-302 and 81-9-304.

(8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

(9) A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

(10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored.

(b) The noncustodial parent is entitled to attend and participate fully in the functions described in Subsection (10)(a).

(c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records.

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

(11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

(12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available.

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably availableby taking into consideration:

(i) the best interests of the minor child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(13)(a) Parental care is presumed to be better care for the minor child than surrogate care.

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the minor child, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

(14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

(15)(a) Each parent is entitled to an equal division of major religious holidays celebrated by the parents.

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the minor child on the religious holiday.

(16) If the minor child is on a different parent-time schedule than a sibling, based on Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

(17)(a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to this part.

(b) Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the minor child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against

a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses, other than an offense under Section 76-5-417, 76-5-418, or 76-5-419;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (18)(b)(iii)(A) through (D).

(19)(a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 538. Section **81-9-204** is amended to read:

81-9-204 . Custody and parent-time of a minor child -- Custody factors -- Preferences.

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 81-9-104, evidence of domestic

violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the minor child to:

(i) pornography; or

(ii) material harmful to minors, as "material" and "harmful to minors" are defined in Section [~~76-10-1201~~] 76-5c-101; and

(c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

(4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

(a) evidence of psychological maltreatment;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) the past conduct and demonstrated moral character of the parent as described in Subsection (9);

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) the parent's reason for having relinquished custody or parent-time in the past;

(h) duration and depth of desire for custody or parent-time;

(i) the parent's religious compatibility with the minor child;

(j) the parent's financial responsibility;

(k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;

(l) who has been the primary caretaker of the minor child;

(m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

(n) the relative benefit of keeping siblings together;

(o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

(p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and

(q) any other factor the court finds relevant.

(5)(a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.

(b)(i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.

(ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.

(c)(i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the interview shall be conducted by the court in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.

(6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish:

(a) a preference for either parent solely because of the gender of the parent; or

(b) a preference for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the minor child.

(8) When an issue before the court involves custodial responsibility in the event of a deployment of a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(9) In considering the past conduct and demonstrated moral standards of each party under Subsection (4)(d) or any other factor a court finds relevant, the court may not:

(a)(i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(ii) discriminate against a parent because of the parent's status as a:

(A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:

(i) assertion that the minor child's gender identity is different from the minor child's biological sex; or

(ii) practice of having or expressing a different gender identity than the minor child's biological sex.

(10)(a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.

(b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.

(c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

(d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.

(11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:

(a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and

(c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

(12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:

(a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or

(b) after the date of the conviction, the convicted parent and the nonconvicted parent

cohabit and establish a mutual custodial environment for the minor child.

(13) A denial of custody or parent-time under Subsection (12) does not:

(a) terminate the parental rights of the parent denied parent-time or custody; or

(b) affect the obligation of the convicted parent to financially support the minor child.

Section 539. Section **81-9-208** is amended to read:

81-9-208 . Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child; and

(b) knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses, other than an offense under Section 76-5-417, 76-5-418, or 76-5-419;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (2)(b)(iii)(A) through (D).

(3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that

established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and

(c)(i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 81-9-205(8); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(4)(a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors described in Sections 81-9-204 and 81-9-205.

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a substantial and material change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.

(5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Section 81-9-204.

(6) The court may modify the terms and conditions of the existing order in accordance with this chapter and may order the parents to file a parenting plan in accordance with Section 81-9-203.

(7) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with

Section 81-9-203.

(8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(9) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(10) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.

(11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 540. **Repealer.**

This bill repeals:

Section **76-5b-101, Title.**

Section **76-9-406, Injunctive relief against privacy offenses -- Damages.**

Section **76-9-505, Libelous matter not privileged.**

Section **76-9-801, Title.**

Section **76-9-901, Title.**

Section **76-9-902, Definitions.**

Section **76-9-906, Protection of constitutional rights.**

Section **76-9-907, Training for participating law enforcement officers.**

Section **76-9-1001, Title.**

Section **76-10-404, Exemptions.**

Section **76-10-405, Reimbursement of government response expenses.**

Section **76-10-500, Uniform law.**

Section **76-10-512, Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.**

Section **76-10-521, Unlawful marking of pistol or revolver.**

Section **76-10-604, Violations -- Classification of offense.**

Section **76-10-803, "Public nuisance" defined -- Agricultural operations -- Critical infrastructure materials operations.**

Section **76-10-1008, Inspections by trade commission.**

Section **76-10-1009, Violation as unfair trade practice and unfair competition -- Investigation and enforcement proceedings by trade commission.**

Section **76-10-1010, Action by law enforcement agencies on complaints.**

Section **76-10-1101.5, General culpability requirement applicable.**

Section **76-10-1106, Duty of prosecuting attorney or law enforcement officer to prosecute offenses.**

Section **76-10-1108, Seizure and disposition of gambling debts or proceeds.**

Section **76-10-1218, Qualification for exhibition and distribution of films required.**

Section **76-10-1221, Service of process, notice, or demand on registered agent of film distributor.**

Section **76-10-1224, Defense to prosecution for distribution or exhibition of pornographic film -- Status as projectionist or other employee no defense.**

Section **76-10-1225, Prosecution of pornographic film violations by county attorney, district attorney, or city attorney.**

Section **76-10-1226, Exemptions from application of film distribution act.**

Section **76-10-1227, Indecent public displays -- Definitions.**

Section **76-10-1229.5, Breast feeding is not violation of this part.**

Section **76-10-1234, Rulemaking authority.**

Section **76-10-1308, Prosecution.**

Section **76-10-1310, Definitions.**

Section **76-10-1501, Short title.**

Section **76-10-1502, Legislative findings.**

Section **76-10-1511, Cumulative and supplemental nature of act.**

Section **76-10-1601, Short title.**

Section **76-10-1603.5, Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions -- Dissolution or reorganization -- Prior restraint.**

Section **76-10-1901, Short title.**

Section **76-10-1904, Money laundering -- Penalty.**

Section **76-10-1907, Separate offenses.**

Section **76-10-2001, Definitions.**

Section **76-10-2401, Definitions.**

Section **76-10-2702, Penalty for littering on a park, recreation area, waterway, or other public or private land.**

Section **76-10-3003, Corporation guilty of unfair discrimination -- Action by attorney general.**

Section **76-10-3004, Penalty for violation.**

Section **76-10-3101, Title.**

Section **76-10-3113, Conviction as prima facie evidence in action for injunctive relief or damages.**

Section **76-10-3118, Interpretation of act.**

Section 541. **Effective Date.**

This bill takes effect on May 7, 2025.