

HEALTH AND HUMAN SERVICES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: Steve Eliason

LONG TITLE

Committee Note:

The Health and Human Services Interim Committee recommended this bill.

Legislative Vote: 16 voting for 0 voting against 3 absent

General Description:

This bill clarifies and amends portions of the code effecting the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- ▶ makes technical and corresponding amendments; and
- ▶ repeals certain provisions that are no longer needed following the 2023 recodification.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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



28 Coordination Clause, Laws of Utah 2023, Chapter 307
29 **4-41a-1102**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
30 amended by Laws of Utah 2023, Chapters 273, 307 and last amended by
31 Coordination Clause, Laws of Utah 2023, Chapter 307
32 **4-41a-1202**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
33 amended by Laws of Utah 2023, Chapters 273, 307 and last amended by
34 Coordination Clause, Laws of Utah 2023, Chapter 307
35 **17-43-301**, as last amended by Laws of Utah 2023, Chapters 15, 327
36 **26B-1-202**, as last amended by Laws of Utah 2023, Chapter 302
37 **26B-1-204 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters
38 249, 305
39 **26B-1-204 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 249,
40 305 and 310
41 **26B-1-207**, as last amended by Laws of Utah 2023, Chapter 272
42 **26B-1-237**, as renumbered and amended by Laws of Utah 2023, Chapter 305
43 **26B-1-324**, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and
44 amended by Laws of Utah 2023, Chapter 305
45 **26B-1-414**, as last amended by Laws of Utah 2023, Chapter 249 and renumbered and
46 amended by Laws of Utah 2023, Chapter 305
47 **26B-1-421**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
48 and amended by Laws of Utah 2023, Chapter 305
49 **26B-1-422.1**, as enacted by Laws of Utah 2023, Chapter 269 and last amended by
50 Coordination Clause, Laws of Utah 2023, Chapter 305
51 **26B-1-435**, as enacted by Laws of Utah 2023, Chapter 273
52 **26B-1-435.1**, as enacted by Laws of Utah 2023, Chapter 273
53 **26B-1-502**, as renumbered and amended by Laws of Utah 2023, Chapter 305
54 **26B-2-101**, as last amended by Laws of Utah 2023, Chapter 305
55 **26B-2-103**, as renumbered and amended by Laws of Utah 2023, Chapter 305
56 **26B-2-104**, as renumbered and amended by Laws of Utah 2023, Chapter 305
57 **26B-2-120**, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and
58 amended by Laws of Utah 2023, Chapter 305

59 **26B-2-122**, as renumbered and amended by Laws of Utah 2023, Chapter 305
60 **26B-2-128**, as renumbered and amended by Laws of Utah 2023, Chapter 305
61 **26B-2-201**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
62 amended by Laws of Utah 2023, Chapter 305
63 **26B-2-202**, as renumbered and amended by Laws of Utah 2023, Chapter 305
64 **26B-2-204**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
65 amended by Laws of Utah 2023, Chapter 305
66 **26B-2-238**, as renumbered and amended by Laws of Utah 2023, Chapter 305
67 **26B-2-239**, as renumbered and amended by Laws of Utah 2023, Chapter 305
68 **26B-2-240**, as renumbered and amended by Laws of Utah 2023, Chapter 305
69 **26B-2-241 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
70 2023, Chapter 305
71 **26B-2-241 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 310
72 and renumbered and amended by Laws of Utah 2023, Chapter 305
73 **26B-3-114**, as renumbered and amended by Laws of Utah 2023, Chapter 306
74 **26B-3-212**, as last amended by Laws of Utah 2023, Chapter 316 and renumbered and
75 amended by Laws of Utah 2023, Chapter 306
76 **26B-4-118 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
77 2023, Chapter 307
78 **26B-4-136 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 16
79 and renumbered and amended by Laws of Utah 2023, Chapter 307
80 **26B-4-152 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
81 2023, Chapter 307
82 **26B-4-154 (Superseded 07/01/24)**, as renumbered and amended by Laws of Utah
83 2023, Chapter 307
84 **26B-4-201**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
85 and amended by Laws of Utah 2023, Chapter 307
86 **26B-4-202**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered
87 and amended by Laws of Utah 2023, Chapter 307 and last amended by
88 Coordination Clause, Laws of Utah 2023, Chapter 307
89 **26B-4-213**, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered

90 and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause,
91 Laws of Utah 2023, Chapter 307

92 **26B-4-214**, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and
93 amended by Laws of Utah 2023, Chapter 307

94 **26B-4-222**, as last amended by Laws of Utah 2023, Chapters 273, 281 and renumbered
95 and amended by Laws of Utah 2023, Chapter 307

96 **26B-4-245**, as enacted by Laws of Utah 2023, Chapter 273

97 **26B-4-701**, as renumbered and amended by Laws of Utah 2023, Chapter 307

98 **26B-5-101**, as last amended by Laws of Utah 2023, Chapter 308

99 **26B-5-403**, as renumbered and amended by Laws of Utah 2023, Chapter 308

100 **26B-6-401**, as renumbered and amended by Laws of Utah 2023, Chapter 308

101 **26B-7-213**, as renumbered and amended by Laws of Utah 2023, Chapter 308

102 **26B-7-215**, as renumbered and amended by Laws of Utah 2023, Chapter 308

103 **26B-8-201**, as renumbered and amended by Laws of Utah 2023, Chapter 306

104 **26B-8-202**, as renumbered and amended by Laws of Utah 2023, Chapter 306

105 **26B-8-203**, as renumbered and amended by Laws of Utah 2023, Chapter 306

106 **26B-8-205**, as renumbered and amended by Laws of Utah 2023, Chapter 306

107 **26B-8-207**, as renumbered and amended by Laws of Utah 2023, Chapter 306

108 **26B-8-210**, as renumbered and amended by Laws of Utah 2023, Chapter 306

109 **26B-8-217**, as renumbered and amended by Laws of Utah 2023, Chapter 306

110 **26B-8-221**, as renumbered and amended by Laws of Utah 2023, Chapter 306

111 **26B-8-223**, as renumbered and amended by Laws of Utah 2023, Chapter 306

112 **26B-8-225**, as renumbered and amended by Laws of Utah 2023, Chapter 306

113 **26B-8-227**, as renumbered and amended by Laws of Utah 2023, Chapter 306

114 **26B-8-229**, as renumbered and amended by Laws of Utah 2023, Chapter 306

115 **53-2d-404 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
116 Chapters 307, 310

117 **53-2d-503 (Effective 07/01/24)**, as renumbered and amended by Laws of Utah 2023,
118 Chapters 307, 310

119 **53-2d-703 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 16
120 and renumbered and amended by Laws of Utah 2023, Chapters 307, 310

121 [53-10-404](#), as last amended by Laws of Utah 2021, Chapter 262
122 [53-10-407](#), as last amended by Laws of Utah 2021, Chapter 262
123 [53E-10-301](#), as last amended by Laws of Utah 2021, Chapter 379
124 [53G-8-211](#), as last amended by Laws of Utah 2023, Chapter 161
125 [53G-8-213](#), as enacted by Laws of Utah 2023, Chapter 161
126 [53G-10-406](#), as last amended by Laws of Utah 2022, Chapter 447
127 [58-17b-309.7](#), as last amended by Laws of Utah 2023, Chapter 328
128 [58-17b-620](#), as last amended by Laws of Utah 2023, Chapter 328
129 [63B-3-102](#), as last amended by Laws of Utah 2014, Chapter 196
130 [63B-3-301](#), as last amended by Laws of Utah 2023, Chapter 369
131 [63B-4-102](#), as last amended by Laws of Utah 2014, Chapter 196
132 [63B-11-702](#), as last amended by Laws of Utah 2003, Chapter 171
133 [63I-1-226 \(Superseded 07/01/24\)](#), as last amended by Laws of Utah 2023, Chapters
134 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of
135 Utah 2023, Chapter 329
136 [63I-1-226 \(Effective 07/01/24\)](#), as last amended by Laws of Utah 2023, Chapters 249,
137 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of
138 Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah
139 2023, Chapters 329, 332
140 [63M-7-208](#), as last amended by Laws of Utah 2023, Chapter 161
141 [63M-7-401](#), as last amended by Laws of Utah 2021, Chapter 173
142 [63M-7-601](#), as last amended by Laws of Utah 2023, Chapter 150
143 [63M-7-702](#), as last amended by Laws of Utah 2023, Chapter 150
144 [63M-7-802](#), as enacted by Laws of Utah 2023, Chapter 155
145 [67-5b-101](#), as last amended by Laws of Utah 2016, Chapter 290
146 [76-3-401.5](#), as enacted by Laws of Utah 2021, Chapter 37 and last amended by
147 Coordination Clause, Laws of Utah 2021, Chapter 261
148 [76-5-101](#), as last amended by Laws of Utah 2022, Chapter 181
149 [76-5-413](#), as last amended by Laws of Utah 2022, Chapters 181, 255
150 [76-8-311.5](#), as renumbered and amended by Laws of Utah 2021, Chapter 261
151 [77-16b-102](#), as last amended by Laws of Utah 2021, Chapter 262

- 152 **77-38-3**, as last amended by Laws of Utah 2023, Chapter 426
- 153 **77-41-102 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapter 123
- 154 **77-41-102 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 123,
- 155 128
- 156 **78A-6-212**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 157 **78B-7-804**, as last amended by Laws of Utah 2023, Chapters 237, 426
- 158 **78B-7-805**, as last amended by Laws of Utah 2021, Chapter 159 and last amended by
- 159 Coordination Clause, Laws of Utah 2021, Chapter 159
- 160 **78B-24-307**, as last amended by Laws of Utah 2023, Chapter 330
- 161 **78B-24-308**, as last amended by Laws of Utah 2023, Chapter 330
- 162 **80-2-301**, as last amended by Laws of Utah 2023, Chapter 280
- 163 **80-2-703**, as renumbered and amended by Laws of Utah 2022, Chapter 334
- 164 **80-2-1001**, as last amended by Laws of Utah 2023, Chapters 309, 330
- 165 **80-2-1002**, as last amended by Laws of Utah 2023, Chapter 330
- 166 **80-5-102**, as last amended by Laws of Utah 2022, Chapter 255
- 167 **80-5-103**, as renumbered and amended by Laws of Utah 2021, Chapter 261
- 168 **80-5-401**, as last amended by Laws of Utah 2023, Chapter 93
- 169 **80-6-102**, as last amended by Laws of Utah 2022, Chapter 155

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

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

173 **4-41a-102. Definitions.**

174 As used in this chapter:

- 175 (1) "Adulterant" means any poisonous or deleterious substance in a quantity that may
- 176 be injurious to health, including:
- 177 (a) pesticides;
- 178 (b) heavy metals;
- 179 (c) solvents;
- 180 (d) microbial life;
- 181 (e) artificially derived cannabinoid;
- 182 (f) toxins; or

183 (g) foreign matter.

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

186 (a) to the public; and

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

188 [~~2~~] (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created
189 in Section [26B-1-435](#).

190 [~~3~~] (4) (a) "Artificially derived cannabinoid" means a chemical substance that is
191 created by a chemical reaction that changes the molecular structure of any chemical substance
192 derived from the cannabis plant.

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

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

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

198 [~~4~~] (5) "Cannabis Research Review Board" means the Cannabis Research Review
199 Board created in Section [26B-1-420](#).

200 [~~5~~] (6) "Cannabis" means the same as that term is defined in Section [26B-4-201](#).

201 [~~6~~] (7) "Cannabis concentrate" means:

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

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

206 [~~7~~] (8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is
207 not intended to be sold as a cannabis plant product.

208 [~~8~~] (9) "Cannabis cultivation facility" means a person that:

209 (a) possesses cannabis;

210 (b) grows or intends to grow cannabis; and

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

213 [~~9~~] (10) "Cannabis cultivation facility agent" means an individual who:

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

216 ~~[(10)]~~ (11) "Cannabis derivative product" means a product made using cannabis
217 concentrate.

218 ~~[(11)]~~ (12) "Cannabis plant product" means any portion of a cannabis plant intended to
219 be sold in a form that is recognizable as a portion of a cannabis plant.

220 ~~[(12)]~~ (13) "Cannabis processing facility" means a person that:

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

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

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

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

227 ~~[(13)]~~ (14) "Cannabis processing facility agent" means an individual who:

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

230 ~~[(14)]~~ (15) "Cannabis product" means the same as that term is defined in Section
231 [26B-4-201](#).

232 ~~[(15)]~~ (16) "Cannabis production establishment" means a cannabis cultivation facility,
233 a cannabis processing facility, or an independent cannabis testing laboratory.

234 ~~[(16)]~~ (17) "Cannabis production establishment agent" means a cannabis cultivation
235 facility agent, a cannabis processing facility agent, or an independent cannabis testing
236 laboratory agent.

237 ~~[(17)]~~ (18) "Cannabis production establishment agent registration card" means a
238 registration card that the department issues that:

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

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

242 ~~[(18)]~~ (19) "Community location" means a public or private elementary or secondary
243 school, a church, a public library, a public playground, or a public park.

244 ~~[(19)]~~ (20) "Cultivation space" means, quantified in square feet, the horizontal area in

245 which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area
246 if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above
247 other plants in multiple levels.

248 ~~[(20)]~~ (21) "Delivery address" means:

249 (a) for a medical cannabis cardholder who is not a facility, the medical cannabis
250 cardholder's home address; or

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

252 ~~[(21)]~~ (22) "Department" means the Department of Agriculture and Food.

253 ~~[(22)]~~ (23) "Family member" means a parent, step-parent, spouse, child, sibling,
254 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
255 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

256 ~~[(23)]~~ (24) "Home delivery medical cannabis pharmacy" means a medical cannabis
257 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
258 cannabis shipments to a delivery address to fulfill electronic orders that the state central patient
259 portal facilitates.

260 ~~[(24)]~~ (25) (a) "Independent cannabis testing laboratory" means a person that:

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

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

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

266 ~~[(25)]~~ (26) "Independent cannabis testing laboratory agent" means an individual who:
267 holds a valid cannabis production establishment agent registration card with an
268 independent cannabis testing laboratory designation.

269 ~~[(26)]~~ (27) "Inventory control system" means a system described in Section [4-41a-103](#).

270 ~~[(27)]~~ (28) "Licensing board" or "board" means the Cannabis Production Establishment
271 Licensing Advisory Board created in Section [4-41a-201.1](#).

272 ~~[(28)]~~ (29) "Medical cannabis" means the same as that term is defined in Section
273 [26B-4-201](#).

274 ~~[(29)]~~ (30) "Medical cannabis card" means the same as that term is defined in Section
275 [26B-4-201](#).

276 [~~(30)~~] (31) "Medical cannabis courier" means a courier that:

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

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

280 [~~(31)~~] (32) "Medical cannabis courier agent" means an individual who:

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

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

283 [~~(32)~~] (33) "Medical cannabis pharmacy" means the same as that term is defined in
284 Section 26B-4-201.

285 [~~(33)~~] (34) "Medical cannabis pharmacy agent" means the same as that term is defined
286 in Section 26B-4-201.

287 [~~(34)~~] (35) "Medical cannabis research license" means a license that the department
288 issues to a research university for the purpose of obtaining and possessing medical cannabis for
289 academic research.

290 [~~(35)~~] (36) "Medical cannabis research licensee" means a research university that the
291 department licenses to obtain and possess medical cannabis for academic research, in
292 accordance with Section 4-41a-901.

293 [~~(36)~~] (37) "Medical cannabis shipment" means a shipment of medical cannabis or a
294 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
295 cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order
296 that the state central patient portal facilitates.

297 [~~(37)~~] (38) "Medical cannabis treatment" means the same as that term is defined in
298 Section 26B-4-201.

299 [~~(38)~~] (39) "Medicinal dosage form" means the same as that term is defined in Section
300 26B-4-201.

301 [~~(39)~~] (40) "Pharmacy medical provider" means the same as that term is defined in
302 Section 26B-4-201.

303 [~~(40)~~] (41) "Qualified medical provider" means the same as that term is defined in
304 Section 26B-4-201.

305 [~~(41)~~] (42) "Qualified Production Enterprise Fund" means the fund created in Section
306 4-41a-104.

307 [~~(42)~~] (43) "Recommending medical provider" means the same as that term is defined
308 in Section 26B-4-201.

309 [~~(43)~~] (44) "Research university" means the same as that term is defined in Section
310 53B-7-702 and a private, nonprofit college or university in the state that:

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

315 [~~(44)~~] (45) "State electronic verification system" means the system described in Section
316 26B-4-202.

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

320 (a) electronic communication to an individual who is at least 21 years old and has
321 requested to receive promotional information from the medical cannabis pharmacy;

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

323 (i) held inside a medical cannabis pharmacy; and

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

325 (c) other marketing material that is physically available or digitally displayed in:

326 (i) a medical cannabis pharmacy; and

327 (ii) an area where only a medical cannabis cardholder has access.

328 [~~(45)~~] (47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in
329 Section 4-41-102.

330 [~~(46)~~] (48) "THC analog" means the same as that term is defined in Section 4-41-102.

331 [~~(47)~~] (49) "Total composite tetrahydrocannabinol" means all detectable forms of
332 tetrahydrocannabinol.

333 [~~(48)~~] (50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is
334 defined in Section 4-41-102.

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

336 **4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.**

337 (1) A person may not operate as a medical cannabis pharmacy without a license that

338 the department issues under this part.

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

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

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

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

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

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

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

353 (C) has the power to direct or cause the management or control of a proposed medical
354 cannabis pharmacy;

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

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

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

360 (iv) an operating plan that:

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

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

365 (C) the department approves;

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

368 (vi) a description of any investigation or adverse action taken by any licensing

369 jurisdiction, government agency, law enforcement agency, or court in any state for any
370 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
371 or businesses.

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

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

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

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

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

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

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

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

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

393 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
394 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

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

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

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

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

403 (i) a felony; or

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

405 (b) is younger than 21 years old; or

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

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

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

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

415 (ii) the department finds multiple other factors, in addition to the existing license, that
416 support granting the new license.

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

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

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

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

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

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

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

431 or adverse action;

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

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

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

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

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

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

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

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

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

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

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

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

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

462 10 business days before the date of any change of ownership of the medical cannabis
463 pharmacy.

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

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

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

469 (A) conduct an application review; and

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

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

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

479 **4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
480 **Reporting -- Form of cannabis or cannabis product.**

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

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

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

488 (iii) a medical cannabis device; or

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

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

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

493 (B) a Department of Health and Human Services registration described in Subsection
494 26B-4-213(10); and

495 (ii) a corresponding government issued photo identification.

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

498 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
499 medical cannabis device or medical cannabis product to an individual described in Subsection
500 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213(2)(c) unless the
501 individual or minor has the approval of the Compassionate Use Board in accordance with
502 Subsection 26B-1-421(5).

503 (2) A medical cannabis pharmacy:

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

506 (i) unprocessed cannabis that:

507 (A) is in a medicinal dosage form; and

508 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
509 cannabidiol in the cannabis; and

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

511 (b) may not dispense:

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

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

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

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

522 (B) if the verification in Subsection (3)(a)(i) indicates that the individual has met the
523 maximum amount described in Subsection (2), decline the sale, and notify the recommending

524 medical provider who made the underlying recommendation;

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

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

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

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

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

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

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

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

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

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

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

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

554 (b) A medical cannabis pharmacy may give, at no cost, educational material related to

555 the medical use of cannabis.

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

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

560 **4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis**
561 **couriers -- License.**

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

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

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

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

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

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

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

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

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

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

585 (a) charge the applicant an initial license fee in an amount that, subject to Subsection

586 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

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

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

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

592 (i) a felony; or

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

594 (b) is younger than 21 years old.

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

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

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

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

601 (i) a felony; or

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

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

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

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

610 [(9)] (8) The department's authority to issue a license under this section is plenary and
611 is not subject to review.

612 [(10)] (9) Each applicant for a license as a medical cannabis courier shall submit, at the
613 time of application, from each individual who has a financial or voting interest of 10% or
614 greater in the applicant or who has the power to direct or cause the management or control of
615 the applicant:

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

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

620 (c) consent to a fingerprint background check by:

621 (i) the Bureau of Criminal Identification; and

622 (ii) the Federal Bureau of Investigation.

623 [~~(11)~~] (10) The Bureau of Criminal Identification shall:

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

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

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

631 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
632 Generation Identification System's Rap Back Service for search by future submissions to
633 national criminal records databases, including the Next Generation Identification System and
634 latent prints; and

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

638 [~~(12)~~] (11) The department shall:

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

642 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal
643 Identification.

644 [~~(13)~~] (12) The department shall renew a license under this section every year if, at the
645 time of renewal:

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

647 (b) the licensee pays the department a license renewal fee in an amount that, subject to

648 Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

649 ~~[(14)]~~ (13) A person applying for a medical cannabis courier license shall submit to the
650 department a proposed operating plan that complies with this section and that includes:

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

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

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

656 (d) a security plan; and

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

660 ~~[(15)]~~ (14) (a) A medical cannabis courier license is not ~~[transferrable]~~ transferable or
661 assignable.

662 (b) A medical cannabis courier shall report in writing to the department no later than
663 10 business days before the date of any change of ownership of the medical cannabis courier.

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

665 (i) concurrent with the report described in Subsection (15)(b), the medical cannabis
666 courier shall submit a new application described in Subsection (3)(b);

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

668 (A) conduct an application review; and

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

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

677 ~~[(16)]~~ (15) (a) Except as provided in Subsection(16)(b), a person may not advertise
678 regarding the transportation of medical cannabis.

679 (b) Notwithstanding Subsection (15)(a) and subject to Section 4-41a-109, a licensed
680 home delivery medical cannabis pharmacy or a licensed medical cannabis courier may
681 advertise:

- 682 (i) a green cross;
- 683 (ii) the pharmacy's or courier's name and logo; and
- 684 (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

685 Section 5. Section 17-43-301 is amended to read:

686 **17-43-301. Local mental health authorities -- Responsibilities.**

687 (1) As used in this section:

688 (a) "Assisted outpatient treatment" means the same as that term is defined in Section
689 26B-5-301.

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

691 (c) "Local mental health crisis line" means the same as that term is defined in Section
692 26B-5-610.

693 (d) "Mental health therapist" means the same as that term is defined in Section
694 58-60-102.

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

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

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

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

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

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

- 708 (i) provide mental health services to individuals within the county; and
- 709 (ii) cooperate with efforts of the division to promote integrated programs that address

710 an individual's substance use, mental health, and physical healthcare needs, as described in
711 Section [26B-5-102](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

773 (iii) establish and maintain, either directly or by contract, programs licensed under Title
774 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

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

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

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

781 (vii) establish mechanisms allowing for direct citizen input;

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

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

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

789 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
790 Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title
791 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
792 Other Local Entities Act; and

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

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

798 (i) inpatient care and services;

799 (ii) residential care and services;

800 (iii) outpatient care and services;

801 (iv) 24-hour crisis care and services;

802 (v) psychotropic medication management;

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

804 (vii) case management;

805 (viii) community supports, including in-home services, housing, family support

806 services, and respite services;

807 (ix) consultation and education services, including case consultation, collaboration

808 with other county service agencies, public education, and public information; and

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

810 (7) (a) If a local mental health authority provides for a local mental health crisis line

811 under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local

812 mental health authority shall:

813 (i) collaborate with the statewide mental health crisis line described in Section

814 [26B-5-610](#);

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

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

817 (B) meets the standards of care and practice established by the Division of Integrated

818 Healthcare, in accordance with Section [26B-5-610](#); and

819 (iii) ensure that when necessary, based on the local mental health crisis line's capacity,

820 calls are immediately routed to the statewide mental health crisis line to ensure that when an

821 individual calls the local mental health crisis line, regardless of the time, date, or number of

822 individuals trying to simultaneously access the local mental health crisis line, a mental health

823 therapist or a crisis worker answers the call without the caller first:

824 (A) waiting on hold; or

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

826 worker.

827 (b) If a local mental health authority does not provide for a local mental health crisis

828 line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the

829 local mental health authority shall use the statewide mental health crisis line as a local crisis

830 line resource.

831 (8) Before disbursing any public funds, each local mental health authority shall require

832 that each entity that receives any public funds from a local mental health authority agrees in

833 writing that:

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

836 (i) the division;

837 (ii) the local mental health authority director;

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

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

841 (iv) the county legislative body; and

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

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

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

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

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

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

857 Section 6. Section 26B-1-202 is amended to read:

858 **26B-1-202. Department authority and duties.**

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

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

864 (2) establish and manage client trust accounts in the department's institutions and

865 community programs, at the request of the client or the client's legal guardian or representative,
866 or in accordance with federal law;

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

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

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

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

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

876 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
877 or limited by law;

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

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

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

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

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

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

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

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

896 (17) establish policy and procedures, within appropriations authorized by the
897 Legislature, in cases where the Division of Child and Family Services or the [~~Division of~~
898 ~~Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services is given custody of a
899 minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to
900 prepare an attainment plan for a minor found not competent to proceed under Section
901 [80-6-403](#), including:

902 (a) designation of interagency teams for each juvenile court district in the state;
903 (b) delineation of assessment criteria and procedures;
904 (c) minimum requirements, and timeframes, for the development and implementation
905 of a collaborative service plan for each minor placed in department custody; and
906 (d) provisions for submittal of the plan and periodic progress reports to the court;
907 (18) carry out the responsibilities assigned to the department by statute;
908 (19) examine and audit the expenditures of any public funds provided to a local
909 substance abuse authority, a local mental health authority, a local area agency on aging, and any
910 person, agency, or organization that contracts with or receives funds from those authorities or
911 agencies. Those local authorities, area agencies, and any person or entity that contracts with or
912 receives funds from those authorities or area agencies, shall provide the department with any
913 information the department considers necessary. The department is further authorized to issue
914 directives resulting from any examination or audit to a local authority, an area agency, and
915 persons or entities that contract with or receive funds from those authorities with regard to any
916 public funds. If the department determines that it is necessary to withhold funds from a local
917 mental health authority or local substance abuse authority based on failure to comply with state
918 or federal law, policy, or contract provisions, the department may take steps necessary to
919 ensure continuity of services. For purposes of this Subsection (19) "public funds" means the
920 same as that term is defined in Section [~~62A-15-102~~] [26B-5-101](#);

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

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

925 (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
926 (b) that encompasses the department, department contractors, and the divisions,

927 offices, or institutions within the department, to:

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

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

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

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

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

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

939 (22) ensure that any training or certification required of a public official or public
940 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
941 22, State Training and Certification Requirements, if the training or certification is required:

942 (a) under this title;

943 (b) by the department; or

944 (c) by an agency or division within the department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

985 (38) establish, maintain, and enforce a procedure requiring the blood of adult
986 pedestrians and drivers of motor vehicles killed in highway accidents be examined for the
987 presence and concentration of alcohol, and provide the Commissioner of Public Safety with
988 monthly statistics reflecting the results of these examinations, with necessary safeguards so that

989 information derived from the examinations is not used for a purpose other than the compilation
990 of these statistics;

991 (39) establish qualifications for individuals permitted to draw blood under Subsection
992 [41-6a-523\(1\)\(a\)\(vi\)](#), [53-10-405\(2\)\(a\)\(vi\)](#), [72-10-502\(5\)\(a\)\(vi\)](#), or [77-23-213\(3\)\(a\)\(vi\)](#), and to
993 issue permits to individuals the department finds qualified, which permits may be terminated or
994 revoked by the department;

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

999 (41) conduct health planning for the state;

1000 (42) monitor the costs of health care in the state and foster price competition in the
1001 health care delivery system;

1002 (43) establish methods or measures for health care providers, public health entities, and
1003 health care insurers to coordinate among themselves to verify the identity of the individuals the
1004 providers serve;

1005 (44) designate Alzheimer's disease and related dementia as a public health issue and,
1006 within budgetary limitations, implement a state plan for Alzheimer's disease and related
1007 dementia by incorporating the plan into the department's strategic planning and budgetary
1008 process;

1009 (45) coordinate with other state agencies and other organizations to implement the state
1010 plan for Alzheimer's disease and related dementia;

1011 (46) ensure that any training or certification required of a public official or public
1012 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
1013 22, State Training and Certification Requirements, if the training or certification is required by
1014 the agency or under this [~~title, Title 26, Utah Health Code, or Title 62A, Utah Human Services
1015 Code~~] Title 26;

1016 (47) oversee public education vision screening as described in Section [53G-9-404](#); and

1017 (48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue
1018 Alert.

1019 Section 7. Section **26B-1-204 (Superseded 07/01/24)** is amended to read:

1020 **26B-1-204 (Superseded 07/01/24). Creation of boards, divisions, and offices --**
1021 **Power to organize department.**

1022 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3,
1023 Utah Administrative Rulemaking Act, and not inconsistent with law for:

- 1024 (a) the administration and government of the department;
- 1025 (b) the conduct of the department's employees; and
- 1026 (c) the custody, use, and preservation of the records, papers, books, documents, and
1027 property of the department.

1028 (2) The following policymaking boards, councils, and committees are created within
1029 the Department of Health and Human Services:

- 1030 (a) Board of Aging and Adult Services;
- 1031 (b) Utah State Developmental Center Board;
- 1032 (c) Health Facility Committee;
- 1033 (d) State Emergency Medical Services Committee;
- 1034 (e) Air Ambulance Committee;
- 1035 (f) Health Data Committee;
- 1036 (g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- 1037 (h) Child Care Provider Licensing Committee;
- 1038 (i) Primary Care Grant Committee;
- 1039 (j) Adult Autism Treatment Program Advisory Committee;
- 1040 (k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
- 1041 (l) any boards, councils, or committees that are created by statute in this title.

1042 (3) The following divisions are created within the Department of Health and Human
1043 Services:

- 1044 (a) relating to operations:
 - 1045 (i) the Division of Finance and Administration;
 - 1046 (ii) the Division of Licensing and Background Checks;
 - 1047 (iii) the Division of Customer Experience;
 - 1048 (iv) the Division of Data, Systems, and Evaluation; and
 - 1049 (v) the Division of Continuous Quality and Improvement;
- 1050 (b) relating to healthcare administration:

- 1051 (i) the Division of Integrated Healthcare, which shall include responsibility for:
 1052 (A) the state's medical assistance programs; and
 1053 (B) behavioral health programs described in Chapter 5, Health Care - Substance Use
 1054 and Mental Health;
- 1055 (ii) the Division of Aging and Adult Services; and
 1056 (iii) the Division of Services for People with Disabilities; [~~and~~]
 1057 (c) relating to community health and well-being:
- 1058 (i) the Division of Child and Family Services;
 1059 (ii) the Division of Family Health;
 1060 (iii) the Division of Population Health;
 1061 (iv) the Division of Juvenile Justice and Youth Services; and
 1062 (v) the Office of Recovery Services[~~-~~]; and
 1063 (d) relating to clinical services, the Division of Health Access.
- 1064 (4) The executive director may establish offices [~~and bureaus~~] to facilitate management
 1065 of the department as required by, and in accordance with this title.
- 1066 (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the
 1067 organizational structure relating to the department, including the organization of the
 1068 department's divisions and offices, notwithstanding the organizational structure described in
 1069 this title.
- 1070 Section 8. Section **26B-1-204 (Effective 07/01/24)** is amended to read:
- 1071 **26B-1-204 (Effective 07/01/24). Creation of boards, divisions, and offices -- Power**
 1072 **to organize department.**
- 1073 (1) The executive director shall make rules in accordance with Title 63G, Chapter 3,
 1074 Utah Administrative Rulemaking Act, and not inconsistent with law for:
- 1075 (a) the administration and government of the department;
 1076 (b) the conduct of the department's employees; and
 1077 (c) the custody, use, and preservation of the records, papers, books, documents, and
 1078 property of the department.
- 1079 (2) The following policymaking boards, councils, and committees are created within
 1080 the Department of Health and Human Services:
- 1081 (a) Board of Aging and Adult Services;

- 1082 (b) Utah State Developmental Center Board;
- 1083 (c) Health Facility Committee;
- 1084 (d) Health Data Committee;
- 1085 (e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- 1086 (f) Child Care Provider Licensing Committee;
- 1087 (g) Primary Care Grant Committee;
- 1088 (h) Adult Autism Treatment Program Advisory Committee;
- 1089 (i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and
- 1090 (j) any boards, councils, or committees that are created by statute in this title.
- 1091 (3) The following divisions are created within the Department of Health and Human
- 1092 Services:
 - 1093 (a) relating to operations:
 - 1094 (i) the Division of Finance and Administration;
 - 1095 (ii) the Division of Licensing and Background Checks;
 - 1096 (iii) the Division of Customer Experience;
 - 1097 (iv) the Division of Data, Systems, and Evaluation; and
 - 1098 (v) the Division of Continuous Quality and Improvement;
 - 1099 (b) relating to healthcare administration:
 - 1100 (i) the Division of Integrated Healthcare, which shall include responsibility for:
 - 1101 (A) the state's medical assistance programs; and
 - 1102 (B) behavioral health programs described in Chapter 5, Health Care - Substance Use
 - 1103 and Mental Health;
 - 1104 (ii) the Division of Aging and Adult Services; and
 - 1105 (iii) the Division of Services for People with Disabilities; [~~and~~]
 - 1106 (c) relating to community health and well-being:
 - 1107 (i) the Division of Child and Family Services;
 - 1108 (ii) the Division of Family Health;
 - 1109 (iii) the Division of Population Health;
 - 1110 (iv) the Division of Juvenile Justice and Youth Services; and
 - 1111 (v) the Office of Recovery Services[-]; and
 - 1112 (d) relating to clinical services, the Division of Health Access.

1113 (4) The executive director may establish offices [~~and bureaus~~] to facilitate management
1114 of the department as required by, and in accordance with this title.

1115 (5) From July 1, 2022, through June 30, 2023, the executive director may adjust the
1116 organizational structure relating to the department, including the organization of the
1117 department's divisions and offices, notwithstanding the organizational structure described in
1118 this title.

1119 Section 9. Section **26B-1-207** is amended to read:

1120 **26B-1-207. Policymaking responsibilities -- Regulations for local health**
1121 **departments prescribed by department -- Local standards not more stringent than**
1122 **federal or state standards -- Consultation with local health departments -- Committee to**
1123 **evaluate health policies and to review federal grants.**

1124 (1) In establishing public health policy, the department shall consult with the local
1125 health departments established under Title 26A, Chapter 1, Local Health Departments.

1126 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1127 the department may prescribe by administrative rule made in accordance with Title 63G,
1128 Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent
1129 with law for a local health department as defined in Section [26A-1-102](#).

1130 (b) Except where specifically allowed by federal law or state statute, a local health
1131 department, as defined in Section [26A-1-102](#), may not establish standards or regulations that
1132 are more stringent than those established by federal law, state statute, or administrative rule
1133 adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1134 (c) Nothing in this Subsection (2), limits the ability of a local health department to
1135 make standards and regulations in accordance with Subsection [26A-1-121\(1\)\(a\)](#) for:

1136 (i) emergency rules made in accordance with Section [63G-3-304](#); or

1137 (ii) items not regulated under federal law, state statute, or state administrative rule.

1138 (3) (a) As used in this Subsection (3):

1139 (i) "Committee" means the committee established under Subsection (3)(b).

1140 (ii) "Exempt application" means an application for a federal grant that meets the
1141 criteria established under Subsection (3)(c)(iii).

1142 (iii) "Expedited application" means an application for a federal grant that meets the
1143 criteria established under Subsection (3)(c)(iv).

1144 (iv) "Federal grant" means a grant from the federal government that could provide
1145 funds for local health departments to help them fulfill their duties and responsibilities.

1146 (v) "Reviewable application" means an application for a federal grant that is not an
1147 exempt application.

1148 (b) The department shall establish a committee consisting of:

1149 (i) the executive director, or the executive director's designee;

1150 (ii) two representatives of the department, appointed by the executive director; and

1151 (iii) three representatives of local health departments, appointed by all local health
1152 departments.

1153 (c) The committee shall:

1154 (i) evaluate the allocation of public health resources between the department and local
1155 health departments, including whether funds allocated by contract were allocated in accordance
1156 with the formula described in Section 26A-1-116;

1157 (ii) evaluate policies and rules that affect local health departments in accordance with
1158 Subsection (3)(g);

1159 (iii) consider department policy and rule changes proposed by the department or local
1160 health departments;

1161 (iv) establish criteria by which an application for a federal grant may be judged to
1162 determine whether it should be exempt from the requirements under Subsection (3)(d); and

1163 (v) establish criteria by which an application for a federal grant may be judged to
1164 determine whether committee review under Subsection (3)(d)(i) should be delayed until after
1165 the application is submitted because the application is required to be submitted under a
1166 timetable that makes committee review before it is submitted impracticable if the submission
1167 deadline is to be met.

1168 (d) (i) The committee shall review the goals and budget for each reviewable
1169 application:

1170 (A) before the application is submitted, except for an expedited application; and

1171 (B) for an expedited application, after the application is submitted but before funds
1172 from the federal grant for which the application was submitted are disbursed or encumbered.

1173 (ii) Funds from a federal grant under a reviewable application may not be disbursed or
1174 encumbered before the goals and budget for the federal grant are established by~~[(A)]~~ a

1175 two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i);
 1176 or].

1177 ~~[(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of~~
 1178 ~~the health advisory council, after consultation with the committee in a manner that the~~
 1179 ~~committee determines.]~~

1180 (e) An exempt application is exempt from the requirements of Subsection (3)(d).

1181 (f) The department may use money from a federal grant to pay administrative costs
 1182 incurred in implementing this Subsection (3).

1183 (g) When evaluating a policy or rule that affects a local health department, the
 1184 committee shall determine:

1185 (i) whether the department has the authority to promulgate the policy or rule;

1186 (ii) an estimate of the cost a local health department will bear to comply with the policy
 1187 or rule;

1188 (iii) whether there is any funding provided to a local health department to implement
 1189 the policy or rule; and

1190 (iv) whether the policy or rule is still needed.

1191 (h) Before November 1 of each year, the department shall provide a report to the
 1192 Administrative Rules Review and General Oversight Committee regarding the determinations
 1193 made under Subsection (3)(g).

1194 Section 10. Section **26B-1-237** is amended to read:

1195 **26B-1-237. Office of Internal Audit.**

1196 The [Utah] Office of Internal Audit:

1197 (1) may not be placed within [the] a division;

1198 (2) shall be placed directly under, and report directly to, the executive director of the
 1199 Department of Health and Human Services; and

1200 (3) shall have full access to all records of the [division] department.

1201 Section 11. Section **26B-1-324** is amended to read:

1202 **26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation --**
 1203 **Administration -- Permitted uses -- Reporting.**

1204 (1) There is created a restricted account within the General Fund known as the
 1205 "Statewide Behavioral Health Crisis Response Account," consisting of:

1206 (a) money appropriated or otherwise made available by the Legislature; and
1207 (b) contributions of money, property, or equipment from federal agencies, political
1208 subdivisions of the state, or other persons.

1209 (2) (a) Subject to appropriations by the Legislature and any contributions to the account
1210 described in Subsection (1)(b), the division shall disburse funds in the account only for the
1211 purpose of support or implementation of services or enhancements of those services in order to
1212 rapidly, efficiently, and effectively deliver 988 services in the state.

1213 (b) Funds distributed from the account to county local mental health and substance
1214 abuse authorities for the provision of crisis services are not subject to the 20% county match
1215 described in Sections 17-43-201 and 17-43-301.

1216 (c) After consultation with the Behavioral Health Crisis Response Commission created
1217 in Section 63C-18-202, and local substance use authorities and local mental health authorities
1218 described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the
1219 account on any of the following programs:

1220 (i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including
1221 coordination with 911 emergency service, as defined in Section 69-2-102, and coordination
1222 with local substance abuse authorities as described in Section 17-43-201, and local mental
1223 health authorities, described in Section 17-43-301;

1224 (ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in
1225 accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah
1226 Administrative Rulemaking Act;

1227 (iii) behavioral health receiving centers as defined in Section 26B-5-114;

1228 (iv) stabilization services as described in Section ~~26B-1-102~~ 26B-5-101;

1229 (v) mental health crisis services, as defined in Section 26B-5-101, provided by local
1230 substance abuse authorities as described in Section 17-43-201 and local mental health
1231 authorities described in Section 17-43-301 to provide prolonged mental health services for up
1232 to 90 days after the day on which an individual experiences a mental health crisis as defined in
1233 Section 26B-5-101;

1234 (vi) crisis intervention training for first responders, as that term is defined in Section
1235 78B-4-501;

1236 (vii) crisis worker certification training for first responders, as that term is defined in

1237 Section [78B-4-501](#);

1238 (viii) frontline support for the SafeUT Crisis Line; or

1239 (ix) suicide prevention gatekeeper training for first responders, as that term is defined

1240 in Section [78B-4-501](#).

1241 (d) If the Legislature appropriates money to the account for a purpose described in

1242 Subsection (2)(c), the division shall use the appropriation for that purpose.

1243 (3) Subject to appropriations by the Legislature and any contributions to the account

1244 described in Subsection (1)(b), the division may expend funds in the account for administrative

1245 costs that the division incurs related to administering the account.

1246 (4) The division director shall submit and make available to the public a report before

1247 December of each year to the Behavioral Health Crisis Response Commission, as defined in

1248 Section [63C-18-202](#), the Social Services Appropriations Subcommittee, and the Legislative

1249 Management Committee that includes:

1250 (a) the amount of each disbursement from the account;

1251 (b) the recipient of each disbursement, the goods and services received, and a

1252 description of the project funded by the disbursement;

1253 (c) any conditions placed by the division on the disbursements from the account;

1254 (d) the anticipated expenditures from the account for the next fiscal year;

1255 (e) the amount of any unexpended funds carried forward;

1256 (f) the number of Statewide Mental Health Crisis Line calls received;

1257 (g) the progress towards accomplishing the goals of providing statewide mental health

1258 crisis service; and

1259 (h) other relevant justification for ongoing support from the account.

1260 (5) Notwithstanding Subsection (2)(c), allocations made to local substance use

1261 authorities and local mental health authorities for behavioral health receiving centers or mobile

1262 crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year

1263 2027, subject to appropriation.

1264 (6) (a) As used in this Subsection (6):

1265 (i) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).

1266 (ii) "Mental health service provider" means a behavioral health receiving center or

1267 mobile crisis outreach team.

1268 (b) The department shall coordinate with each mental health service provider that
1269 receives state funds to determine which health benefit plans, if any, have not contracted or have
1270 refused to contract with the mental health service provider at usual and customary rates for the
1271 services provided by the mental health service provider.

1272 (c) In each year that the department identifies a health benefit plan that meets the
1273 description in Subsection (6)(b), the department shall provide a report on the information
1274 gathered under Subsection (6)(b) to the Health and Human Services Interim Committee at or
1275 before the committee's October meeting.

1276 Section 12. Section **26B-1-414** is amended to read:

1277 **26B-1-414. Child Care Provider Licensing Committee -- Duties.**

1278 (1) (a) The Child Care ~~[Center]~~ Provider Licensing Committee shall be comprised of
1279 12 members appointed by the governor with the advice and consent of the Senate in accordance
1280 with this Subsection (1).

1281 (b) The governor shall appoint three members who:

1282 (i) have at least five years of experience as an owner in or director of a for profit or
1283 not-for-profit center based child care as defined in Section [26B-2-401](#); and

1284 (ii) hold an active license as a child care center from the department to provide center
1285 based child care as defined in Section [26B-2-401](#).

1286 (c) The governor shall appoint two members who hold an active license as a residential
1287 child care provider and one member who is a certified residential child care provider.

1288 (d) (i) The governor shall appoint one member to represent each of the following:

1289 (A) a parent with a child in a licensed center based child care facility;

1290 (B) a parent with a child in a residential based child care facility;

1291 (C) a child development expert from the state system of higher education;

1292 (D) except as provided in Subsection (1)(f), a pediatrician licensed in the state;

1293 (E) a health care provider; and

1294 (F) an architect licensed in the state.

1295 (ii) Except as provided in Subsection (1)(d)(i)(C), a member appointed under
1296 Subsection (1)(d)(i) may not be an employee of the state or a political subdivision of the state.

1297 (e) At least one member described in Subsection (1)(b) shall at the time of appointment
1298 reside in a county that is not a county of the first class.

1299 (f) For the appointment described in Subsection (1)(d)(i)(D), the governor may appoint
1300 a health care professional who specializes in pediatric health if:

1301 (i) the health care professional is licensed under:

1302 (A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse
1303 practitioner; or

1304 (B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

1305 (ii) before appointing a health care professional under this Subsection (1)(f), the
1306 governor:

1307 (A) sends a notice to a professional physician organization in the state regarding the
1308 opening for the appointment described in Subsection (1)(d)(i)(D); and

1309 (B) receives no applications from a pediatrician who is licensed in the state for the
1310 appointment described in Subsection (1)(d)(i)(D) within 90 days after the day on which the
1311 governor sends the notice described in Subsection (1)(f)(ii)(A).

1312 (2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the
1313 governor shall appoint each new member or reappointed member to a four-year term ending
1314 June 30.

1315 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
1316 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1317 members are staggered so that approximately half of the licensing committee is appointed
1318 every two years.

1319 (c) Upon the expiration of the term of a member of the licensing committee, the
1320 member shall continue to hold office until a successor is appointed and qualified.

1321 (d) A member may not serve more than two consecutive terms.

1322 (e) Members of the licensing committee shall annually select one member to serve as
1323 chair who shall establish the agenda for licensing committee meetings.

1324 (3) When a vacancy occurs in the membership for any reason, the governor, with the
1325 advice and consent of the Senate, shall appoint a replacement for the unexpired term.

1326 (4) (a) The licensing committee shall meet at least every two months.

1327 (b) The director may call additional meetings:

1328 (i) at the director's discretion;

1329 (ii) upon the request of the chair; or

1330 (iii) upon the written request of three or more members.

1331 (5) Seven members of the licensing committee constitute a quorum for the transaction
1332 of business.

1333 (6) A member appointed under Subsection (1)(b) may not vote on any action proposed
1334 by the licensing committee regarding residential child care.

1335 (7) A member appointed under Subsection (1)(c) may not vote on any action proposed
1336 by the licensing committee regarding center based child care.

1337 (8) A member of the licensing committee may not receive compensation or benefits for
1338 the member's service, but may receive per diem and travel expenses as allowed in:

1339 (a) Section [63A-3-106](#);

1340 (b) Section [63A-3-107](#); and

1341 (c) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and
1342 [63A-3-107](#).

1343 (9) The licensing committee shall:

1344 (a) in concurrence with the department and in accordance with Title 63G, Chapter 3,
1345 Utah Administrative Rulemaking Act, make rules that govern center based child care and
1346 residential child care, as those terms are defined in Section [26B-2-401](#), as necessary to protect
1347 qualifying children's common needs for a safe and healthy environment, to provide for:

1348 (i) adequate facilities and equipment; and

1349 (ii) competent caregivers considering the age of the children and the type of program
1350 offered by the licensee

1351 (b) in concurrence with the department and in accordance with Title 63G, Chapter 3,
1352 Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of
1353 Chapter 2, Part 4, Child Care Licensing, that govern center based child care and residential
1354 child care, as those terms are defined in Section [26B-2-401](#), in the following areas:

1355 (i) requirements for applications, the application process, and compliance with other
1356 applicable statutes and rules;

1357 (ii) documentation, policies, and procedures that providers shall have in place in order
1358 to be licensed, in accordance with this Subsection (9);

1359 (iii) categories, classifications, and duration of initial and ongoing licenses;

1360 (iv) changes of ownership or name, changes in licensure status, and changes in

- 1361 operational status;
- 1362 (v) license expiration and renewal, contents, and posting requirements;
- 1363 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
- 1364 procedural measures to encourage and ensure compliance with statute and rule; and
- 1365 (vii) guidelines necessary to ensure consistency and appropriateness in the regulation
- 1366 and discipline of licensees;
- 1367 (c) advise the department on the administration of a matter affecting center based child
- 1368 care or residential child care, as those terms are defined in Section [26B-2-401](#);
- 1369 (d) advise and assist the department in conducting center based child care provider
- 1370 seminars and residential child care seminars; and
- 1371 (e) perform other duties as provided in Section [26B-2-402](#).
- 1372 (10) (a) The licensing committee may not enforce the rules adopted under this section.
- 1373 (b) the department shall enforce the rules adopted under this section in accordance with
- 1374 Section [26B-2-402](#).
- 1375 Section 13. Section **26B-1-421** is amended to read:
- 1376 **26B-1-421. Compassionate Use Board.**
- 1377 (1) The definitions in Section [26B-4-201](#) apply to this section.
- 1378 (2) (a) The department shall establish a Compassionate Use Board consisting of:
- 1379 (i) seven qualified medical providers that the executive director appoints and the
- 1380 Senate confirms:
- 1381 (A) who are knowledgeable about the medicinal use of cannabis;
- 1382 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
- 1383 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- 1384 (C) who are board certified by the American Board of Medical Specialties or an
- 1385 American Osteopathic Association Specialty Certifying Board in the specialty of neurology,
- 1386 pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal
- 1387 medicine, pediatrics, family medicine, or gastroenterology; and
- 1388 (ii) as a nonvoting member and the chair of the Compassionate Use Board, the
- 1389 executive director or the director's designee.
- 1390 (b) In appointing the seven qualified medical providers described in Subsection (2)(a),
- 1391 the executive director shall ensure that at least two have a board certification in pediatrics.

1392 (3) (a) Of the members of the Compassionate Use Board that the executive director
1393 first appoints:

- 1394 (i) three shall serve an initial term of two years; and
- 1395 (ii) the remaining members shall serve an initial term of four years.

1396 (b) After an initial term described in Subsection (3)(a) expires:

- 1397 (i) each term is four years; and
- 1398 (ii) each board member is eligible for reappointment.

1399 (c) A member of the Compassionate Use Board may serve until a successor is
1400 appointed.

1401 (d) Four members constitute a quorum of the Compassionate Use Board.

1402 (4) A member of the Compassionate Use Board may receive:

1403 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
1404 service; and

1405 (b) travel expenses in accordance with Section 63A-3-107 and rules made by the
1406 Division of Finance in accordance with Section 63A-3-107.

1407 (5) The Compassionate Use Board shall:

1408 (a) review and recommend for department approval a petition to the board regarding an
1409 individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection
1410 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
1411 card to obtain a medical cannabis card for compassionate use, for the standard or a reduced
1412 period of validity, if:

1413 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
1414 the individual's qualified medical provider is actively treating the individual for an intractable
1415 condition that:

1416 (A) substantially impairs the individual's quality of life; and

1417 (B) has not, in the qualified medical provider's professional opinion, adequately
1418 responded to conventional treatments;

1419 (ii) the qualified medical provider:

1420 (A) recommends that the individual or minor be allowed to use medical cannabis; and

1421 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
1422 describing relevant treatment history including rationale for considering the use of medical

1423 cannabis; and

1424 (iii) the Compassionate Use Board determines that:

1425 (A) the recommendation of the individual's qualified medical provider is justified; and

1426 (B) based on available information, it may be in the best interests of the individual to

1427 allow the use of medical cannabis;

1428 (b) when a qualified medical provider recommends that an individual described in

1429 Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be

1430 allowed to use a medical cannabis device or medical cannabis product to vaporize a medical

1431 cannabis treatment, review and approve or deny the use of the medical cannabis device or

1432 medical cannabis product;

1433 (c) unless no petitions are pending:

1434 (i) meet to receive or review compassionate use petitions at least quarterly; and

1435 (ii) if there are more petitions than the board can receive or review during the board's

1436 regular schedule, as often as necessary;

1437 (d) except as provided in Subsection (6), complete a review of each petition and

1438 recommend to the department approval or denial of the applicant for qualification for a medical

1439 cannabis card within 90 days after the day on which the board received the petition;

1440 (e) consult with the department regarding the criteria described in Subsection (6); and

1441 (f) report, before November 1 of each year, to the Health and Human Services Interim

1442 Committee:

1443 (i) the number of compassionate use recommendations the board issued during the past

1444 year; and

1445 (ii) the types of conditions for which the board recommended compassionate use.

1446 (6) The department shall make rules, in consultation with the Compassionate Use

1447 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to

1448 establish a process and criteria for a petition to the board to automatically qualify for expedited

1449 final review and approval or denial by the department in cases where, in the determination of

1450 the department and the board:

1451 (a) time is of the essence;

1452 (b) engaging the full review process would be unreasonable in light of the petitioner's

1453 physical condition; and

1454 (c) sufficient factors are present regarding the petitioner's safety.

1455 (7) (a) (i) The department shall review:

1456 (A) any compassionate use for which the Compassionate Use Board recommends
1457 approval under Subsection (5)(d) to determine whether the board properly exercised the board's
1458 discretion under this section; and

1459 (B) any expedited petitions the department receives under the process described in
1460 Subsection (6).

1461 (ii) If the department determines that the Compassionate Use Board properly exercised
1462 the board's discretion in recommending approval under Subsection (5)(d) or that the expedited
1463 petition merits approval based on the criteria established in accordance with Subsection (6), the
1464 department shall:

1465 (A) issue the relevant medical cannabis card; and

1466 (B) provide for the renewal of the medical cannabis card in accordance with the
1467 recommendation of the qualified medical provider described in Subsection (5)(a).

1468 (b) [(†)] If the Compassionate Use Board recommends denial under Subsection (5)(d),
1469 the individual seeking to obtain a medical cannabis card may petition the department to review
1470 the board's decision.

1471 [~~(ii) If the department determines that the Compassionate Use Board's recommendation~~
1472 ~~for denial under Subsection (5)(d) was arbitrary or capricious:]~~

1473 [~~(A) the department shall notify the Compassionate Use Board of the department's~~
1474 ~~determination; and]~~

1475 [~~(B) the board shall reconsider the Compassionate Use Board's refusal to recommend~~
1476 ~~approval under this section.]~~

1477 (c) In reviewing the Compassionate Use Board's recommendation for approval or
1478 denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall
1479 presume the board properly exercised the board's discretion unless the department determines
1480 that the board's recommendation was arbitrary or capricious.

1481 (8) Any individually identifiable health information contained in a petition that the
1482 Compassionate Use Board or department receives under this section is a protected record in
1483 accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

1484 (9) The Compassionate Use Board shall annually report the board's activity to the

1485 Cannabis Research Review Board and the advisory board.

1486 Section 14. Section **26B-1-422.1** is amended to read:

1487 **26B-1-422.1. Reports.**

1488 (1) (a) On or before August 1 of each year, the [council] Early Childhood Utah
1489 Advisory Council created in Section 26B-1-422 shall provide an annual report to the executive
1490 director, the executive director of the Department of Workforce Services, and the state
1491 superintendent.

1492 (b) The annual report shall include:

1493 (i) a statewide assessment concerning the availability of high-quality pre-kindergarten
1494 services for children from low-income households;

1495 (ii) a statewide strategic report addressing the activities mandated by the Improving
1496 Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

1497 (A) identifying opportunities for and barriers to collaboration and coordination among
1498 federally-funded and state-funded child health and development, child care, and early
1499 childhood education programs and services, including collaboration and coordination among
1500 state agencies responsible for administering such programs;

1501 (B) evaluating the overall participation of children in existing federal, state, and local
1502 child care programs and early childhood health, development, family support, and education
1503 programs;

1504 (C) recommending statewide professional development and career advancement plans
1505 for early childhood educators and service providers in the state, including an analysis of the
1506 capacity and effectiveness of programs at two- and four-year public and private institutions of
1507 higher education that support the development of early childhood educators; and

1508 (D) recommending improvements to the state's early learning standards and
1509 high-quality comprehensive early learning standards; and

1510 (iii) the recommendations described in Subsection 26B-1-422(4)(e).

1511 (2) In addition to the annual report described in Subsection (1)(a), on or before August
1512 1, 2024, and at least every five years thereafter, the council shall provide to the executive
1513 director, the executive director of the Department of Workforce Services, and the state
1514 superintendent, a statewide needs assessment concerning the quality and availability of early
1515 childhood education, health, and development programs and services for children in early

1516 childhood.

1517 Section 15. Section **26B-1-435** is amended to read:

1518 **26B-1-435. Medical Cannabis Policy Advisory Board creation - Membership.**

1519 (1) There is created within the department the Medical Cannabis Policy Advisory
1520 Board.

1521 (2) (a) The advisory board shall consist of the following members:

1522 (i) appointed by the executive director:

1523 (A) a qualified medical provider who has at least 100 patients who have a medical
1524 cannabis patient card at the time of appointment;

1525 (B) a medical research professional;

1526 (C) a mental health specialist;

1527 (D) an individual who represents an organization that advocates for medical cannabis
1528 patients;

1529 (E) an individual who holds a medical cannabis patient card; and

1530 (F) a member of the general public who does not hold a medical cannabis card; and

1531 (ii) appointed by the commissioner of the Department of Agriculture and Food:

1532 (A) an individual who owns or operates a licensed cannabis cultivation facility, as
1533 defined in Section [4-41a-102](#);

1534 (B) an individual who owns or operates a licensed medical cannabis pharmacy; and

1535 (C) a law enforcement officer.

1536 (b) The commissioner of the Department of Agriculture and Food shall ensure that at
1537 least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a
1538 licensed cannabis processing facility.

1539 (3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a
1540 four year term.

1541 (b) When appointing the initial membership of the advisory board, the executive
1542 director and the commissioner of the Department of Agriculture and Food shall coordinate to
1543 appoint four advisory board members to serve a term of two years to ensure that approximately
1544 half of the board is appointed every two years.

1545 (4) (a) If an advisory board member is no longer able to serve as a member, a new
1546 member shall be appointed in the same manner as the original appointment.

1547 (b) A member appointed in accordance with Subsection (4)(a) shall serve for the
1548 remainder of the unexpired term of the original appointment.

1549 (5) (a) A majority of the advisory board members constitutes a quorum.

1550 (b) The action of a majority of a quorum constitutes an action of the advisory board.

1551 (c) The advisory board shall annually designate one of the advisory board's members to
1552 serve as chair for a one-year period.

1553 (6) An advisory board member may not receive compensation or benefits for the
1554 member's service on the advisory board but may receive per diem and reimbursement for travel
1555 expenses incurred as an advisory board member in accordance with:

1556 (a) Sections 63A-3-106 and 63A-3-107; and

1557 (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1558 63A-3-107.

1559 (7) The department shall:

1560 (a) provide staff support for the advisory board; and

1561 (b) assist the advisory board in conducting meetings.

1562 Section 16. Section 26B-1-435.1 is amended to read:

1563 **26B-1-435.1. Medical Cannabis Policy Advisory Board duties.**

1564 (1) The advisory board may recommend:

1565 (a) to the department or the Department of Agriculture and Food changes to current or
1566 proposed medical cannabis rules or statutes;

1567 (b) to the appropriate legislative committee whether the advisory board supports a
1568 change to medical cannabis statutes.

1569 (2) The advisory board shall:

1570 (a) review any draft rule that is authorized under [~~this chapter~~] Chapter 4, Part 2,
1571 Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production
1572 Establishments and Pharmacies;

1573 (b) consult with the Department of Agriculture and Food regarding the issuance of an
1574 additional:

1575 (i) cultivation facility license under Section 4-41a-205; or

1576 (ii) pharmacy license under Section 4-41a-1005;

1577 (c) consult with the department regarding cannabis patient education;

1578 (d) consult regarding the reasonableness of any fees set by the department or the Utah
1579 Department of Agriculture and Food that pertain to the medical cannabis program; and

1580 (e) consult regarding any issue pertaining to medical cannabis when asked by the
1581 department or the Utah Department of Agriculture and Food.

1582 Section 17. Section **26B-1-502** is amended to read:

1583 **26B-1-502. Initial review.**

1584 (1) Within seven days after the day on which the department knows that a qualified
1585 individual has died or is an individual described in Subsection **26B-1-501(7)(h)**, a person
1586 designated by the department shall:

1587 (a) (i) for a death, complete a deceased client report form, created by the department; or

1588 (ii) for an individual described in Subsection **26B-1-501(7)(h)**, complete a near fatality
1589 client report form, created by the department; and

1590 (b) forward the completed client report form to the director of the office or division
1591 that has jurisdiction over the region or facility.

1592 (2) The director of the office or division described in Subsection (1) shall, upon receipt
1593 of a near fatality client report form or a deceased client report form, immediately provide a
1594 copy of the form to:

1595 (a) the executive director; and

1596 (b) the fatality review coordinator or the fatality review coordinator's designee.

1597 (3) Within 10 days after the day on which the fatality review coordinator or the fatality
1598 review coordinator's designee receives a copy of the near fatality client report form or the
1599 deceased client report form, the fatality review coordinator or the fatality review coordinator's
1600 designee shall request a copy of all relevant department case records regarding the individual
1601 who is the subject of the client report form.

1602 (4) Each person who receives a request for a record described in Subsection (3) shall
1603 provide a copy of the record to the fatality review coordinator or the fatality review
1604 coordinator's designee, by a secure method, within seven days after the day on which the
1605 request is made.

1606 (5) Within 30 days after the day on which the fatality review coordinator or the fatality
1607 review coordinator's designee receives the case records requested under Subsection (3), the
1608 fatality review coordinator, or the fatality review coordinator's designee, shall:

1609 (a) review the client report form, the case files, and other relevant information received
1610 by the fatality review coordinator; and

1611 (b) make a recommendation to the director of the Division of Continuous Quality and
1612 Improvement regarding whether a formal review of the death or near fatality should be
1613 conducted.

1614 (6) (a) In accordance with Subsection (6)(b), within seven days after the day on which
1615 the fatality review coordinator or the fatality review coordinator's designee makes the
1616 recommendation described in Subsection (5)(b), the director of the Division of Continuous
1617 Quality and Improvement or the director's designee shall determine whether to order that a
1618 review of the death or near fatality be conducted.

1619 (b) The director of the Division of Continuous Quality and Improvement or the
1620 director's designee shall order that a formal review of the death or near fatality be conducted if:

1621 (i) at the time of the near fatality or the death, the qualified individual is:

1622 (A) an individual described in Subsection [~~26B-1-501(6)(a)~~] 26B-1-501(7)(a) or (b),
1623 unless:

1624 (I) the near fatality or the death is due to a natural cause; or

1625 (II) the director of the Division of Continuous Quality and Improvement or the
1626 director's designee determines that the near fatality or the death was not in any way related to
1627 services that were provided by, or under the direction of, the department or a division of the
1628 department; or

1629 (B) a child in foster care or substitute care, unless the near fatality or the death is due
1630 to:

1631 (I) a natural cause; or

1632 (II) an accident;

1633 (ii) it appears, based on the information provided to the director of the Division of
1634 Continuous Quality and Improvement or the director's designee, that:

1635 (A) a provision of law, rule, policy, or procedure relating to the qualified individual or
1636 the individual's family may not have been complied with;

1637 (B) the near fatality or the fatality was not responded to properly;

1638 (C) a law, rule, policy, or procedure may need to be changed; or

1639 (D) additional training is needed;

- 1640 (iii) (A) the death is caused by suicide; or
- 1641 (B) the near fatality is caused by attempted suicide; or
- 1642 (iv) the director of the Division of Continuous Quality and Improvement or the
- 1643 director's designee determines that another reason exists to order that a review of the near
- 1644 fatality or the death be conducted.

1645 Section 18. Section **26B-2-101** is amended to read:

1646 **26B-2-101. Definitions.**

1647 As used in this part:

1648 (1) "Adoption services" means the same as that term is defined in Section [80-2-801](#).

1649 (2) "Adult day care" means nonresidential care and supervision:

1650 (a) for three or more adults for at least four but less than 24 hours a day; and

1651 (b) that meets the needs of functionally impaired adults through a comprehensive

1652 program that provides a variety of health, social, recreational, and related support services in a

1653 protective setting.

1654 (3) "Applicant" means a person that applies for an initial license or a license renewal

1655 under this part.

1656 (4) (a) "Associated with the licensee" means that an individual is:

1657 (i) affiliated with a licensee as an owner, director, member of the governing body,

1658 employee, agent, provider of care, department contractor, or volunteer; or

1659 (ii) applying to become affiliated with a licensee in a capacity described in Subsection

1660 (4)(a)(i).

1661 (b) "Associated with the licensee" does not include:

1662 (i) service on the following bodies, unless that service includes direct access to a child

1663 or a vulnerable adult:

1664 (A) a local mental health authority described in Section [17-43-301](#);

1665 (B) a local substance abuse authority described in Section [17-43-201](#); or

1666 (C) a board of an organization operating under a contract to provide mental health or

1667 substance use programs, or services for the local mental health authority or substance abuse

1668 authority; or

1669 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised

1670 at all times.

- 1671 (5) (a) "Boarding school" means a private school that:
- 1672 (i) uses a regionally accredited education program;
- 1673 (ii) provides a residence to the school's students:
- 1674 (A) for the purpose of enabling the school's students to attend classes at the school; and
- 1675 (B) as an ancillary service to educating the students at the school;
- 1676 (iii) has the primary purpose of providing the school's students with an education, as
- 1677 defined in Subsection (5)(b)(i); and
- 1678 (iv) (A) does not provide the treatment or services described in Subsection [~~(38)~~(a)]
- 1679 (39)(a); or
- 1680 (B) provides the treatment or services described in Subsection [~~(38)~~(a)] (39)(a) on a
- 1681 limited basis, as described in Subsection (5)(b)(ii).
- 1682 (b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
- 1683 one or more grades from kindergarten through grade 12.
- 1684 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or
- 1685 services described in Subsection [~~(38)~~(a)] (39)(a) on a limited basis if:
- 1686 (A) the treatment or services described in Subsection [~~(38)~~(a)] (39)(a) are provided
- 1687 only as an incidental service to a student; and
- 1688 (B) the school does not:
- 1689 (I) specifically solicit a student for the purpose of providing the treatment or services
- 1690 described in Subsection [~~(38)~~(a)] (39)(a); or
- 1691 (II) have a primary purpose of providing the treatment or services described in
- 1692 Subsection [~~(38)~~(a)] (39)(a).
- 1693 (c) "Boarding school" does not include a therapeutic school.
- 1694 (6) "Certification" means a less restrictive level of licensure issued by the department.
- 1695 [~~(6)~~] (7) "Child" means an individual under 18 years old.
- 1696 [~~(7)~~] (8) "Child placing" means receiving, accepting, or providing custody or care for
- 1697 any child, temporarily or permanently, for the purpose of:
- 1698 (a) finding a person to adopt the child;
- 1699 (b) placing the child in a home for adoption; or
- 1700 (c) foster home placement.
- 1701 [~~(8)~~] (9) "Child-placing agency" means a person that engages in child placing.

1702 [~~(9)~~] (10) "Client" means an individual who receives or has received services from a
1703 licensee.

1704 [~~(10)~~] (11) (a) "Congregate care program" means any of the following that provide
1705 services to a child:

1706 (i) an outdoor youth program;

1707 (ii) a residential support program;

1708 (iii) a residential treatment program; or

1709 (iv) a therapeutic school.

1710 (b) "Congregate care program" does not include a human services program that:

1711 (i) is licensed to serve adults; and

1712 (ii) is approved by the office to service a child for a limited time.

1713 [~~(11)~~] (12) "Day treatment" means specialized treatment that is provided to:

1714 (a) a client less than 24 hours a day; and

1715 (b) four or more persons who:

1716 (i) are unrelated to the owner or provider; and

1717 (ii) have emotional, psychological, developmental, physical, or behavioral

1718 dysfunctions, impairments, or chemical dependencies.

1719 [~~(12)~~] (13) "Department contractor" means an individual who:

1720 (a) provides services under a contract with the department; and

1721 (b) due to the contract with the department, has or will likely have direct access to a
1722 child or vulnerable adult.

1723 [~~(13)~~] (14) "Direct access" means that an individual has, or likely will have:

1724 (a) contact with or access to a child or vulnerable adult that provides the individual
1725 with an opportunity for personal communication or touch; or

1726 (b) an opportunity to view medical, financial, or other confidential personal identifying
1727 information of the child, the child's parents or legal guardians, or the vulnerable adult.

1728 [~~(14)~~] (15) "Directly supervised" means that an individual is being supervised under

1729 the uninterrupted visual and auditory surveillance of another individual who has a current
1730 background [~~screening~~] check approval issued by the office.

1731 [~~(15)~~] (16) "Director" means the director of the office.

1732 [~~(16)~~] (17) "Domestic violence" means the same as that term is defined in Section

1733 77-36-1.

1734 [(17)] (18) "Domestic violence treatment program" means a nonresidential program
1735 designed to provide psychological treatment and educational services to perpetrators and
1736 victims of domestic violence.

1737 [(18)] (19) "Elder adult" means a person 65 years old or older.

1738 [(19)] (20) "Foster home" means a residence that is licensed or certified by the office
1739 for the full-time substitute care of a child.

1740 [(20)] (21) "Health benefit plan" means the same as that term is defined in Section
1741 31A-22-634.

1742 [(21)] (22) "Health care provider" means the same as that term is defined in Section
1743 78B-3-403.

1744 [(22)] (23) "Health insurer" means the same as that term is defined in Section
1745 31A-22-615.5.

1746 [(23)] (24) (a) "Human services program" means:

1747 (i) a foster home;

1748 (ii) a therapeutic school;

1749 (iii) a youth program;

1750 (iv) an outdoor youth program;

1751 (v) a residential treatment program;

1752 (vi) a residential support program;

1753 (vii) a resource family home;

1754 (viii) a recovery residence; or

1755 (ix) a facility or program that provides:

1756 (A) adult day care;

1757 (B) day treatment;

1758 (C) outpatient treatment;

1759 (D) domestic violence treatment;

1760 (E) child-placing services;

1761 (F) social detoxification; or

1762 (G) any other human services that are required by contract with the department to be
1763 licensed with the department.

1764 (b) "Human services program" does not include:
1765 (i) a boarding school; or
1766 (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.
1767 [~~(24)~~] (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec.
1768 1903.
1769 [~~(25)~~] (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec.
1770 1151.
1771 [~~(26)~~] (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec.
1772 1903.
1773 [~~(27)~~] (28) "Intermediate secure treatment" means 24-hour specialized residential
1774 treatment or care for an individual who:
1775 (a) cannot live independently or in a less restrictive environment; and
1776 (b) requires, without the individual's consent or control, the use of locked doors to care
1777 for the individual.
1778 [~~(28)~~] (29) "Licensee" means an individual or a human services program licensed by
1779 the office.
1780 [~~(29)~~] (30) "Local government" means a city, town, metro township, or county.
1781 [~~(30)~~] (31) "Minor" means child.
1782 [~~(31)~~] (32) "Office" means the Office of Licensing within the department.
1783 [~~(32)~~] (33) "Outdoor youth program" means a program that provides:
1784 (a) services to a child that has:
1785 (i) a chemical dependency; or
1786 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
1787 physical, or behavioral;
1788 (b) a 24-hour outdoor group living environment; and
1789 (c) (i) regular therapy, including group, individual, or supportive family therapy; or
1790 (ii) informal therapy or similar services, including wilderness therapy, adventure
1791 therapy, or outdoor behavioral healthcare.
1792 [~~(33)~~] (34) "Outpatient treatment" means individual, family, or group therapy or
1793 counseling designed to improve and enhance social or psychological functioning for those
1794 whose physical and emotional status allows them to continue functioning in their usual living

1795 environment.

1796 [~~(34)~~] (35) "Practice group" or "group practice" means two or more health care
1797 providers legally organized as a partnership, professional corporation, or similar association,
1798 for which:

1799 (a) substantially all of the services of the health care providers who are members of the
1800 group are provided through the group and are billed in the name of the group and amounts
1801 received are treated as receipts of the group; and

1802 (b) the overhead expenses of and the income from the practice are distributed in
1803 accordance with methods previously determined by members of the group.

1804 [~~(35)~~] (36) "Private-placement child" means a child whose parent or guardian enters
1805 into a contract with a congregate care program for the child to receive services.

1806 [~~(36)~~] (37) (a) "Recovery residence" means a home, residence, or facility that meets at
1807 least two of the following requirements:

1808 (i) provides a supervised living environment for individuals recovering from a
1809 substance use disorder;

1810 (ii) provides a living environment in which more than half of the individuals in the
1811 residence are recovering from a substance use disorder;

1812 (iii) provides or arranges for residents to receive services related to the resident's
1813 recovery from a substance use disorder, either on or off site;

1814 (iv) is held out as a living environment in which individuals recovering from substance
1815 abuse disorders live together to encourage continued sobriety; or

1816 (v) (A) receives public funding; or

1817 (B) is run as a business venture, either for-profit or not-for-profit.

1818 (b) "Recovery residence" does not mean:

1819 (i) a residential treatment program;

1820 (ii) residential support program; or

1821 (iii) a home, residence, or facility, in which:

1822 (A) residents, by a majority vote of the residents, establish, implement, and enforce
1823 policies governing the living environment, including the manner in which applications for
1824 residence are approved and the manner in which residents are expelled;

1825 (B) residents equitably share rent and housing-related expenses; and

1826 (C) a landlord, owner, or operator does not receive compensation, other than fair
1827 market rental income, for establishing, implementing, or enforcing policies governing the
1828 living environment.

1829 [~~(37)~~] (38) "Regular business hours" means:

1830 (a) the hours during which services of any kind are provided to a client; or

1831 (b) the hours during which a client is present at the facility of a licensee.

1832 [~~(38)~~] (39) (a) "Residential support program" means a program that arranges for or
1833 provides the necessities of life as a protective service to individuals or families who have a
1834 disability or who are experiencing a dislocation or emergency that prevents them from
1835 providing these services for themselves or their families.

1836 (b) "Residential support program" includes a program that provides a supervised living
1837 environment for individuals with dysfunctions or impairments that are:

1838 (i) emotional;

1839 (ii) psychological;

1840 (iii) developmental; or

1841 (iv) behavioral.

1842 (c) Treatment is not a necessary component of a residential support program.

1843 (d) "Residential support program" does not include:

1844 (i) a recovery residence; or

1845 (ii) a program that provides residential services that are performed:

1846 (A) exclusively under contract with the department and provided to individuals through
1847 the Division of Services for People with Disabilities; or

1848 (B) in a facility that serves fewer than four individuals.

1849 [~~(39)~~] (40) (a) "Residential treatment" means a 24-hour group living environment for
1850 four or more individuals unrelated to the owner or provider that offers room or board and
1851 specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or
1852 habilitation services for persons with emotional, psychological, developmental, or behavioral
1853 dysfunctions, impairments, or chemical dependencies.

1854 (b) "Residential treatment" does not include a:

1855 (i) boarding school;

1856 (ii) foster home; or

- 1857 (iii) recovery residence.
- 1858 ~~[(40)]~~ (41) "Residential treatment program" means a program or facility that provides:
- 1859 (a) residential treatment; or
- 1860 (b) intermediate secure treatment.
- 1861 ~~[(41)]~~ (42) "Seclusion" means the involuntary confinement of an individual in a room
- 1862 or an area:
- 1863 (a) away from the individual's peers; and
- 1864 (b) in a manner that physically prevents the individual from leaving the room or area.
- 1865 ~~[(42)]~~ (43) "Social detoxification" means short-term residential services for persons
- 1866 who are experiencing or have recently experienced drug or alcohol intoxication, that are
- 1867 provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing
- 1868 and Inspection, and that include:
- 1869 (a) room and board for persons who are unrelated to the owner or manager of the
- 1870 facility;
- 1871 (b) specialized rehabilitation to acquire sobriety; and
- 1872 (c) aftercare services.
- 1873 ~~[(43)]~~ (44) "Substance abuse disorder" or "substance use disorder" mean the same as
- 1874 "substance use disorder" is defined in Section [26B-5-501](#).
- 1875 ~~[(44)]~~ (45) "Substance abuse treatment program" or "substance use disorder treatment
- 1876 program" means a program:
- 1877 (a) designed to provide:
- 1878 (i) specialized drug or alcohol treatment;
- 1879 (ii) rehabilitation; or
- 1880 (iii) habilitation services; and
- 1881 (b) that provides the treatment or services described in Subsection ~~[(44)(a)]~~ (45)(a) to
- 1882 persons with:
- 1883 (i) a diagnosed substance use disorder; or
- 1884 (ii) chemical dependency disorder.
- 1885 ~~[(45)]~~ (46) "Therapeutic school" means a residential group living facility:
- 1886 (a) for four or more individuals that are not related to:
- 1887 (i) the owner of the facility; or

- 1888 (ii) the primary service provider of the facility;
- 1889 (b) that serves students who have a history of failing to function:
- 1890 (i) at home;
- 1891 (ii) in a public school; or
- 1892 (iii) in a nonresidential private school; and
- 1893 (c) that offers:
- 1894 (i) room and board; and
- 1895 (ii) an academic education integrated with:
- 1896 (A) specialized structure and supervision; or
- 1897 (B) services or treatment related to:
- 1898 (I) a disability;
- 1899 (II) emotional development;
- 1900 (III) behavioral development;
- 1901 (IV) familial development; or
- 1902 (V) social development.
- 1903 [~~(46)~~] (47) "Unrelated persons" means persons other than parents, legal guardians,
- 1904 grandparents, brothers, sisters, uncles, or aunts.
- 1905 [~~(47)~~] (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or
- 1906 permanent mental or physical impairment that substantially affects the person's ability to:
- 1907 (a) provide personal protection;
- 1908 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 1909 (c) obtain services necessary for health, safety, or welfare;
- 1910 (d) carry out the activities of daily living;
- 1911 (e) manage the adult's own resources; or
- 1912 (f) comprehend the nature and consequences of remaining in a situation of abuse,
- 1913 neglect, or exploitation.
- 1914 [~~(48)~~] (49) (a) "Youth program" means a program designed to provide behavioral,
- 1915 substance use, or mental health services to minors that:
- 1916 (i) serves adjudicated or nonadjudicated youth;
- 1917 (ii) charges a fee for the program's services;
- 1918 (iii) may provide host homes or other arrangements for overnight accommodation of

1919 the youth;

1920 (iv) may provide all or part of the program's services in the outdoors;

1921 (v) may limit or censor access to parents or guardians; and

1922 (vi) prohibits or restricts a minor's ability to leave the program at any time of the

1923 minor's own free will.

1924 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl

1925 Scouts, 4-H, and other such organizations.

1926 ~~[(49)]~~ (50) (a) "Youth transportation company" means any person that transports a

1927 child for payment to or from a congregate care program in Utah.

1928 (b) "Youth transportation company" does not include:

1929 (i) a relative of the child;

1930 (ii) a state agency; or

1931 (iii) a congregate care program's employee who transports the child from the

1932 congregate care program that employs the employee and returns the child to the same

1933 congregate care program.

1934 Section 19. Section **26B-2-103** is amended to read:

1935 **26B-2-103. Division of Licensing and Background Checks.**

1936 (1) There is created the ~~[Office of Licensing]~~ Division of Licensing and Background

1937 Checks within the department.

1938 (2) The ~~[office]~~ division shall be the licensing and background screening authority for

1939 the department, and is vested with all the powers, duties, and responsibilities described in:

1940 (a) this part;

1941 (b) Part 2, Health Care Facility Licensing and Inspection; ~~[and]~~

1942 (c) Part 4, Child Care Licensing; and

1943 ~~[(c)]~~ (d) Part 6, Mammography Quality Assurance.

1944 (3) The executive director shall appoint the director of the ~~[office]~~ division.

1945 (4) There are created within the division the Office of Licensing and the Office of

1946 Background Processing.

1947 ~~[(4) The director shall have a bachelor's degree from an accredited university or~~

1948 ~~college, be experienced in administration, and be knowledgeable of health and human services~~

1949 ~~licensing.]~~

1950 Section 20. Section **26B-2-104** is amended to read:
1951 **26B-2-104. Division responsibilities.**
1952 (1) Subject to the requirements of federal and state law, the office shall:
1953 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1954 Rulemaking Act, to establish:
1955 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
1956 licensees, that shall be limited to:
1957 (A) fire safety;
1958 (B) food safety;
1959 (C) sanitation;
1960 (D) infectious disease control;
1961 (E) safety of the:
1962 (I) physical facility and grounds; and
1963 (II) area and community surrounding the physical facility;
1964 (F) transportation safety;
1965 (G) emergency preparedness and response;
1966 (H) the administration of medical standards and procedures, consistent with the related
1967 provisions of this title;
1968 (I) staff and client safety and protection;
1969 (J) the administration and maintenance of client and service records;
1970 (K) staff qualifications and training, including standards for permitting experience to
1971 be substituted for education, unless prohibited by law;
1972 (L) staff to client ratios;
1973 (M) access to firearms; and
1974 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
1975 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
1976 (A) fire safety, except that the standards are limited to those required by law or rule
1977 under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
1978 (B) food safety;
1979 (C) sanitation;
1980 (D) infectious disease control, except that the standards are limited to:

1981 (I) those required by law or rule under this title, or Title 26A, Local Health Authorities;
1982 and
1983 (II) requiring a separate room for clients who are sick;
1984 (E) safety of the physical facility and grounds, except that the standards are limited to
1985 those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks
1986 Act;
1987 (F) transportation safety;
1988 (G) emergency preparedness and response;
1989 (H) access to appropriate medical care, including:
1990 (I) subject to the requirements of law, designation of a person who is authorized to
1991 dispense medication; and
1992 (II) storing, tracking, and securing medication;
1993 (I) staff and client safety and protection that permits the school to provide for the direct
1994 supervision of clients at all times;
1995 (J) the administration and maintenance of client and service records;
1996 (K) staff qualifications and training, including standards for permitting experience to
1997 be substituted for education, unless prohibited by law;
1998 (L) staff to client ratios;
1999 (M) access to firearms; and
2000 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
2001 (iii) procedures and standards for permitting a licensee to:
2002 (A) provide in the same facility and under the same conditions as children, residential
2003 treatment services to a person 18 years old or older who:
2004 (I) begins to reside at the licensee's residential treatment facility before the person's
2005 18th birthday;
2006 (II) has resided at the licensee's residential treatment facility continuously since the
2007 time described in Subsection (1)(a)(iii)(A)(I);
2008 (III) has not completed the course of treatment for which the person began residing at
2009 the licensee's residential treatment facility; and
2010 (IV) voluntarily consents to complete the course of treatment described in Subsection
2011 (1)(a)(iii)(A)(III); or

2012 (B) (I) provide residential treatment services to a child who is:
2013 (Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and
2014 (Bb) under the custody of the department, or one of its divisions; and
2015 (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I),
2016 residential treatment services to a person who is:
2017 (Aa) at least 18 years old, but younger than 21 years old; and
2018 (Bb) under the custody of the department, or one of its divisions;
2019 (iv) minimum administration and financial requirements for licensees;
2020 (v) guidelines for variances from rules established under this Subsection (1);
2021 (vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum
2022 responsibilities of a child-placing agency that provides adoption services and that is licensed
2023 under this part;
2024 (vii) what constitutes an "outpatient treatment program" for purposes of this part;
2025 (viii) a procedure requiring a licensee to provide an insurer the licensee's records
2026 related to any services or supplies billed to the insurer, and a procedure allowing the licensee
2027 and the insurer to contact the Insurance Department to resolve any disputes;
2028 (ix) a protocol for the office to investigate and process complaints about licensees;
2029 (x) a procedure for a licensee to:
2030 (A) report the use of a restraint or seclusion within one business day after the day on
2031 which the use of the restraint or seclusion occurs; and
2032 (B) report a critical incident within one business day after the day on which the
2033 incident occurs;
2034 (xi) guidelines for the policies and procedures described in Sections 26B-2-109 and
2035 26B-2-123;
2036 (xii) a procedure for the office to review and approve the policies and procedures
2037 described in Sections 26B-2-109 and 26B-2-123; and
2038 (xiii) a requirement that each human services program publicly post information that
2039 informs an individual how to submit a complaint about a human services program to the office;
2040 (b) enforce rules relating to the office;
2041 (c) issue licenses in accordance with this part;
2042 (d) if the United States Department of State executes an agreement with the office that

2043 designates the office to act as an accrediting entity in accordance with the Intercountry
2044 Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to
2045 provide intercountry adoption services pursuant to:

- 2046 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
- 2047 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
2048 No. 106-279;
- 2049 (e) make rules to implement the provisions of Subsection (1)(d);
- 2050 (f) conduct surveys and inspections of licensees and facilities in accordance with
2051 Section [26B-2-107](#);
- 2052 (g) collect licensure fees;
- 2053 (h) notify licensees of the name of a person within the department to contact when
2054 filing a complaint;
- 2055 (i) investigate complaints regarding any licensee or human services program;
- 2056 (j) have access to all records, correspondence, and financial data required to be
2057 maintained by a licensee;
- 2058 (k) have authority to interview any client, family member of a client, employee, or
2059 officer of a licensee;
- 2060 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by
2061 the department under this part by following the procedures and requirements of Title 63G,
2062 Chapter 4, Administrative Procedures Act;
- 2063 (m) electronically post notices of agency action issued to a human services program,
2064 with the exception of a foster home, on the office's website, in accordance with Title 63G,
2065 Chapter 2, Government Records Access and Management Act; and
- 2066 (n) upon receiving a local government's request under Section [26B-2-118](#), notify the
2067 local government of new human services program license applications, except for foster
2068 homes, for human services programs located within the local government's jurisdiction.

2069 (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a
2070 licensee to establish and comply with an emergency response plan that requires clients and staff
2071 to:

- 2072 (a) immediately report to law enforcement any significant criminal activity, as defined
2073 by rule, committed:

- 2074 (i) on the premises where the licensee operates its human services program;
- 2075 (ii) by or against its clients; or
- 2076 (iii) by or against a staff member while the staff member is on duty;
- 2077 (b) immediately report to emergency medical services any medical emergency, as

2078 defined by rule:

- 2079 (i) on the premises where the licensee operates its human services program;
- 2080 (ii) involving its clients; or
- 2081 (iii) involving a staff member while the staff member is on duty; and
- 2082 (c) immediately report other emergencies that occur on the premises where the licensee
- 2083 operates its human services program to the appropriate emergency services agency.

2084 Section 21. Section **26B-2-120** is amended to read:

2085 **26B-2-120. Background check -- Direct access to children or vulnerable adults.**

2086 (1) As used in this section:

2087 (a) (i) "Applicant" means~~[, notwithstanding Section 26B-2-101]~~ an individual who is
2088 associated with a certification, contract, or licensee with the department under this part and has
2089 direct access, including:

2090 (A) ~~[an individual who applies for an initial license or certification or a license or~~
2091 ~~certification renewal under this part]~~ an adoptive parent or prospective adoptive parent,
2092 including an applicant for an adoption in accordance with Section 76B-6-128;

2093 (B) ~~[an individual who is associated with a licensee and has or will likely have direct~~
2094 ~~access to a child or a vulnerable adult]~~ a foster parent or prospective foster parent;

2095 (C) an individual who provides respite care to a foster parent or an adoptive parent on
2096 more than one occasion;

2097 ~~[(D) a department contractor;]~~

2098 ~~[(E)]~~ (D) an individual who transports a child for a youth transportation company;

2099 ~~[(F)]~~ (E) an individual who provides certified peer support, as defined in Section
2100 26B-5-610;

2101 (F) an individual who provides peer support, has a disability or a family member with a
2102 disability;

2103 (I) or is in recovery from a mental illness or a substance use disorder or has other lived
2104 experience with the services provided by the department, and uses lived experience to provide

2105 support, guidance, or services to promote resiliency and recovery;

2106 (G) an individual who is identified as a mental health professional, licensed under Title
2107 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental
2108 health therapy, as defined in Section 58-60-102;

2109 (H) [a guardian submitting an application on behalf of an individual, other than the
2110 child or vulnerable adult who is receiving the service, if the individual] an individual, other
2111 than the child or vulnerable adult receiving the service, who is 12 years old or older and resides
2112 in a home, that is licensed or certified by the [office] division; or

2113 [(G) a guardian submitting an application on behalf of an individual, other than the
2114 child or vulnerable adult who is receiving the service, if the individual is 12 years old or older
2115 and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)]

2116 (I) an individual who is 12 years old or older and is associated with a certification,
2117 contract, or licensee with the department under this part and has or will likely have direct
2118 access.

2119 (ii) "Applicant" does not include:

2120 (A) an individual who is in the custody of the Division of Child and Family Services or
2121 the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services;
2122 ~~[or]~~

2123 (B) an individual who applies for employment with, or is employed by, the Department
2124 of Health and Human Services~~[-];~~

2125 (C) a parent of a person receiving services from the Division of Services for People
2126 with Disabilities, if the parent provides direct care to and resides with the person, including if
2127 the parent provides direct care to and resides with the person pursuant to a court order; or

2128 (D) an individual or a department contractor who provides services in an adults only
2129 substance use disorder program, as defined by rule adopted by the Department of Health and
2130 Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
2131 Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the
2132 program.

2133 (b) "Application" means a background ~~[screening]~~ check application to the office.

2134 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
2135 Public Safety, created in Section 53-10-201.

2136 ~~[(d) "Certified peer support specialist" means the same as that term is defined in~~
2137 ~~Section 26B-5-610.]~~

2138 ~~[(e)]~~ (d) "Criminal finding" means a record of:

2139 (i) an arrest ~~[or]~~ for a criminal offense;

2140 (ii) a warrant for [an] a criminal arrest;

2141 ~~[(ii)]~~ (iii) charges for a criminal offense; or

2142 ~~[(iii)]~~ (iv) a criminal conviction.

2143 ~~[(f)]~~ (e) "Direct access" means that an individual has, or likely will have:

2144 (i) contact with or access to a child or vulnerable adult and will provide the child or
2145 vulnerable adult with an opportunity for personal communication or touch; or

2146 (ii) an opportunity to view medical, financial, or other confidential personal identifying
2147 information of the child, the child's parent or legal guardian, or the vulnerable adult.

2148 (f) (i) "Direct access qualified" means that the applicant has an eligible determination
2149 by the office within the license and renewal time period; and

2150 (ii) no more than 180 days have passed since the date on which the applicant's
2151 association with a certification, contract, or licensee with the department ends.

2152 (g) "Incidental care" means occasional care, not in excess of five hours per week and
2153 never overnight, for a foster child.

2154 (h) "Licensee" means an individual or a human services program licensed by the
2155 division.

2156 ~~[(g) "Mental health professional" means an individual who:]~~

2157 ~~[(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;~~
2158 ~~and]~~

2159 ~~[(ii) engaged in the practice of mental health therapy.]~~

2160 ~~[(h)]~~ (i) "Non-criminal finding" means a record maintained in:

2161 (i) the Division of Child and Family Services' Management Information System
2162 described in Section 80-2-1001;

2163 (ii) the Division of Child and Family Services' Licensing Information System described
2164 in Section 80-2-1002;

2165 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
2166 exploitation database described in Section 26B-6-210;

- 2167 (iv) juvenile court arrest, adjudication, and disposition records;
 2168 ~~[(iv)]~~ (v) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex
 2169 and Kidnap Offender Registry, or a national sex offender registry; or
 2170 ~~[(v)]~~ (vi) a state child abuse or neglect registry.
 2171 (j) "Office" means the Office of Background Processing within the department.
 2172 ~~[(i) (i) "Peer support specialist" means an individual who:]~~
 2173 ~~[(A) has a disability or a family member with a disability, or is in recovery from a~~
 2174 ~~mental illness or a substance use disorder; and]~~
 2175 ~~[(B) uses personal experience to provide support, guidance, or services to promote~~
 2176 ~~resiliency and recovery.]~~
 2177 ~~[(ii) "Peer support specialist" includes a certified peer support specialist.]~~
 2178 ~~[(iii) "Peer support specialist" does not include a mental health professional.]~~
 2179 ~~[(j)]~~ (k) "Personal identifying information" means:
 2180 (i) current name, former names, nicknames, and aliases;
 2181 (ii) date of birth;
 2182 (iii) physical address and email address;
 2183 (iv) telephone number;
 2184 (v) driver license or other government-issued identification;
 2185 (vi) social security number;
 2186 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified
 2187 by the office; and
 2188 (viii) other information specified by the office by rule made in accordance with Title
 2189 63G, Chapter 3, Utah Administrative Rulemaking Act.
 2190 ~~[(k) "Practice of mental health therapy" means the same as that term is defined in~~
 2191 ~~Section 58-60-102.]~~
 2192 (2) Except as provided in Subsection (12), an applicant or a representative shall submit
 2193 the following to the office:
 2194 (a) personal identifying information;
 2195 (b) a fee established by the office under Section 63J-1-504; [and]
 2196 (c) a disclosure form, specified by the office, for consent for:
 2197 (i) an initial background check upon ~~[submission of the information described in this~~

2198 ~~Subsection (2)]~~ association of a certification, contract, or licensee with the department;
2199 (ii) ongoing monitoring of fingerprints and registries until no longer ~~[associated with a~~
2200 ~~licensee for 90 days]~~ associated with a certification, contract, or licensee with the department
2201 for 180 days;
2202 (iii) a background check when the office determines that reasonable cause exists; and
2203 (iv) retention of personal identifying information, including fingerprints, for
2204 monitoring and notification as described in Subsections (3)(d) and (4); ~~[and]~~
2205 (d) if an applicant resided outside of the United States and its territories during the five
2206 years immediately preceding the day on which the information described in Subsections (2)(a)
2207 through (c) is submitted to the office, documentation establishing whether the applicant was
2208 convicted of a crime during the time that the applicant resided outside of the United States or
2209 its territories~~[-];~~ and
2210 (e) an application showing an applicant's association with a certification, contract, or a
2211 licensee with the department, for the purpose of the office tracking the direct access qualified
2212 status of the applicant, which expires 180 days after the date on which the applicant is no
2213 longer associated with a certification, contract, or a licensee with the department.
2214 (3) The office:
2215 (a) shall perform the following duties as part of a background check of an applicant
2216 before the office grants or denies direct access qualified status to an applicant:
2217 (i) check state and regional criminal background databases for the applicant's criminal
2218 history by:
2219 (A) submitting personal identifying information to the bureau for a search; or
2220 (B) using the applicant's personal identifying information to search state and regional
2221 criminal background databases as authorized under Section 53-10-108;
2222 (ii) submit the applicant's personal identifying information and fingerprints to the
2223 bureau for a criminal history search of applicable national criminal background databases;
2224 (iii) search the Division of Child and Family Services' Licensing Information System
2225 described in Section 80-2-1002;
2226 (iv) search the Sex and Kidnap Offender Registry described in Title 77, Chapter 41,
2227 Sex and Kidnap Offender Registry, or a national sex offender registry for an applicant 18 years
2228 of age or older;

2229 ~~[(iv)]~~ (v) if the applicant is ~~[applying to become]~~ associated with a licensee for a
2230 prospective foster or adoptive parent, search the Division of Child and Family Services'
2231 Management Information System described in Section 80-2-1001 ~~[for:];~~
2232 ~~[(A) the applicant, and]~~
2233 ~~[(B) any adult living in the applicant's home;]~~
2234 ~~[(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child~~
2235 ~~and Family Services' Management Information System described in Section 80-2-1001;]~~
2236 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
2237 or exploitation database described in Section 26B-6-210;
2238 (vii) search the juvenile court records for substantiated findings of severe child abuse
2239 or neglect described in Section 80-3-404; and
2240 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided
2241 under Section 78A-6-209;
2242 ~~[(b) shall conduct a background check of an applicant for an initial background check~~
2243 ~~upon submission of the information described in Subsection (2);]~~
2244 ~~[(c)]~~ (b) may conduct all or portions of a background check ~~[of an applicant]~~ in
2245 connection with determining whether an applicant is direct access qualified, as provided by
2246 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative
2247 Rulemaking Act:
2248 (i) for an annual renewal; or
2249 (ii) when the office determines that reasonable cause exists;
2250 ~~[(d)]~~ (c) may submit an applicant's personal identifying information, including
2251 fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal
2252 background databases and for notifying the office of new criminal activity associated with the
2253 applicant;
2254 ~~[(e)]~~ (d) shall track the status of an applicant under this section to ensure that the
2255 applicant is not required to duplicate the submission of the applicant's fingerprints if the
2256 applicant ~~[applies for:]~~ is associated with more than one certification, contract, or licensee with
2257 the department;
2258 ~~[(i) more than one license;]~~
2259 ~~[(ii) direct access to a child or a vulnerable adult in more than one human services~~

2260 program, or]

2261 [~~(iii) direct access to a child or a vulnerable adult under a contract with the~~

2262 department;]

2263 [~~(f)~~] (e) [~~shall track the status of each individual with direct access to a child or a~~

2264 ~~vulnerable adult and notify the bureau within 90 days after the day on which the license expires~~

2265 ~~or the individual's direct access to a child or a vulnerable adult ceases] shall notify the bureau~~

2266 when a direct access qualified individual has not been associated with a certification, contract,

2267 or licensee with the department for a period of 180 days;

2268 [~~(g)~~] (f) shall adopt measures to strictly limit access to personal identifying information

2269 solely to the individuals responsible for processing and entering the applications for

2270 background checks and to protect the security of the personal identifying information the office

2271 reviews under this Subsection (3);

2272 [~~(h)~~] (g) as necessary to comply with the federal requirement to check a state's child

2273 abuse and neglect registry regarding any [~~individual~~] applicant working in a congregate care

2274 program, shall:

2275 (i) search the Division of Child and Family Services' Licensing Information System

2276 described in Section [80-2-1002](#); and

2277 (ii) require the child abuse and neglect registry be checked in each state where an

2278 applicant resided at any time during the five years immediately preceding the day on which the

2279 [~~applicant submits the information described in Subsection (2)]~~ application is submitted to the

2280 office; and

2281 [~~(i)~~] (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah

2282 Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to

2283 background checks.

2284 (4) (a) With the personal identifying information the office submits to the bureau under

2285 Subsection (3), the bureau shall check against state and regional criminal background databases

2286 for the applicant's criminal history.

2287 (b) With the personal identifying information and fingerprints the office submits to the

2288 bureau under Subsection (3), the bureau shall check against national criminal background

2289 databases for the applicant's criminal history.

2290 (c) Upon direction from the office, and with the personal identifying information and

2291 fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

2292 (i) maintain a separate file of the fingerprints for search by future submissions to the
2293 local and regional criminal records databases, including latent prints; and

2294 (ii) monitor state and regional criminal background databases and identify criminal
2295 activity associated with the applicant.

2296 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
2297 Investigation Next Generation Identification System, to be retained in the Federal Bureau of
2298 Investigation Next Generation Identification System for the purpose of:

2299 (i) being searched by future submissions to the national criminal records databases,
2300 including the Federal Bureau of Investigation Next Generation Identification System and latent
2301 prints; and

2302 (ii) monitoring national criminal background databases and identifying criminal
2303 activity associated with the applicant.

2304 (e) The Bureau shall notify and release to the office all information of criminal activity
2305 associated with the applicant.

2306 (f) Upon notice that ~~[an individual's direct access to a child or a vulnerable adult has~~
2307 ~~ceased for 90 days]~~ an individual who has direct access qualified status will no longer be
2308 associated with a certification, contract, or licensee with the department, the bureau shall:

2309 (i) discard and destroy any retained fingerprints; and

2310 (ii) notify the Federal Bureau of Investigation when the license has expired or an
2311 individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau
2312 of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of
2313 Investigation Next Generation Identification System.

2314 (5) (a) Except as provided in Subsection (5)(b), ~~[after conducting the background~~
2315 ~~check described in Subsections (3) and (4),]~~ the office shall deny ~~[an application to an~~
2316 ~~applicant who, within three years before the day on which the applicant submits information to~~
2317 ~~the office under Subsection (2) for a background check, has been convicted of]~~ direct access
2318 qualified status to an applicant who, within three years from the date that the office conducts
2319 the background check, was convicted of:

2320 (i) a felony or misdemeanor involving conduct that constitutes any of the following:

2321 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to

- 2322 animals, or bestiality;
- 2323 (B) a violation of any pornography law, including sexual exploitation of a minor or
- 2324 aggravated sexual exploitation of a minor;
- 2325 (C) sexual solicitation or prostitution;
- 2326 [~~(D)~~] ~~an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title~~
- 2327 ~~76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or~~
- 2328 ~~Title 76, Chapter 7, Offenses Against the Family;]~~
- 2329 (D) a violent offense committed in the presence of a child, as described in Section
- 2330 76-3-203.10;
- 2331 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 2332 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 2333 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 2334 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 2335 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 2336 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;
- 2337 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking
- 2338 Injunctions;
- 2339 [~~(E)~~] (L) aggravated arson, as described in Section 76-6-103;
- 2340 [~~(F)~~] (M) aggravated burglary, as described in Section 76-6-203;
- 2341 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
- 2342 [~~(G)~~] (O) aggravated robbery, as described in Section 76-6-302;
- 2343 (P) endangering persons in a human services program, as described in Section
- 2344 26B-2-113;
- 2345 (Q) failure to report, as described in Section 80-2-609;
- 2346 [~~(H)~~] (R) identity fraud crime, as described in Section 76-6-1102;
- 2347 (S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;
- 2348 (T) riot, as described in Section 76-9-101;
- 2349 [~~(I)~~] (U) sexual battery, as described in Section 76-9-702.1; or
- 2350 (V) threatening with or using a dangerous weapon in a fight or quarrel, as described in
- 2351 Section 76-10-506; or
- 2352 [~~(J)~~] ~~a violent offense committed in the presence of a child, as described in Section~~

2353 ~~76-3-203.10; or]~~

2354 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
2355 in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

2356 (b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
2357 peer support provider~~;~~ or a mental health professional, [or in a] if the applicant provides
2358 services in a program that serves only adults with a primary mental health diagnosis, with or
2359 without a co-occurring substance use disorder.

2360 (ii) The office shall conduct a comprehensive review of an applicant described in
2361 Subsection (5)(b)(i) in accordance with ~~[Subsection (6)]~~ Subsection (12).

2362 (c) The office shall deny direct access qualified status to an applicant if the office finds
2363 that a court order prohibits the applicant from having direct access to a child or vulnerable
2364 adult.

2365 (6) The office shall conduct a comprehensive review of an applicant's background
2366 check if the applicant:

2367 (a) has a felony or class A misdemeanor conviction ~~[for an offense described in~~
2368 ~~Subsection (5) with a date of conviction that is more than three years before the date on which~~
2369 ~~the applicant submits the information described in Subsection (2)]~~ that is more than three years
2370 from the date the office conducts the background check, for an offense described in Subsection
2371 (5)(a);

2372 (b) has a felony charge or conviction that is no more than 10 years from the date the
2373 office conducts the background check for an offense not described in Subsection ~~[(5) with a~~
2374 ~~date of charge or conviction that is no more than 10 years before the date on which the~~
2375 ~~applicant submits the application under Subsection (2) and no criminal findings or~~
2376 ~~non-criminal findings after the date of conviction]~~ (5)(a);

2377 (c) has a felony charge or conviction that is more than 10 years from the date the office
2378 conducts the background check for an offense not described in Subsection (5)(a), with criminal
2379 or non-criminal findings after the date of the felony charge or conviction;

2380 ~~[(e)]~~ (d) has a class B misdemeanor or class C misdemeanor conviction ~~[for an offense~~
2381 ~~described in Subsection (5) with a date of conviction that is more than three years after, and no~~
2382 ~~more than 10 years before, the date on which the applicant submits the information described~~
2383 ~~in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction]~~

2384 that is more than three years and no more than 10 years from the date the office conducts the
2385 background check for an offense described in Subsection (5)(a);

2386 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10
2387 years from the date on which the office conducts the background check for an offense
2388 described in Subsection (5)(a), with criminal or non-criminal findings after the date of
2389 conviction;

2390 ~~[(d)]~~ (f) has a misdemeanor charge or conviction that is more than three years from the
2391 date on which the office conducts the background check for an offense not described in
2392 Subsection [(5) with a date of conviction that is no more than three years before the date on
2393 which the applicant submits information described in Subsection (2) and no criminal findings
2394 or non-criminal findings after the date of conviction] (5)(a);

2395 (g) has a misdemeanor charge or conviction that is more than three years from the date
2396 on which the office conducts the background check for an offense not described in Subsection
2397 (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

2398 ~~[(e)]~~ (h) is currently subject to a plea in abeyance or diversion agreement for an offense
2399 described in Subsection ~~[(5)]~~ (5)(a);

2400 ~~[(f)]~~ (i) appears on the Sex and Kidnap Offender Registry described in Title 77,
2401 Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

2402 ~~[(g)]~~ (j) has a record of an adjudication in juvenile court for an act that, if committed by
2403 an adult, would be a felony or misdemeanor, if the applicant is:

2404 (i) under 28 years old; or

2405 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
2406 currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor
2407 offense described in Subsection ~~[(5)]~~ (5)(a);

2408 ~~[(h)]~~ (k) has a pending charge for an offense described in Subsection ~~[(5)]~~ (5)(a);

2409 ~~[(i)]~~ (l) has a listing that occurred no more than 15 years from the date on which the
2410 office conducts the background check in the Division of Child and Family Services' Licensing
2411 Information System described in Section 80-2-1002 [that occurred no more than 15 years
2412 before the date on which the applicant submits the information described in Subsection (2) and
2413 no criminal findings or non-criminal findings dated after the date of the listing];

2414 ~~[(j)]~~ (m) has a listing that occurred more than 15 years from the date on which the

2415 office conducts the background check in the Division of Child and Family Services' Licensing
 2416 Information System described in Section 80-2-1002, with criminal or non-criminal findings
 2417 after the date of the listing;

2418 (n) has a listing that occurred no more than 15 years from the date on which the office
 2419 conducts the background check in the Division of Aging and Adult Services' vulnerable adult
 2420 abuse, neglect, or exploitation database described in Section 26B-6-210 [that occurred no more
 2421 than 15 years before the date on which the applicant submits the information described in
 2422 Subsection (2) and no criminal findings or non-criminal findings dated after the date of the
 2423 listing];

2424 (o) has a listing that occurred more than 15 years before the date on which the office
 2425 conducts the background check in the Division of Aging and Adult Services' vulnerable adult
 2426 abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or
 2427 non-criminal findings after the date of the listing;

2428 ~~[(k)]~~ (p) has a substantiated finding that occurred no more than 15 years from the date
 2429 on which the office conducts the background check of severe child abuse or neglect under
 2430 Section 80-3-404 or 80-3-504 [that occurred no more than 15 years before the date on which
 2431 the applicant submits the information described in Subsection (2) and no criminal findings or
 2432 non-criminal findings dated after the date of the finding]; or

2433 (q) has a substantiated finding that occurred more than 15 years from the date the office
 2434 conducts the background check of severe child abuse or neglect under Section 80-3-404 or
 2435 80-3-504, with criminal or non-criminal findings after the date of the listing.

2436 ~~[(f) (i) is seeking a position:]~~

2437 ~~[(A) as a peer support provider;]~~

2438 ~~[(B) as a mental health professional; or]~~

2439 ~~[(C) in a program that serves only adults with a primary mental health diagnosis, with~~
 2440 ~~or without a co-occurring substance use disorder; and]~~

2441 ~~[(ii) within three years before the day on which the applicant submits the information~~
 2442 ~~described in Subsection (2):]~~

2443 ~~[(A) has a felony or misdemeanor charge or conviction;]~~

2444 ~~[(B) has a listing in the Division of Child and Family Services' Licensing Information~~
 2445 ~~System described in Section 80-2-1002;]~~

2446 [~~(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,~~
2447 ~~neglect, or exploitation database described in Section 26B-6-210; or]~~

2448 [~~(D) has a substantiated finding of severe child abuse or neglect under Section~~
2449 ~~80-3-404 or 80-3-504;]~~

2450 [~~(m)(i)(A) is seeking a position in a congregate care program;]~~

2451 [~~(B) is seeking to become a prospective foster or adoptive parent; or]~~

2452 [~~(C) is an applicant described in Subsection (1)(a)(i)(F); and]~~

2453 [~~(ii)(A) has an infraction conviction for conduct that constitutes an offense or violation~~
2454 ~~described in Subsection (5)(a)(i)(A) or (B);]~~

2455 [~~(B) has a listing in the Division of Child and Family Services' Licensing Information~~
2456 ~~System described in Section 80-2-1002;]~~

2457 [~~(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,~~
2458 ~~neglect, or exploitation database described in Section 26B-6-210;]~~

2459 [~~(D) has a substantiated finding of severe child abuse or neglect under Section~~
2460 ~~80-3-404 or 80-3-504; or]~~

2461 [~~(E) has a listing on the registry check described in Subsection (13)(a) as having a~~
2462 ~~substantiated or supported finding of a severe type of child abuse or neglect as defined in~~
2463 ~~Section 80-1-102; or]~~

2464 [~~(n) is seeking to become a prospective foster or adoptive parent and has, or has an~~
2465 ~~adult living with the applicant who has, a conviction, finding, or listing described in Subsection~~
2466 ~~(6)(m)(ii).]~~

2467 (7) (a) The comprehensive review shall include an examination of:

2468 (i) the date of the offense or incident;

2469 (ii) the nature and seriousness of the offense or incident;

2470 (iii) the circumstances under which the offense or incident occurred;

2471 (iv) the age of the perpetrator when the offense or incident occurred;

2472 (v) whether the offense or incident was an isolated or repeated incident;

2473 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
2474 adult, including:

2475 (A) actual or threatened, nonaccidental physical, mental, or financial harm;

2476 (B) sexual abuse;

- 2477 (C) sexual exploitation; or
- 2478 (D) negligent treatment;
- 2479 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
- 2480 treatment received, or additional academic or vocational schooling completed; and
- 2481 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
- 2482 which the applicant is applying[-];
- 2483 (ix) if the background check of an applicant is being conducted for the purpose of
- 2484 giving direct access qualified status to an applicant seeking a position in a congregate care
- 2485 program or to become a prospective foster or adoptive parent, any listing in the Division of
- 2486 Child and Family Services' Management Information System described in Section 80-2-1002.
- 2487 (b) At the conclusion of the comprehensive review, the office shall deny [~~an~~
- 2488 ~~application to an applicant if the office finds:] direct access qualified status to an applicant if~~
- 2489 the office finds the approval would likely create a risk of harm to a child or vulnerable adult.
- 2490 [~~(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or]~~
- 2491 [~~(ii) an individual is prohibited from having direct access to a child or vulnerable adult~~
- 2492 ~~by court order.]~~
- 2493 (8) The office shall [~~approve an application]~~ grant direct access qualified status to an
- 2494 applicant who is not denied under this section.
- 2495 (9) (a) The office may conditionally [~~approve an application of]~~ grant direct access
- 2496 qualified status to an applicant, for a maximum of 60 days after the day on which the office
- 2497 sends written notice [~~to the applicant under Subsection (11)],~~ without requiring that the
- 2498 applicant be directly supervised, if the office:
- 2499 (i) is awaiting the results of the criminal history search of national criminal background
- 2500 databases; and
- 2501 (ii) would otherwise [~~approve an application of]~~ grant direct access qualified status to
- 2502 the applicant under this section.
- 2503 (b) The office may conditionally [~~approve an application of]~~ grant direct access
- 2504 qualified status to an applicant, for a maximum of one year after the day on which the office
- 2505 sends written notice [~~to the applicant under Subsection (11)],~~ without requiring that the
- 2506 applicant be directly supervised if the office:
- 2507 (i) is awaiting the results of an out-of-state registry for providers other than foster and

2508 adoptive parents; and

2509 (ii) would otherwise ~~[approve an application of]~~ grant direct access qualified status to
2510 the applicant under this section.

2511 (c) Upon receiving the results of the criminal history search of a national criminal
2512 background database, the office shall ~~[approve or deny the application of]~~ grant or deny direct
2513 access qualified status to the applicant in accordance with this section.

2514 (10) (a) Each time an applicant is associated with a licensee, the department shall
2515 review the current status of the applicant's background check to ensure the applicant is still
2516 eligible for direct access qualified status in accordance with this section.

2517 ~~[(a)]~~ (b) A licensee ~~[or department contractor]~~ may not permit an individual to have
2518 direct access to a child or a vulnerable adult without being directly supervised unless:

2519 ~~[(i) the individual is associated with the licensee or department contractor and the~~
2520 ~~department conducts a background screening in accordance with this section;]~~

2521 ~~[(ii)]~~ (i) the individual is the parent or guardian of the child, or the guardian of the
2522 vulnerable adult;

2523 ~~[(iii)]~~ (ii) the individual is approved by the parent or guardian of the child, or the
2524 guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

2525 ~~[(iv)]~~ (iii) the individual is only permitted to have direct access to a vulnerable adult
2526 who voluntarily invites the individual to visit; or

2527 ~~[(v)]~~ (iv) the individual only provides incidental care for a foster child on behalf of a
2528 foster parent who has used reasonable and prudent judgment to select the individual to provide
2529 the incidental care for the foster child.

2530 ~~[(b)]~~ (c) Notwithstanding any other provision of this section, an ~~[individual for whom~~
2531 ~~the office denies an application]~~ applicant who is denied direct access qualified status may not
2532 have direct access to a child or vulnerable adult unless the office ~~[approves a subsequent~~
2533 ~~application by the individual]~~ grants direct access qualified status to the applicant through a
2534 subsequent application in accordance with this section.

2535 ~~[(11) (a) Within 30 days after the day on which the applicant submits the information~~
2536 ~~described in Subsection (2), the office shall notify the applicant of any potentially disqualifying~~
2537 ~~criminal findings or non-criminal findings.]~~

2538 ~~[(b) If the notice under Subsection (11)(a) states that the applicant's application is~~

2539 denied, the notice shall further advise the applicant that the applicant may, under Subsection
 2540 ~~26B-2-111~~(2), request a hearing in the department's Office of Administrative Hearings, to
 2541 challenge the office's decision.]

2542 [~~(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
 2543 ~~the office shall make rules, consistent with this part:]~~

2544 [~~(i) defining procedures for the challenge of the office's background check decision~~
 2545 ~~described in Subsection (11)(b); and]~~

2546 [~~(ii) expediting the process for renewal of a license under the requirements of this~~
 2547 ~~section and other applicable sections:]~~

2548 (11) If the office denies direct access qualified status to an applicant, the applicant may
 2549 request a hearing in the department's Office of Administrative Hearings to challenge the
 2550 office's decision.

2551 [~~(12) (a) An individual or a department contractor who provides services in an adults~~
 2552 ~~only substance use disorder program, as defined by rule made in accordance with Title 63G,~~
 2553 ~~Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section]~~

2554 (12) (a) This Subsection (12) applies to an applicant associated with a certification,
 2555 contract, or licensee serving adults only.

2556 [~~(b) The exemption described in Subsection (12)(a) does not extend to a program~~
 2557 ~~director or a member, as defined by Section 26B-2-105, of the program]~~

2558 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee
 2559 shall comply with this section.

2560 (c) The office shall conduct a comprehensive review for an applicant if:

2561 (i) seeking a position:

2562 (A) as a peer support provider;

2563 (B) mental health professional; or

2564 (C) in a program that serves only adults with a primary mental health diagnosis, with or
 2565 without a co-occurring substance use disorder; and

2566 (ii) within three years from the date on which the office conducts the background
 2567 check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal
 2568 finding.

2569 [~~(13) (a) Except as provided in Subsection (13)(b), in addition to the other~~

2570 requirements of this section, if the background check of an applicant is being conducted for the
2571 purpose of giving clearance status to an applicant seeking a position in a congregate care
2572 program or an applicant seeking to become a prospective foster or adoptive parent, the office
2573 shall:]

2574 (13) (a) This Subsection (13) applies to an applicant seeking a position in a congregate
2575 care program, an applicant seeking to provide a prospective foster home, an applicant seeking
2576 to provide a prospective adoptive home, and each adult living in the home of the prospective
2577 foster or prospective adoptive home.

2578 (b) As federally required, and excepting applicants seeking a position in a congregate
2579 care program, the office shall:

2580 (i) check the child abuse and neglect registry in each state where each applicant resided
2581 in the five years immediately preceding the day on which the applicant applied to be a foster or
2582 adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the
2583 registry as having a substantiated or supported finding of child abuse or neglect; and

2584 (ii) check the child abuse and neglect registry in each state where each adult living in
2585 the home of the ~~[applicant described in Subsection (13)(a)(i)]~~ prospective foster or adoptive
2586 home resided in the five years immediately preceding the day on which the applicant applied to
2587 be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a
2588 substantiated or supported finding of child abuse or neglect.

2589 ~~[(b)]~~ (c) The requirements described in Subsection (13)(a) do not apply to the extent
2590 that:

2591 (i) federal law or rule permits otherwise; or

2592 (ii) the requirements would prohibit the Division of Child and Family Services or a
2593 court from placing a child with:

2594 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

2595 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or
2596 80-3-303, pending completion of the background check described in ~~[Subsection (5)]~~
2597 Subsections (5), (6), and (7).

2598 ~~[(c)]~~ (d) Notwithstanding Subsections (5) through (10), the office shall deny [a
2599 clearance to an applicant seeking a position in a congregate care program or an applicant to
2600 become a prospective foster or adoptive parent if the applicant has been convicted of] direct

2601 access qualified status if the applicant has been convicted of:

- 2602 (i) a felony involving conduct that constitutes any of the following:
- 2603 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 2604 (B) commission of domestic violence in the presence of a child, as described in Section
- 2605 76-5-114;
- 2606 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 2607 (D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;
- 2608 (E) aggravated murder, as described in Section 76-5-202;
- 2609 (F) murder, as described in Section 76-5-203;
- 2610 (G) manslaughter, as described in Section 76-5-205;
- 2611 (H) child abuse homicide, as described in Section 76-5-208;
- 2612 (I) homicide by assault, as described in Section 76-5-209;
- 2613 (J) kidnapping, as described in Section 76-5-301;
- 2614 (K) child kidnapping, as described in Section 76-5-301.1;
- 2615 (L) aggravated kidnapping, as described in Section 76-5-302;
- 2616 (M) human trafficking of a child, as described in Section 76-5-308.5;
- 2617 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 2618 (O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
- 2619 Exploitation Act;
- 2620 (P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 2621 (Q) aggravated arson, as described in Section 76-6-103;
- 2622 (R) aggravated burglary, as described in Section 76-6-203;
- 2623 (S) aggravated robbery, as described in Section 76-6-302;
- 2624 (T) lewdness involving a child, as described in Section 76-9-702.5;
- 2625 (U) incest, as described in Section 76-7-102; or
- 2626 (V) domestic violence, as described in Section 77-36-1; or
- 2627 (ii) an offense committed outside the state that, if committed in the state, would
- 2628 constitute a violation of an offense described in Subsection (13)(c)(i).

2629 ~~[(d)]~~ (e) Notwithstanding Subsections (5) through (10), the office shall deny ~~[a license~~

2630 ~~or license renewal to an individual seeking a position in a congregate care program or a~~

2631 ~~prospective foster or adoptive parent if, within the five years immediately preceding the day on~~

2632 ~~which the individual's application or license would otherwise be approved, the individual]~~
2633 direct access qualified status to an applicant if, within the five years before the date on which
2634 the office conducts the background check, the applicant was convicted of a felony involving
2635 conduct that constitutes a violation of any of the following:

- 2636 (i) aggravated assault, as described in Section [76-5-103](#);
- 2637 (ii) aggravated assault by a prisoner, as described in Section [76-5-103.5](#);
- 2638 (iii) mayhem, as described in Section [76-5-105](#);
- 2639 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 2640 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 2641 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances

2642 Act;

- 2643 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance

2644 Precursor Act; or

- 2645 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

2646 ~~(e)~~ (f) In addition to the circumstances described in Subsection (6), the office shall
2647 conduct ~~[the]~~ a comprehensive review of an applicant's background check under this section if
2648 ~~[the registry check described in Subsection (13)(a) indicates that the individual is listed in a~~
2649 ~~child abuse and neglect registry of another state as having a substantiated or supported finding~~
2650 ~~of a severe type of child abuse or neglect as defined in Section [80-1-102](#).]~~ the applicant:

- 2651 (i) for an offense described in Subsection (5), has an infraction conviction entered on a
2652 date that is no more than three years before the date on which the office conducts the
2653 background check;

- 2654 (ii) has a listing in the Division of Child and Family Services' Licensing Information
2655 System described in Section [80-2-1002](#);

- 2656 (iii) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect,
2657 or exploitation database described in Section [26B-6-210](#);

- 2658 (iv) has a substantiated finding of severe child abuse or neglect under Section [80-3-404](#)
2659 or [80-3-504](#); or

- 2660 (v) has a listing on the registry check described in Subsection (13)(a) as having a
2661 substantiated or supported finding of a severe type of child abuse or neglect, as defined in
2662 Section [80-1-102](#).

2663 [(14)] (g) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 2664 Act, the office may make rules, consistent with this part, to:

2665 [(a)] (i) establish procedures for, and information to be examined in, the
 2666 comprehensive review described in Subsections ~~[(6) and (7)]~~ (6), (7), and (13); and

2667 [(b)] (ii) determine whether to consider an offense or incident that occurred while an
 2668 individual was in the custody of the Division of Child and Family Services or the ~~[Division of~~
 2669 ~~Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services for purposes of
 2670 ~~[approval or denial of an application for a prospective foster or adoptive parent]~~ granting or
 2671 denying direct access qualified status to an applicant.

2672 Section 22. Section **26B-2-122** is amended to read:

2673 **26B-2-122. Access to vulnerable adult abuse and neglect information.**

2674 (1) For purposes of this section:

2675 (a) "Direct service worker" means the same as that term is defined in Section
 2676 [26B-6-401](#).

2677 (b) "Personal care attendant" means the same as that term is defined in Section
 2678 [26B-6-401](#).

2679 (2) With respect to a licensee, a direct service worker, or a personal care attendant, the
 2680 department may access the database created by Section [26B-6-210](#) for the purpose of:

2681 (a) (i) determining whether a person associated with a licensee, with direct access to
 2682 vulnerable adults, has a supported or substantiated finding of:

2683 (A) abuse;

2684 (B) neglect; or

2685 (C) exploitation; and

2686 (ii) informing a licensee that a person associated with the licensee has a supported or
 2687 substantiated finding of:

2688 (A) abuse;

2689 (B) neglect; or

2690 (C) exploitation;

2691 (b) (i) determining whether a direct service worker has a supported or substantiated
 2692 finding of:

2693 (A) abuse;

2694 (B) neglect; or
 2695 (C) exploitation; and
 2696 (ii) informing a direct service worker or the direct service worker's employer that the
 2697 direct service worker has a supported or substantiated finding of:

2698 (A) abuse;
 2699 (B) neglect; or
 2700 (C) exploitation; or
 2701 (c) (i) determining whether a personal care attendant has a supported or substantiated

2702 finding of:
 2703 (A) abuse;
 2704 (B) neglect; or
 2705 (C) exploitation; and
 2706 (ii) informing a person described in Subsections 26B-6-401(9)(a)(i) through (iv) that a
 2707 personal care attendant has a supported or substantiated finding of:

2708 (A) abuse;
 2709 (B) neglect; or
 2710 (C) exploitation.

2711 (3) The department shall receive and process personal identifying information under
 2712 Subsection [~~26B-2-120(1)~~] 26B-2-120(2) for the purposes described in Subsection [~~(2)~~] (3).

2713 (4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative
 2714 Rulemaking Act, consistent with this part and Chapter 6, Part 2, Abuse, Neglect, or
 2715 Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have
 2716 direct access or provide services to vulnerable adults when the person is listed in the statewide
 2717 database of the Division of Aging and Adult Services created by Section 26B-6-210 as having
 2718 a supported or substantiated finding of abuse, neglect, or exploitation.

2719 Section 23. Section **26B-2-128** is amended to read:

2720 **26B-2-128. Numerical limit of foster children in a foster home.**

2721 [~~(1) Except as provided in Subsection (2) or (3), no more than:~~]

2722 [~~(a) four foster children may reside in the foster home of a licensed foster parent; or]~~

2723 [~~(b) three foster children may reside in the foster home of a certified foster parent.]~~

2724 (1) (a) No more than four foster children may reside in the foster home of a licensed

2725 foster parent.

2726 (b) No more than three foster children may reside in the foster home of a certified

2727 foster parent.

2728 ~~[(2) When placing a sibling group into a foster home, the limits in Subsection (1) may~~

2729 ~~be exceeded if:]~~

2730 ~~[(a) no other foster children reside in the foster home;]~~

2731 ~~[(b) only one other foster child resides in the foster home at the time of a sibling~~

2732 ~~group's placement into the foster home; or]~~

2733 ~~[(c) a sibling group re-enters foster care and is placed into the foster home where the~~

2734 ~~sibling group previously resided.]~~

2735 ~~[(3)]~~ (2) When placing a child into a foster home, the limits in Subsection (1) may be

2736 exceeded:

2737 (a) to place a child into a foster home where a sibling of the child currently resides; or

2738 (b) to place a child in a foster home where the child previously resided.

2739 (3) The limits under Subsection (1) may be exceeded for:

2740 (a) placement of a sibling group in a foster home with no more than one other foster

2741 child placement;

2742 (b) placement of a child or sibling group in a foster home where the child or sibling

2743 group previously resided; or

2744 (c) placement of a child in a foster home where a sibling currently resides.

2745 Section 24. Section **26B-2-201** is amended to read:

2746 **26B-2-201. Definitions.**

2747 As used in this part:

2748 (1) (a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

2749 (b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under

2750 Section [76-7-301](#) or Section ~~[76-71-101]~~ [76-7a-101](#).

2751 (2) "Activities of daily living" means essential activities including:

2752 (a) dressing;

2753 (b) eating;

2754 (c) grooming;

2755 (d) bathing;

- 2756 (e) toileting;
- 2757 (f) ambulation;
- 2758 (g) transferring; and
- 2759 (h) self-administration of medication.
- 2760 (3) "Ambulatory surgical facility" means a freestanding facility, which provides
- 2761 surgical services to patients not requiring hospitalization.
- 2762 (4) "Assistance with activities of daily living" means providing of or arranging for the
- 2763 provision of assistance with activities of daily living.
- 2764 (5) (a) "Assisted living facility" means:
- 2765 (i) a type I assisted living facility, which is a residential facility that provides assistance
- 2766 with activities of daily living and social care to two or more residents who:
- 2767 (A) require protected living arrangements; and
- 2768 (B) are capable of achieving mobility sufficient to exit the facility without the
- 2769 assistance of another person; and
- 2770 (ii) a type II assisted living facility, which is a residential facility with a home-like
- 2771 setting that provides an array of coordinated supportive personal and health care services
- 2772 available 24 hours per day to residents who have been assessed under department rule to need
- 2773 any of these services.
- 2774 (b) Each resident in a type I or type II assisted living facility shall have a service plan
- 2775 based on the assessment, which may include:
- 2776 (i) specified services of intermittent nursing care;
- 2777 (ii) administration of medication; and
- 2778 (iii) support services promoting residents' independence and self-sufficiency.
- 2779 (6) "Birthing center" means a facility that:
- 2780 (a) receives maternal clients and provides care during pregnancy, delivery, and
- 2781 immediately after delivery; and
- 2782 (b) (i) is freestanding; or
- 2783 (ii) is not freestanding, but meets the requirements for an alongside midwifery unit
- 2784 described in Subsection [26B-2-228\(7\)](#).
- 2785 (7) "Committee" means the Health Facility Committee created in Section [26B-1-204](#).
- 2786 (8) "Consumer" means any person not primarily engaged in the provision of health care

2787 to individuals or in the administration of facilities or institutions in which such care is provided
2788 and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in
2789 the provision of health care, and does not receive, either directly or through his spouse, more
2790 than 1/10 of his gross income from any entity or activity relating to health care.

2791 (9) "End stage renal disease facility" means a facility which furnishes staff-assisted
2792 kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

2793 (10) "Freestanding" means existing independently or physically separated from another
2794 health care facility by fire walls and doors and administrated by separate staff with separate
2795 records.

2796 (11) "General acute hospital" means a facility which provides diagnostic, therapeutic,
2797 and rehabilitative services to both inpatients and outpatients by or under the supervision of
2798 physicians.

2799 (12) "Governmental unit" means the state, or any county, municipality, or other
2800 political subdivision or any department, division, board, or agency of the state, a county,
2801 municipality, or other political subdivision.

2802 (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home
2803 health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing
2804 centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that
2805 meets the definition of hospital under Section [76-7-301](#) or ~~[76-71-201]~~ [76-7a-101](#), facilities
2806 owned or operated by health maintenance organizations, end stage renal disease facilities, and
2807 any other health care facility which the committee designates by rule.

2808 (b) "Health care facility" does not include the offices of private physicians or dentists,
2809 whether for individual or group practice, except that it does include an abortion clinic.

2810 (14) "Health maintenance organization" means an organization, organized under the
2811 laws of any state which:

2812 (a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

2813 (b) (i) provides or otherwise makes available to enrolled participants at least the
2814 following basic health care services: usual physician services, hospitalization, laboratory, x-ray,
2815 emergency, and preventive services and out-of-area coverage;

2816 (ii) is compensated, except for copayments, for the provision of the basic health
2817 services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a

2818 periodic basis without regard to the date the health services are provided and which is fixed
2819 without regard to the frequency, extent, or kind of health services actually provided; and

2820 (iii) provides physicians' services primarily directly through physicians who are either
2821 employees or partners of such organizations, or through arrangements with individual
2822 physicians or one or more groups of physicians organized on a group practice or individual
2823 practice basis.

2824 (15) (a) "Home health agency" means an agency, organization, or facility or a
2825 subdivision of an agency, organization, or facility which employs two or more direct care staff
2826 persons who provide licensed nursing services, therapeutic services of physical therapy, speech
2827 therapy, occupational therapy, medical social services, or home health aide services on a
2828 visiting basis.

2829 (b) "Home health agency" does not mean an individual who provides services under
2830 the authority of a private license.

2831 (16) "Hospice" means a program of care for the terminally ill and their families which
2832 occurs in a home or in a health care facility and which provides medical, palliative,
2833 psychological, spiritual, and supportive care and treatment.

2834 (17) "Nursing care facility" means a health care facility, other than a general acute or
2835 specialty hospital, constructed, licensed, and operated to provide patient living
2836 accommodations, 24-hour staff availability, and at least two of the following patient services:

2837 (a) a selection of patient care services, under the direction and supervision of a
2838 registered nurse, ranging from continuous medical, skilled nursing, psychological, or other
2839 professional therapies to intermittent health-related or paraprofessional personal care services;

2840 (b) a structured, supportive social living environment based on a professionally
2841 designed and supervised treatment plan, oriented to the individual's habilitation or
2842 rehabilitation needs; or

2843 (c) a supervised living environment that provides support, training, or assistance with
2844 individual activities of daily living.

2845 (18) "Person" means any individual, firm, partnership, corporation, company,
2846 association, or joint stock association, and the legal successor thereof.

2847 (19) "Resident" means a person 21 years old or older who:

2848 (a) as a result of physical or mental limitations or age requires or requests services

2849 provided in an assisted living facility; and

2850 (b) does not require intensive medical or nursing services as provided in a hospital or
2851 nursing care facility.

2852 (20) "Small health care facility" means a four to 16 bed facility that provides licensed
2853 health care programs and services to residents.

2854 (21) "Specialty hospital" means a facility which provides specialized diagnostic,
2855 therapeutic, or rehabilitative services in the recognized specialty or specialties for which the
2856 hospital is licensed.

2857 (22) "Substantial compliance" means in a department survey of a licensee, the
2858 department determines there is an absence of deficiencies which would harm the physical
2859 health, mental health, safety, or welfare of patients or residents of a licensee.

2860 (23) "Type I abortion clinic" means a facility, including a physician's office, but not
2861 including a general acute or specialty hospital, that:

2862 (a) performs abortions, as defined in Section 76-7-301, during the first trimester of
2863 pregnancy; and

2864 (b) does not perform abortions, as defined in Section 76-7-301, after the first trimester
2865 of pregnancy.

2866 (24) "Type II abortion clinic" means a facility, including a physician's office, but not
2867 including a general acute or specialty hospital, that:

2868 (a) performs abortions, as defined in Section 76-7-301, after the first trimester of
2869 pregnancy; or

2870 (b) performs abortions, as defined in Section 76-7-301, during the first trimester of
2871 pregnancy and after the first trimester of pregnancy.

2872 Section 25. Section **26B-2-202** is amended to read:

2873 **26B-2-202. Duties of department.**

2874 (1) The department shall:

2875 (a) enforce rules established pursuant to this part;

2876 (b) authorize an agent of the department to conduct inspections of health care facilities
2877 pursuant to this part;

2878 (c) collect information authorized by the committee that may be necessary to ensure
2879 that adequate health care facilities are available to the public;

2880 (d) collect and credit fees for licenses as free revenue;
2881 (e) collect and credit fees for conducting plan reviews as dedicated credits;
2882 (f) (i) collect and credit fees for conducting [~~clearance~~] certification for direct patient
2883 access under Sections 26B-2-239 and 26B-2-240; and
2884 (ii) beginning July 1, 2012:
2885 (A) up to \$105,000 of the fees collected under Subsection (1)(f)(i) are dedicated
2886 credits; and
2887 (B) the fees collected for background checks under Subsection 26B-2-240(6) and
2888 Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse
2889 the Department of Public Safety for its costs in conducting the federal background checks;
2890 (g) designate an executive secretary from within the department to assist the committee
2891 in carrying out its powers and responsibilities;
2892 (h) establish reasonable standards for criminal background checks by public and
2893 private entities;
2894 (i) recognize those public and private entities that meet the standards established
2895 pursuant to Subsection (1)(h); and
2896 (j) provide necessary administrative and staff support to the committee.
2897 (2) The department may:
2898 (a) exercise all incidental powers necessary to carry out the purposes of this part;
2899 (b) review architectural plans and specifications of proposed health care facilities or
2900 renovations of health care facilities to ensure that the plans and specifications conform to rules
2901 established by the committee; and
2902 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2903 make rules as necessary to implement the provisions of this part.
2904 Section 26. Section 26B-2-204 is amended to read:
2905 **26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee --**
2906 **Licensing of a clinic meeting the definition of hospital.**
2907 (1) (a) No abortion clinic may operate in the state on or after January 1, 2024, or the
2908 last valid date of an abortion clinic license issued under the requirements of this section,
2909 whichever date is later.
2910 (b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an

- 2911 abortion in violation of any provision of state law.
- 2912 (2) The state may not issue a license for an abortion clinic after May 2, 2023.
- 2913 (3) For any license for an abortion clinic that is issued under this section:
- 2914 (a) A type I abortion clinic may not operate in the state without a license issued by the
2915 department to operate a type I abortion clinic.
- 2916 (b) A type II abortion clinic may not operate in the state without a license issued by the
2917 department to operate a type II abortion clinic.
- 2918 (c) The department shall make rules establishing minimum health, safety, sanitary, and
2919 recordkeeping requirements for:
- 2920 (i) a type I abortion clinic; and
- 2921 (ii) a type II abortion clinic.
- 2922 (d) To receive and maintain a license described in this section, an abortion clinic shall:
- 2923 (i) apply for a license on a form prescribed by the department;
- 2924 (ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping
2925 requirements established [~~under~~ under] under Subsection (3) that relate to the type of abortion clinic
2926 licensed;
- 2927 (iii) comply with the recordkeeping and reporting requirements of Section [76-7-313](#);
- 2928 (iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title
2929 76, Chapter 7a, Abortion Prohibition;
- 2930 (v) pay the annual licensing fee; and
- 2931 (vi) cooperate with inspections conducted by the department.
- 2932 (e) The department shall, at least twice per year, inspect each abortion clinic in the state
2933 to ensure that the abortion clinic is complying with all statutory and licensing requirements
2934 relating to the abortion clinic. At least one of the inspections shall be made without providing
2935 notice to the abortion clinic.
- 2936 (f) The department shall charge an annual license fee, set by the department in
2937 accordance with the procedures described in Section [63J-1-504](#), to an abortion clinic in an
2938 amount that will pay for the cost of the licensing requirements described in this section and the
2939 cost of inspecting abortion clinics.
- 2940 (g) The department shall deposit the licensing fees described in this section in the
2941 General Fund as a dedicated credit to be used solely to pay for the cost of the licensing

2942 requirements described in this section and the cost of inspecting abortion clinics.

2943 (4) (a) Notwithstanding any other provision of this section, the department may license
2944 a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

2945 (b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.

2946 Section 27. Section 26B-2-238 is amended to read:

2947 **26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.**

2948 As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

2949 (1) [~~"Clearance"~~] "Certification for direct patient access" means approval by the
2950 department under Section 26B-2-239 for an individual to have direct patient access.

2951 (2) "Covered body" means a covered provider, covered contractor, or covered
2952 employer.

2953 (3) "Covered contractor" means a person that supplies covered individuals, by contract,
2954 to a covered employer or covered provider.

2955 (4) "Covered employer" means an individual who:

2956 (a) engages a covered individual to provide services in a private residence to:

2957 (i) an aged individual, as defined by department rule; or

2958 (ii) a disabled individual, as defined by department rule;

2959 (b) is not a covered provider; and

2960 (c) is not a licensed health care facility within the state.

2961 (5) "Covered individual":

2962 (a) means an individual:

2963 (i) whom a covered body engages; and

2964 (ii) who may have direct patient access;

2965 (b) includes:

2966 (i) a nursing assistant, as defined by department rule;

2967 (ii) a personal care aide, as defined by department rule;

2968 (iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter
2969 31b, Nurse Practice Act;

2970 (iv) a provider of medical, therapeutic, or social services, including a provider of
2971 laboratory and radiology services;

2972 (v) an executive;

- 2973 (vi) administrative staff, including a manager or other administrator;
- 2974 (vii) dietary and food service staff;
- 2975 (viii) housekeeping and maintenance staff; and
- 2976 (ix) any other individual, as defined by department rule, who has direct patient access;

2977 and

2978 (c) does not include a student, as defined by department rule, directly supervised by a
2979 member of the staff of the covered body or the student's instructor.

2980 (6) "Covered provider" means:

- 2981 (a) an end stage renal disease facility;
- 2982 (b) a long-term care hospital;
- 2983 (c) a nursing care facility;
- 2984 (d) a small health care facility;
- 2985 (e) an assisted living facility;
- 2986 (f) a hospice;
- 2987 (g) a home health agency; or
- 2988 (h) a personal care agency.

2989 (7) "Direct patient access" means for an individual to be in a position where the
2990 individual could, in relation to a patient or resident of the covered body who engages the
2991 individual:

- 2992 (a) cause physical or mental harm;
- 2993 (b) commit theft; or
- 2994 (c) view medical or financial records.

2995 (8) "Engage" means to obtain one's services:

- 2996 (a) by employment;
- 2997 (b) by contract;
- 2998 (c) as a volunteer; or
- 2999 (d) by other arrangement.

3000 (9) "Long-term care hospital":

3001 (a) means a hospital that is certified to provide long-term care services under the
3002 provisions of 42 U.S.C. Sec. 1395tt; and

3003 (b) does not include a critical access hospital, designated under 42 U.S.C. Sec.

3004 1395i-4(c)(2).

3005 (10) "Patient" means an individual who receives health care services from one of the
3006 following covered providers:

3007 (a) an end stage renal disease facility;

3008 (b) a long-term care hospital;

3009 (c) a hospice;

3010 (d) a home health agency; or

3011 (e) a personal care agency.

3012 (11) "Personal care agency" means a health care facility defined by department rule.

3013 (12) "Resident" means an individual who receives health care services from one of the
3014 following covered providers:

3015 (a) a nursing care facility;

3016 (b) a small health care facility;

3017 (c) an assisted living facility; or

3018 (d) a hospice that provides living quarters as part of its services.

3019 (13) "Residential setting" means a place provided by a covered provider:

3020 (a) for residents to live as part of the services provided by the covered provider; and

3021 (b) where an individual who is not a resident also lives.

3022 (14) "Volunteer" means an individual, as defined by department rule, who provides
3023 services without pay or other compensation.

3024 Section 28. Section **26B-2-239** is amended to read:

3025 **26B-2-239. Certification for direct patient access required -- Application by**
3026 **covered providers, covered contractors, and individuals.**

3027 (1) The definitions in Section [26B-2-238](#) apply to this section.

3028 (2) (a) A covered provider may engage a covered individual only if the individual has
3029 ~~[clearance]~~ certification for direct patient access.

3030 (b) A covered contractor may supply a covered individual to a covered employer or
3031 covered provider only if the individual has ~~[clearance]~~ certification for direct patient access.

3032 (c) A covered employer may engage a covered individual who does not have
3033 ~~[clearance]~~ certification for direct patient access.

3034 (3) (a) Notwithstanding Subsections (2)(a) and (b), if a covered individual does not

3035 have [~~clearance~~] certification for direct patient access, a covered provider may engage the
3036 individual or a covered contractor may supply the individual to a covered provider or covered
3037 employer:

3038 (i) under circumstances specified by department rule; and

3039 (ii) only while an application for [~~clearance~~] certification for direct patient access for
3040 the individual is pending.

3041 (b) For purposes of Subsection (3)(a), an application is pending if the following have
3042 been submitted to the department for the individual:

3043 (i) an application for [~~clearance~~] certification for direct patient access;

3044 (ii) the personal identification information specified by the department under
3045 Subsection 26B-2-240(4)(b); and

3046 (iii) any fees established by the department under Subsection 26B-2-240(9).

3047 (4) (a) As provided in Subsection (4)(b), each covered provider and covered contractor
3048 operating in this state shall:

3049 (i) collect from each covered individual the contractor engages, and each individual the
3050 contractor intends to engage as a covered individual, the personal identification information
3051 specified by the department under Subsection 26B-2-240(4)(b); and

3052 (ii) submit to the department an application for [~~clearance~~] certification for direct
3053 patient access for the individual, including:

3054 (A) the personal identification information; and

3055 (B) any fees established by the department under Subsection 26B-2-240(9).

3056 (b) [~~Clearance~~] Certification for direct patient access granted for an individual pursuant
3057 to an application submitted by a covered provider or a covered contractor is valid [~~until the~~
3058 ~~later of:~~] for 180 days after the date on which the engaged employment lapses.

3059 (i) two years after the individual is no longer engaged as a covered individual; or

3060 (ii) the covered provider's or covered contractor's next license renewal date.

3061 (5) (a) A covered provider that provides services in a residential setting shall:

3062 (i) collect the personal identification information specified by the department under
3063 Subsection 26B-2-240(4)(b) for each individual 12 years old or older, other than a resident,
3064 who resides in the residential setting; and

3065 (ii) submit to the department an application for [~~clearance~~] certification for direct

3066 patient access for the individual, including:

3067 (A) the personal identification information; and

3068 (B) any fees established by the department under Subsection [26B-2-240\(9\)](#).

3069 (b) A covered provider that provides services in a residential setting may allow an
3070 individual 12 years old or older, other than a resident, to reside in the residential setting only if
3071 the individual has [~~clearance~~] certification for direct patient access.

3072 (6) (a) An individual may apply for [~~clearance~~] certification for direct patient access by
3073 submitting to the department an application, including:

3074 (i) the personal identification information specified by the department under
3075 Subsection [26B-2-240\(4\)\(b\)](#); and

3076 (ii) any fees established by the department under Subsection [26B-2-240\(9\)](#).

3077 (b) [~~Clearance~~] Certification for direct patient access granted to an individual who
3078 makes application under Subsection (6)(a) is valid for [~~two years~~] 180 days after the date the
3079 engaged employment lapses unless the department determines otherwise based on the
3080 department's ongoing review under Subsection [26B-2-240\(4\)\(a\)](#).

3081 Section 29. Section **26B-2-240** is amended to read:

3082 **26B-2-240. Department authorized to grant, deny, or revoke certification for**
3083 **direct patient access -- Department may limit direct patient access -- Certification for**
3084 **direct patient access.**

3085 (1) The definitions in Section [26B-2-238](#) apply to this section.

3086 (2) (a) As provided in this section, the department may grant, deny, or revoke
3087 [~~clearance~~] certification for direct patient access for an individual, including a covered
3088 individual.

3089 (b) The department may limit the circumstances under which a covered individual
3090 granted [~~clearance~~] certification for direct patient access may have direct patient access, based
3091 on the relationship factors under Subsection (4) and other mitigating factors related to patient
3092 and resident protection.

3093 (c) The department shall determine whether to grant [~~clearance~~] certification for direct
3094 patient access for each applicant for whom it receives:

3095 (i) the personal identification information specified by the department under
3096 Subsection (4)(b); and

3097 (ii) any fees established by the department under Subsection (9).

3098 (d) The department shall establish a procedure for obtaining and evaluating relevant
3099 information concerning covered individuals, including fingerprinting the applicant and
3100 submitting the prints to the Criminal Investigations and Technical Services Division of the
3101 Department of Public Safety for checking against applicable state, regional, and national
3102 criminal records files.

3103 (3) The department may review the following sources to determine whether an
3104 individual should be granted or retain [~~clearance~~] certification for direct patient access, which
3105 may include:

3106 (a) Department of Public Safety arrest, conviction, and disposition records described in
3107 Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including
3108 information in state, regional, and national records files;

3109 (b) juvenile court arrest, adjudication, and disposition records, as allowed under
3110 Section [78A-6-209](#);

3111 (c) federal criminal background databases available to the state;

3112 (d) the Division of Child and Family Services Licensing Information System described
3113 in Section [80-2-1002](#);

3114 (e) child abuse or neglect findings described in Section [80-3-404](#);

3115 (f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or
3116 exploitation database described in Section [26B-6-210](#);

3117 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

3118 (h) licensing and certification records of individuals licensed or certified by the
3119 Division of Professional Licensing under Title 58, Occupations and Professions; and

3120 (i) the List of Excluded Individuals and Entities database maintained by the United
3121 States Department of Health and Human Services' Office of Inspector General.

3122 (4) The department shall adopt rules that:

3123 (a) specify the criteria the department will use to determine whether an individual is
3124 granted or retains [~~clearance~~] certification for direct patient access:

3125 (i) based on an initial evaluation and ongoing review of information under Subsection
3126 (3); and

3127 (ii) including consideration of the relationship the following may have to patient and

3128 resident protection:

3129 (A) warrants for arrest;

3130 (B) arrests;

3131 (C) convictions, including pleas in abeyance;

3132 (D) pending diversion agreements;

3133 (E) adjudications by a juvenile court under Section 80-6-701 if the individual is over

3134 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance

3135 or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old;

3136 and

3137 (F) any other findings under Subsection (3); and

3138 (b) specify the personal identification information that must be submitted by an

3139 individual or covered body with an application for [~~clearance~~] certification for direct patient

3140 access, including:

3141 (i) the applicant's Social Security number; and

3142 (ii) fingerprints.

3143 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed

3144 in another state according to the closest matching crime under Utah law, regardless of how the

3145 crime is classified in the state where the crime was committed.

3146 (6) The Department of Public Safety, the Administrative Office of the Courts, the

3147 Division of Professional Licensing, and any other state agency or political subdivision of the

3148 state:

3149 (a) shall allow the department to review the information the department may review

3150 under Subsection (3); and

3151 (b) except for the Department of Public Safety, may not charge the department for

3152 access to the information.

3153 (7) The department shall adopt measures to protect the security of the information it

3154 reviews under Subsection (3) and strictly limit access to the information to department

3155 employees responsible for processing an application for [~~clearance~~] certification for direct

3156 patient access.

3157 (8) The department may disclose personal identification information specified under

3158 Subsection (4)(b) to other divisions and offices within the department to verify that the subject

3159 of the information is not identified as a perpetrator or offender in the information sources
3160 described in Subsections (3)(d) through (f).

3161 (9) The department may establish fees, in accordance with Section 63J-1-504, for an
3162 application for ~~[clearance]~~ certification for direct patient access, which may include:

3163 (a) the cost of obtaining and reviewing information under Subsection (3);

3164 (b) a portion of the cost of creating and maintaining the Direct Access Clearance
3165 System database under Section 26B-2-241; and

3166 (c) other department costs related to the processing of the application and the ongoing
3167 review of information pursuant to Subsection (4)(a) to determine whether ~~[clearance]~~
3168 certification for direct patient access should be retained.

3169 Section 30. Section 26B-2-241 (Superseded 07/01/24) is amended to read:

3170 **26B-2-241 (Superseded 07/01/24). Direct Access Clearance System database --**
3171 **Contents and use -- Department of Public Safety retention of information and notification**
3172 **-- No civil liability for providing information.**

3173 (1) The definitions in Section 26B-2-238 apply to this section.

3174 (2) The department shall create and maintain a Direct Access Clearance System
3175 database, which:

3176 (a) includes the names of individuals for whom the department has received~~[-(i)]~~ an
3177 application for ~~[clearance]~~ certification for direct patient access under this part; ~~[or]~~

3178 ~~[(ii) an application for background clearance under Section 26B-4-124;]~~ and

3179 (b) indicates whether an application is pending and whether ~~[clearance]~~ certification
3180 for direct patient access has been granted and retained for~~[-(i)]~~ an applicant under this part~~;~~
3181 ~~and].~~

3182 ~~[(ii) an applicant for background clearance under Section 26B-4-124.]~~

3183 (3) (a) The department shall allow covered providers and covered contractors to access
3184 the database electronically.

3185 (b) Data accessible to a covered provider or covered contractor is limited to the
3186 information under Subsections (2)(a)(i) and (2)(b)(i) for:

3187 (i) covered individuals engaged by the covered provider or covered contractor; and

3188 (ii) individuals:

3189 (A) whom the covered provider or covered contractor could engage as covered

3190 individuals; and

3191 (B) who have provided the covered provider or covered contractor with sufficient
3192 personal identification information to uniquely identify the individual in the database.

3193 (c) (i) The department may establish fees, in accordance with Section 63J-1-504, for
3194 use of the database by a covered contractor.

3195 (ii) The fees may include, in addition to any fees established by the department under
3196 Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

3197 (4) The Criminal Investigations and Technical Services Division within the
3198 Department of Public Safety shall:

3199 (a) retain, separate from other division records, personal information, including any
3200 fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a);
3201 and

3202 (b) notify the department upon receiving notice that an individual for whom personal
3203 information has been retained is the subject of:

- 3204 (i) a warrant for arrest;
- 3205 (ii) an arrest;
- 3206 (iii) a conviction, including a plea in abeyance; or
- 3207 (iv) a pending diversion agreement.

3208 (5) A covered body is not civilly liable for submitting to the department information
3209 required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an
3210 individual who does not have clearance to have direct patient access under Section 26B-2-240.

3211 Section 31. Section 26B-2-241 (Effective 07/01/24) is amended to read:

3212 **26B-2-241 (Effective 07/01/24). Direct Access Clearance System database --**

3213 **Contents and use -- Department of Public Safety retention of information and notification**

3214 **-- No civil liability for providing information.**

3215 (1) The definitions in Section 26B-2-238 apply to this section.

3216 (2) The department shall create and maintain a Direct Access Clearance System
3217 database, which:

3218 (a) includes the names of individuals for whom~~[(i)]~~ the department has received an
3219 application for ~~[clearance]~~ certification for direct patient access under this part; ~~[or]~~ and
3220 ~~[(ii) the Bureau of Emergency Medical Services has received an application for~~

3221 ~~background clearance under Section 53-2d-410; and]~~

3222 (b) indicates whether an application is pending and whether clearance has been granted
3223 and retained for ~~[(i)]~~ an applicant under this part ~~[; and]~~.

3224 ~~[(ii) an applicant for background clearance under Section 53-2d-410.]~~

3225 (3) (a) The department shall allow covered providers and covered contractors to access
3226 the database electronically.

3227 (b) Data accessible to a covered provider or covered contractor is limited to the
3228 information under Subsections (2)(a)(i) and (2)(b)(i) for:

3229 (i) covered individuals engaged by the covered provider or covered contractor; and

3230 (ii) individuals:

3231 (A) whom the covered provider or covered contractor could engage as covered
3232 individuals; and

3233 (B) who have provided the covered provider or covered contractor with sufficient
3234 personal identification information to uniquely identify the individual in the database.

3235 (c) (i) The department may establish fees, in accordance with Section 63J-1-504, for
3236 use of the database by a covered contractor.

3237 (ii) The fees may include, in addition to any fees established by the department under
3238 Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

3239 (4) The Criminal Investigations and Technical Services Division within the
3240 Department of Public Safety shall:

3241 (a) retain, separate from other division records, personal information, including any
3242 fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a);
3243 and

3244 (b) notify the department upon receiving notice that an individual for whom personal
3245 information has been retained is the subject of:

3246 (i) a warrant for arrest;

3247 (ii) an arrest;

3248 (iii) a conviction, including a plea in abeyance; or

3249 (iv) a pending diversion agreement.

3250 (5) A covered body is not civilly liable for submitting to the department information
3251 required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an

3252 individual who does not have [~~clearance~~] certification for direct patient access to have direct
3253 patient access under Section [26B-2-240](#).

3254 Section 32. Section **26B-3-114** is amended to read:

3255 **26B-3-114. Department standards for eligibility under Medicaid -- Funds for**
3256 **abortions.**

3257 (1) (a) The department may develop standards and administer policies relating to
3258 eligibility under the Medicaid program [~~as long as they are consistent~~] if the standards and
3259 policies comply with Subsection [~~26B-4-704(8)~~] [26B-3-108](#).

3260 (b) An applicant receiving Medicaid assistance may be limited to particular types of
3261 care or services or to payment of part or all costs of care determined to be medically necessary.

3262 (2) The department may not provide any funds for medical, hospital, or other medical
3263 expenditures or medical services to otherwise eligible persons where the purpose of the
3264 assistance is to perform an abortion, unless the life of the mother would be endangered if an
3265 abortion were not performed.

3266 (3) Any employee of the department who authorizes payment for an abortion contrary
3267 to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of
3268 office.

3269 (4) Any person or organization that, under the guise of other medical treatment,
3270 provides an abortion under auspices of the Medicaid program is guilty of a third degree felony
3271 and subject to forfeiture of license to practice medicine or authority to provide medical services
3272 and treatment.

3273 Section 33. Section **26B-3-212** is amended to read:

3274 **26B-3-212. Limited family planning services for low-income individuals.**

3275 (1) As used in this section:

3276 (a) (i) "Family planning services" means family planning services that are provided
3277 under the state Medicaid program, including:

3278 (A) sexual health education and family planning counseling; and

3279 (B) other medical diagnosis, treatment, or preventative care routinely provided as part
3280 of a family planning service visit.

3281 (ii) "Family planning services" do not include an abortion, as that term is defined in
3282 Section [76-7-301](#) or [76-7a-101](#).

3283 (b) "Low-income individual" means an individual who:
3284 (i) has an income level that is equal to or below 185% of the federal poverty level; and
3285 (ii) does not qualify for full coverage under the Medicaid program.

3286 (2) Before January 1, 2024, the division shall apply for a Medicaid waiver or a state
3287 plan amendment with CMS to:

3288 (a) offer a program that provides family planning services to low-income individuals;
3289 and

3290 (b) receive a federal match rate of 90% of state expenditures for family planning
3291 services provided under the waiver or state plan amendment.

3292 Section 34. Section **26B-4-118 (Superseded 07/01/24)** is amended to read:

3293 **26B-4-118 (Superseded 07/01/24). Permits for emergency medical service vehicles**
3294 **and nonemergency secured behavioral health transport vehicles.**

3295 (1) (a) To ensure that emergency medical service vehicles and nonemergency secured
3296 behavioral health transport vehicles are adequately staffed, safe, maintained, properly
3297 equipped, and safely operated, the committee shall establish permit requirements at levels it
3298 considers appropriate in the following categories:

3299 (i) ambulance;

3300 (ii) emergency medical response vehicle; and

3301 (iii) nonemergency secured behavioral health transport vehicle.

3302 (b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a
3303 requirement that [~~beginning on or after January 31, 2014,~~] every operator of an ambulance or
3304 emergency medical response vehicle annually provide proof of the successful completion of an
3305 emergency vehicle operator's course approved by the department for all ambulances and
3306 emergency medical response vehicle operators.

3307 (2) The department shall, based on the requirements established in Subsection (1),
3308 issue permits to emergency medical service vehicles and nonemergency secured behavioral
3309 health transport vehicles.

3310 Section 35. Section **26B-4-136 (Superseded 07/01/24)** is amended to read:

3311 **26B-4-136 (Superseded 07/01/24). Volunteer Emergency Medical Service**
3312 **Personnel Health Insurance Program -- Creation -- Administration -- Eligibility --**
3313 **Benefits -- Rulemaking -- Advisory board.**

- 3314 (1) As used in this section:
- 3315 (a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
- 3316 (b) "Local government entity" means a political subdivision that:
- 3317 (i) is licensed as a ground ambulance provider under Sections 26B-4-150 through
- 3318 26B-4-170; and
- 3319 (ii) [~~as of January 1, 2022,~~] does not offer health insurance benefits to volunteer
- 3320 emergency medical service personnel.
- 3321 (c) "PEHP" means the Public Employees' Benefit and Insurance Program created in
- 3322 Section 49-20-103.
- 3323 (d) "Political subdivision" means a county, a municipality, a limited purpose
- 3324 government entity described in Title 17B, Limited Purpose Local Government Entities -
- 3325 Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or
- 3326 an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation
- 3327 Act.
- 3328 (e) "Qualifying association" means an association that represents two or more political
- 3329 subdivisions in the state.
- 3330 (2) The Volunteer Emergency Medical Service Personnel Health Insurance Program
- 3331 shall promote recruitment and retention of volunteer emergency medical service personnel by
- 3332 making health insurance available to volunteer emergency medical service personnel.
- 3333 (3) The department shall contract with a qualifying association to create, implement,
- 3334 and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program
- 3335 described in this section.
- 3336 (4) Participation in the program is limited to emergency medical service personnel
- 3337 who:
- 3338 (a) are licensed under Section 26B-4-116 and are able to perform all necessary
- 3339 functions associated with the license;
- 3340 (b) provide emergency medical services under the direction of a local governmental
- 3341 entity:
- 3342 (i) by responding to 20% of calls for emergency medical services in a rolling
- 3343 twelve-month period;
- 3344 (ii) within a county of the third, fourth, fifth, or sixth class; and

3345 (iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R.
3346 Sec. 553.106;

3347 (c) are not eligible for a health benefit plan through an employer or a spouse's
3348 employer;

3349 (d) are not eligible for medical coverage under a government sponsored healthcare
3350 program; and

3351 (e) reside in the state.

3352 (5) (a) A participant in the program is eligible to participate in PEHP in accordance
3353 with Subsection (5)(b) and Subsection 49-20-201(3).

3354 (b) Benefits available to program participants under PEHP are limited to health
3355 insurance that:

3356 (i) covers the program participant and the program participant's eligible dependents on
3357 a July 1 plan year;

3358 (ii) accepts enrollment during an open enrollment period or for a special enrollment
3359 event, including the initial eligibility of a program participant;

3360 (iii) if the program participant is no longer eligible for benefits, terminates on the last
3361 day of the last month for which the individual is a participant in the Volunteer Emergency
3362 Medical Service Personnel Health Insurance Program; and

3363 (iv) is not subject to continuation rights under state or federal law.

3364 (6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah
3365 Administrative Rulemaking Act, to define additional criteria regarding benefit design and
3366 eligibility for the program.

3367 (b) The department shall convene an advisory board:

3368 (i) to advise the department on making rules under Subsection (6)(a); and

3369 (ii) that includes representation from at least the following entities:

3370 (A) the qualifying association that receives the contract under Subsection (3); and

3371 (B) PEHP.

3372 (7) For purposes of this section, the qualifying association that receives the contract
3373 under Subsection (3) shall be considered the public agency for whom the program participant is
3374 volunteering under 29 C.F.R. Sec. 553.101.

3375 Section 36. Section 26B-4-152 (Superseded 07/01/24) is amended to read:

3376 **26B-4-152 (Superseded 07/01/24). Establishment of maximum rates.**

3377 (1) The department shall, after receiving recommendations under Subsection (2),
3378 establish maximum rates for ground ambulance providers and paramedic providers that are just
3379 and reasonable.

3380 (2) The committee may make recommendations to the department on the maximum
3381 rates that should be set under Subsection (1).

3382 (3) (a) [~~The department shall prohibit ground~~] Ground ambulance providers and
3383 paramedic providers [~~from charging~~] may not charge fees for transporting a patient when the
3384 provider does not transport the patient.

3385 (b) The provisions of Subsection (3)(a) do not apply to ambulance providers or
3386 paramedic providers in a geographic service area which contains a town as defined in
3387 Subsection [10-2-301\(2\)\(f\)](#).

3388 Section 37. Section **26B-4-154 (Superseded 07/01/24)** is amended to read:

3389 **26B-4-154 (Superseded 07/01/24). Ground ambulance and paramedic licenses --**
3390 **Agency notice of approval.**

3391 (1) [~~Beginning January 1, 2004, if~~] If the department determines that the application
3392 meets the minimum requirements for licensure under Section [26B-4-153](#), the department shall
3393 issue a notice of the approved application to the applicant.

3394 (2) A current license holder responding to a request for proposal under Section
3395 [26B-4-156](#) is considered an approved applicant for purposes of Section [26B-4-156](#) if the
3396 current license holder, prior to responding to the request for proposal, submits the following to
3397 the department:

3398 (a) the information described in Subsections [26B-4-153\(4\)\(a\)\(i\)](#) through (iii); and

3399 (b) (i) if the license holder is a private entity, a financial statement, a pro forma budget
3400 and necessary letters of credit demonstrating a financial ability to expand service to a new
3401 service area; or

3402 (ii) if the license holder is a governmental entity, a letter from the governmental entity's
3403 governing body demonstrating the governing body's willingness to financially support the
3404 application.

3405 Section 38. Section **26B-4-201** is amended to read:

3406 **26B-4-201. Definitions.**

3407 As used in this part:

3408 (1) "Active tetrahydrocannabinol" means THC, any THC analog, and
3409 tetrahydrocannabinolic acid.

3410 (2) "Advertise" [~~or "advertising"~~] means information provided by a [~~medical cannabis~~
3411 ~~pharmacy~~] person in any medium:

3412 (a) to the public; and

3413 (b) that is not age restricted to an individual who is at least 21 years old.

3414 (3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in
3415 Section [26B-1-435](#).

3416 (4) "Cannabis Research Review Board" means the Cannabis Research Review Board
3417 created in Section [26B-1-420](#).

3418 (5) "Cannabis" means marijuana.

3419 [~~(6) "Cannabis cultivation facility" means the same as that term is defined in Section~~
3420 ~~[4-41a-102](#);~~]

3421 [~~(7)~~ (6)] "Cannabis processing facility" means the same as that term is defined in
3422 Section [4-41a-102](#).

3423 [~~(8)~~ (7)] "Cannabis product" means a product that:

3424 (a) is intended for human use; and

3425 (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total
3426 concentration of 0.3% or greater on a dry weight basis.

3427 [~~(9)~~ (8)] "Cannabis production establishment" means the same as that term is defined
3428 in Section [4-41a-102](#).

3429 [~~(10)~~ (9)] "Cannabis production establishment agent" means the same as that term is
3430 defined in Section [4-41a-102](#).

3431 [~~(11)~~ (10)] "Cannabis production establishment agent registration card" means the
3432 same as that term is defined in Section [4-41a-102](#).

3433 [~~(12) "Community location" means a public or private elementary or secondary school,
3434 a church, a public library, a public playground, or a public park.~~]

3435 [~~(13)~~ (11)] "Conditional medical cannabis card" means an electronic medical cannabis
3436 card that the department issues in accordance with Subsection [26B-4-213](#)(1)(b) to allow an
3437 applicant for a medical cannabis card to access medical cannabis during the department's

3438 review of the application.

3439 [(14)] (12) "Controlled substance database" means the controlled substance database
3440 created in Section 58-37f-201.

3441 [(15)] (13) "Delivery address" means:

3442 (a) for a medical cannabis cardholder who is not a facility, the medical cannabis
3443 cardholder's home address; or

3444 (b) for a medical cannabis cardholder that is a facility, the facility's address.

3445 [(16)] (14) "Department" means the Department of Health and Human Services.

3446 [(17)] (15) "Designated caregiver" means:

3447 (a) an individual:

3448 (i) whom an individual with a medical cannabis patient card or a medical cannabis
3449 guardian card designates as the patient's caregiver; and

3450 (ii) who registers with the department under Section 26B-4-214; or

3451 (b) (i) a facility that an individual designates as a designated caregiver in accordance
3452 with Subsection 26B-4-214(1)(b); or

3453 (ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

3454 [(18)] (16) "Directions of use" means recommended routes of administration for a
3455 medical cannabis treatment and suggested usage guidelines.

3456 [(19)] (17) "Dosing guidelines" means a quantity range and frequency of administration
3457 for a recommended treatment of medical cannabis.

3458 [(20)] "~~Financial institution" means a bank, trust company, savings institution, or credit
3459 union, chartered and supervised under state or federal law.~~]

3460 [(21)] (18) "Government issued photo identification" means any of the following forms
3461 of identification:

3462 (a) a valid state-issued driver license or identification card;

3463 (b) a valid United States federal-issued photo identification, including:

3464 (i) a United States passport;

3465 (ii) a United States passport card;

3466 (iii) a United States military identification card; or

3467 (iv) a permanent resident card or alien registration receipt card; or

3468 (c) a foreign passport.

3469 [(22)] (19) "Home delivery medical cannabis pharmacy" means a medical cannabis
3470 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
3471 cannabis shipments to a delivery address to fulfill electronic orders that the state central patient
3472 portal facilitates.

3473 [(23)] (20) "Inventory control system" means the system described in Section
3474 4-41a-103.

3475 [(24)] (21) "Legal dosage limit" means an amount that:

3476 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
3477 relevant recommending medical provider or the state central patient portal or pharmacy
3478 medical provider, in accordance with Subsection 26B-4-230(5), recommends; and

3479 (b) may not exceed:

3480 (i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

3481 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
3482 greater than 20 grams of active tetrahydrocannabinol.

3483 [(25)] (22) "Legal use termination date" means a date on the label of a container of
3484 unprocessed cannabis flower:

3485 (a) that is 60 days after the date of purchase of the cannabis; and

3486 (b) after which, the cannabis is no longer in a medicinal dosage form outside of the
3487 primary residence of the relevant medical cannabis patient cardholder.

3488 [(26)] (23) "Limited medical provider" means an individual who:

3489 (a) meets the recommending qualifications; and

3490 (b) has no more than 15 patients with a valid medical cannabis patient card [~~or~~
3491 ~~provisional patient card~~] as a result of the individual's recommendation, in accordance with
3492 Subsection 26B-4-204(1)(b).

3493 [(27)] (24) "Marijuana" means the same as that term is defined in Section 58-37-2.

3494 [(28)] (25) "Medical cannabis" means cannabis in a medicinal dosage form or a
3495 cannabis product in a medicinal dosage form.

3496 [(29)] (26) "Medical cannabis card" means a medical cannabis patient card, a medical
3497 cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis
3498 card.

3499 [(30)] (27) "Medical cannabis cardholder" means:

- 3500 (a) a holder of a medical cannabis card; or
- 3501 (b) a facility or assigned employee, described in Subsection(17)(b), only:
- 3502 (i) within the scope of the facility's or assigned employee's performance of the role of a
- 3503 medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b);
- 3504 and
- 3505 (ii) while in possession of documentation that establishes:
- 3506 (A) a caregiver designation described in Subsection 26B-4-214(1)(b);
- 3507 (B) the identity of the individual presenting the documentation; and
- 3508 (C) the relation of the individual presenting the documentation to the caregiver
- 3509 designation.

3510 ~~[(31)]~~ (28) "Medical cannabis caregiver card" means an electronic document that a

3511 cardholder may print or store on an electronic device or a physical card or document that:

- 3512 (a) the department issues to an individual whom a medical cannabis patient cardholder
- 3513 or a medical cannabis guardian cardholder designates as a designated caregiver; and
- 3514 (b) is connected to the electronic verification system.

3515 ~~[(32)]~~ (29) "Medical cannabis courier" means the same as that term is defined in

3516 Section 4-41a-102.

3517 ~~[(33)] "Medical cannabis courier agent" means the same as that term is defined in~~

3518 ~~Section 4-41a-102.]~~

3519 ~~[(34)]~~ (30) (a) "Medical cannabis device" means a device that an individual uses to

3520 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal

3521 dosage form.

- 3522 (b) "Medical cannabis device" does not include a device that:
- 3523 (i) facilitates cannabis combustion; or
- 3524 (ii) an individual uses to ingest substances other than cannabis.

3525 ~~[(35)]~~ (31) "Medical cannabis guardian card" means an electronic document that a

3526 cardholder may print or store on an electronic device or a physical card or document that:

- 3527 (a) the department issues to the parent or legal guardian of a minor with a qualifying
- 3528 condition; and
- 3529 (b) is connected to the electronic verification system.

3530 ~~[(36)]~~ (32) "Medical cannabis patient card" means an electronic document that a

3531 cardholder may print or store on an electronic device or a physical card or document that:

3532 (a) the department issues to an individual with a qualifying condition; and

3533 (b) is connected to the electronic verification system.

3534 [(37)] (33) "Medical cannabis pharmacy" means a person that:

3535 (a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a
3536 medicinal dosage form from a cannabis processing facility or another medical cannabis
3537 pharmacy or a medical cannabis device; or

3538 (ii) possesses medical cannabis or a medical cannabis device; and

3539 (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical
3540 cannabis cardholder.

3541 [(38)] (34) "Medical cannabis pharmacy agent" means an individual who holds a valid
3542 medical cannabis pharmacy agent registration card issued by the department.

3543 [(39)] (35) "Medical cannabis pharmacy agent registration card" means a registration
3544 card issued by the department that authorizes an individual to act as a medical cannabis
3545 pharmacy agent.

3546 [(40)] (36) "Medical cannabis shipment" means the same as that term is defined in
3547 Section 4-41a-102.

3548 [(41)] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
3549 cannabis product in a medicinal dosage form, or a medical cannabis device.

3550 [(42)] (38) (a) "Medicinal dosage form" means:

3551 (i) for processed medical cannabis or a medical cannabis product, the following with a
3552 specific and consistent cannabinoid content:

3553 (A) a tablet;

3554 (B) a capsule;

3555 (C) a concentrated liquid or viscous oil;

3556 (D) a liquid suspension that[, after December 1, 2022,] does not exceed 30 [ml]

3557 milliliters;

3558 (E) a topical preparation;

3559 (F) a transdermal preparation;

3560 (G) a sublingual preparation;

3561 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or

3562 rectangular cuboid shape;

3563 (I) a resin or wax; or

3564 (J) an aerosol; or

3565 (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

3566 (A) contains cannabis [~~flowers~~] flower in a quantity that varies by no more than 10%
3567 from the stated weight at the time of packaging;

3568 (B) at any time the medical cannabis cardholder transports or possesses the container in
3569 public, is contained within an opaque bag or box that the medical cannabis pharmacy provides;
3570 and

3571 (C) is labeled with the container's content and weight, the date of purchase, the legal
3572 use termination date, and [~~after December 31, 2020,~~] a barcode that provides information
3573 connected to an inventory control system .

3574 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

3575 (i) the medical cannabis cardholder has recently removed from the container described
3576 in Subsection (42)(a)(ii) for use; and

3577 (ii) does not exceed the quantity described in Subsection (42)(a)(ii).

3578 (c) "Medicinal dosage form" does not include:

3579 (i) any unprocessed cannabis flower outside of the container described in Subsection
3580 (42)(a)(ii), except as provided in Subsection (42)(b);

3581 (ii) any unprocessed cannabis flower in a container described in Subsection (42)(a)(ii)
3582 after the legal use termination date;

3583 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
3584 on a nail or other metal object that is heated by a flame, including a blowtorch;

3585 (iv) a liquid suspension that is branded as a beverage; or

3586 (v) a substance described in Subsection (42)(a)(i) or (ii) if the substance is not
3587 measured in grams, milligrams, or milliliters.

3588 [~~(43)~~] (39) "Nonresident patient" means an individual who:

3589 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

3590 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
3591 card under the laws of another state, district, territory, commonwealth, or insular possession of
3592 the United States; and

3593 (c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

3594 [~~(44)~~] "Payment provider" means an entity that contracts with a cannabis production
3595 establishment or medical cannabis pharmacy to facilitate transfers of funds between the
3596 establishment or pharmacy and other businesses or individuals.];

3597 [~~(45)~~] (40) "Pharmacy medical provider" means the medical provider required to be on
3598 site at a medical cannabis pharmacy under Section 26B-4-219.

3599 [~~(46)~~] (41) "Provisional patient card" means a card that:

3600 (a) the department issues to a minor with a qualifying condition for whom:

3601 (i) a recommending medical provider has recommended a medical cannabis treatment;
3602 and

3603 (ii) the department issues a medical cannabis guardian card to the minor's parent or
3604 legal guardian; and

3605 (b) is connected to the electronic verification system.

3606 [~~(47)~~] (42) "Qualified medical provider" means an individual:

3607 (a) who meets the recommending qualifications; and

3608 (b) whom the department registers to recommend treatment with cannabis in a
3609 medicinal dosage form under Section 26B-4-204.

3610 [~~(48)~~] (43) "Qualified Patient Enterprise Fund" means the enterprise fund created in
3611 Section 26B-1-310.

3612 [~~(49)~~] (44) "Qualifying condition" means a condition described in Section 26B-4-203.

3613 [~~(50)~~] (45) "Recommend" or "recommendation" means, for a recommending medical
3614 provider, the act of suggesting the use of medical cannabis treatment, which:

3615 (a) certifies the patient's eligibility for a medical cannabis card; and

3616 (b) may include, at the recommending medical provider's discretion, directions of use,
3617 with or without dosing guidelines.

3618 [~~(51)~~] (46) "Recommending medical provider" means a qualified medical provider or a
3619 limited medical provider.

3620 [~~(52)~~] (47) "Recommending qualifications" means that an individual:

3621 (a) (i) has the authority to write a prescription;

3622 (ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
3623 Controlled Substances Act; and

3624 (iii) possesses the authority, in accordance with the individual's scope of practice, to
3625 prescribe a Schedule II controlled substance; and

3626 (b) is licensed as:

3627 (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

3628 (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice
3629 Act;

3630 (iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,
3631 Chapter 68, Utah Osteopathic Medical Practice Act; or

3632 (iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

3633 ~~[(53)]~~ (48) "State central patient portal" means the website the department creates, in
3634 accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic
3635 medical cannabis order.

3636 ~~[(54)]~~ (49) "State electronic verification system" means the system described in Section
3637 26B-4-202.

3638 ~~[(55)] "Targeted marketing" means the promotion by a medical cannabis pharmacy of a
3639 medical cannabis product, medical cannabis brand, or a medical cannabis device using any of
3640 the following methods:]~~

3641 ~~[(a) electronic communication to an individual who is at least 21 years old and has
3642 requested to receive promotional information from the medical cannabis pharmacy;]~~

3643 ~~[(b) an in-person marketing event that is:]~~

3644 ~~[(i) held inside a medical cannabis pharmacy; and]~~

3645 ~~[(ii) in an area where only a medical cannabis cardholder may access the event; or]~~

3646 ~~[(c) other marketing material that is physically available or digitally displayed in:]~~

3647 ~~[(i) a medical cannabis pharmacy; and]~~

3648 ~~[(ii) an area where only a medical cannabis cardholder has access.]~~

3649 ~~[(56)]~~ (50) "Tetrahydrocannabinol" or "THC" means a substance derived from
3650 cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

3651 ~~[(57)]~~ (51) "THC analog" means the same as that term is defined in Section 4-41-102.

3652 Section 39. Section 26B-4-202 is amended to read:

3653 **26B-4-202. Electronic verification system.**

3654 (1) The Department of Agriculture and Food, the department, the Department of Public

3655 Safety, and the Division of Technology Services shall:

3656 (a) enter into a memorandum of understanding in order to determine the function and
3657 operation of the state electronic verification system in accordance with Subsection (2);

3658 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
3659 Procurement Code, to develop a request for proposals for a third-party provider to develop and
3660 maintain the state electronic verification system in coordination with the Division of
3661 Technology Services; and

3662 (c) select a third-party provider who:

3663 (i) meets the requirements contained in the request for proposals issued under
3664 Subsection (1)(b); and

3665 (ii) may not have any commercial or ownership interest in a cannabis production
3666 establishment or a medical cannabis pharmacy.

3667 (2) The Department of Agriculture and Food, the department, the Department of Public
3668 Safety, and the Division of Technology Services shall ensure that the state electronic
3669 verification system described in Subsection (1):

3670 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
3671 medical cannabis guardian card, provided that the card may not become active until:

3672 (i) the relevant qualified medical provider completes the associated medical cannabis
3673 recommendation; or

3674 (ii) for a medical cannabis card related to a limited medical provider's
3675 recommendation, the medical cannabis pharmacy completes the recording described in
3676 Subsection (2)(d);

3677 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
3678 cannabis guardian card in accordance with Section [26B-4-213](#);

3679 (c) allows a qualified medical provider, or an employee described in Subsection (3)
3680 acting on behalf of the qualified medical provider, to:

3681 (i) access dispensing and card status information regarding a patient:

3682 (A) with whom the qualified medical provider has a provider-patient relationship; and

3683 (B) for whom the qualified medical provider has recommended or is considering
3684 recommending a medical cannabis card;

3685 (ii) electronically [~~recommend treatment~~] recommend treatment with cannabis in a

3686 medicinal dosage form or a cannabis product in a medicinal dosage form and optionally
3687 recommend dosing guidelines;

3688 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
3689 medical cannabis guardian cardholder:

3690 (A) using telehealth services, for the qualified medical provider who originally
3691 recommended a medical cannabis treatment during a face-to-face visit with the patient; or
3692 (B) during a face-to-face visit with the patient, for a qualified medical provider who
3693 did not originally recommend the medical cannabis treatment during a face-to-face visit

3694 (iv) submit an initial application, renewal application, or application payment on behalf
3695 of an individual applying for any of the following:

3696 (A) a medical cannabis patient card;
3697 (B) a medical cannabis guardian card; or
3698 (C) a medical cannabis caregiver card;

3699 (d) allows a medical cannabis pharmacy medical provider or medical cannabis
3700 pharmacy agent, in accordance with Subsection [4-41a-1101\(10\)\(a\)](#), to:

3701 (i) access the electronic verification system to review the history within the system of a
3702 patient with whom the provider or agent is interacting, limited to read-only access for medical
3703 cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge
3704 authorizes add and edit access;

3705 (ii) record a patient's recommendation from a limited medical provider, including any
3706 directions of use, dosing guidelines, or caregiver indications from the limited medical provider;

3707 (iii) record a limited medical provider's renewal of the provider's previous
3708 recommendation; and

3709 (iv) submit an initial application, renewal application, or application payment on behalf
3710 of an individual applying for any of the following:

3711 (A) a medical cannabis patient card;
3712 (B) a medical cannabis guardian card; or
3713 (C) a medical cannabis caregiver card;

3714 (e) connects with:

3715 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
3716 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a

3717 medicinal dosage form, or a medical cannabis device, including:

3718 (A) the time and date of each purchase;

3719 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device

3720 purchased;

3721 (C) any cannabis production establishment, any medical cannabis pharmacy, or any

3722 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis

3723 device; and

3724 (D) the personally identifiable information of the medical cannabis cardholder who

3725 made the purchase; and

3726 (ii) any commercially available inventory control system that a cannabis production

3727 establishment utilizes in accordance with Section [4-41a-103](#) to use data that the Department of

3728 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah

3729 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to

3730 track and confirm compliance;

3731 (f) provides access to:

3732 (i) the department to the extent necessary to carry out the department's functions and

3733 responsibilities under this part;

3734 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

3735 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter

3736 41a, Cannabis Production Establishments and Pharmacies; and

3737 (iii) the Division of Professional Licensing to the extent necessary to carry out the

3738 functions and responsibilities related to the participation of the following in the

3739 recommendation and dispensing of medical cannabis:

3740 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

3741 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

3742 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse

3743 Practice Act;

3744 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

3745 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

3746 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant

3747 Act;

- 3748 (g) provides access to and interaction with the state central patient portal;
- 3749 (h) communicates dispensing information from a record that a medical cannabis
- 3750 pharmacy submits to the state electronic verification system under Subsection
- 3751 [4-41a-1102\(3\)\(a\)\(ii\)](#) to the controlled substance database;
- 3752 (i) provides access to state or local law enforcement:
- 3753 (i) during a law enforcement encounter, without a warrant, using the individual's driver
- 3754 license or state ID, only for the purpose of determining if the individual subject to the law
- 3755 enforcement encounter has a valid medical cannabis card; or
- 3756 (ii) after obtaining a warrant; and
- 3757 (j) creates a record each time a person accesses the system that identifies the person
- 3758 who accesses the system and the individual whose records the person accesses.
- 3759 (3) (a) An employee of a qualified medical provider may access the electronic
- 3760 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
- 3761 medical provider if:
- 3762 (i) the qualified medical provider has designated the employee as an individual
- 3763 authorized to access the electronic verification system on behalf of the qualified medical
- 3764 provider;
- 3765 (ii) the qualified medical provider provides written notice to the department of the
- 3766 employee's identity and the designation described in Subsection (3)(a)(i); and
- 3767 (iii) the department grants to the employee access to the electronic verification system.
- 3768 (b) An employee of a business that employs a qualified medical provider may access
- 3769 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
- 3770 qualified medical provider if:
- 3771 (i) the qualified medical provider has designated the employee as an individual
- 3772 authorized to access the electronic verification system on behalf of the qualified medical
- 3773 provider;
- 3774 (ii) the qualified medical provider and the employing business jointly provide written
- 3775 notice to the department of the employee's identity and the designation described in Subsection
- 3776 (3)(b)(i); and
- 3777 (iii) the department grants to the employee access to the electronic verification system.
- 3778 (4) (a) As used in this Subsection (4), "prescribing provider" means:

- 3779 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;
3780 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
3781 Practice Act;
- 3782 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
3783 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 3784 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
3785 Assistant Act.
- 3786 (b) A prescribing provider may access information in the electronic verification system
3787 regarding a patient the prescribing provider treats.
- 3788 (5) The department may release limited data that the system collects for the purpose of:
- 3789 (a) conducting medical and other department approved research;
- 3790 (b) providing the report required by Section [26B-4-222](#); and
- 3791 (c) other official department purposes.
- 3792 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
3793 Administrative Rulemaking Act, to establish:
- 3794 (a) the limitations on access to the data in the state electronic verification system as
3795 described in this section; and
- 3796 (b) standards and procedures to ensure accurate identification of an individual
3797 requesting information or receiving information in this section.
- 3798 (7) (a) Any person who knowingly and intentionally releases any information in the
3799 state electronic verification system in violation of this section is guilty of a third degree felony.
- 3800 (b) Any person who negligently or recklessly releases any information in the state
3801 electronic verification system in violation of this section is guilty of a class C misdemeanor.
- 3802 (8) (a) Any person who obtains or attempts to obtain information from the state
3803 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
- 3804 (b) Any person who obtains or attempts to obtain information from the state electronic
3805 verification system for a purpose other than a purpose this part authorizes is guilty of a third
3806 degree felony.
- 3807 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
3808 intentionally use, release, publish, or otherwise make available to any other person information
3809 obtained from the state electronic verification system for any purpose other than a purpose

3810 specified in this section.

3811 (b) Each separate violation of this Subsection (9) is:

3812 (i) a third degree felony; and

3813 (ii) subject to a civil penalty not to exceed \$5,000.

3814 (c) The department shall determine a civil violation of this Subsection (9) in
3815 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

3816 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
3817 General Fund.

3818 (e) This Subsection (9) does not prohibit a person who obtains information from the
3819 state electronic verification system under Subsection (2)(a), (c), or (f) from:

3820 (i) including the information in the person's medical chart or file for access by a person
3821 authorized to review the medical chart or file;

3822 (ii) providing the information to a person in accordance with the requirements of the
3823 Health Insurance Portability and Accountability Act of 1996; or

3824 (iii) discussing or sharing that information about the patient with the patient.

3825 Section 40. Section **26B-4-213** is amended to read:

3826 **26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card --**
3827 **Conditional medical cannabis card -- Application -- Fees -- Studies.**

3828 (1) (a) Subject to Section [26B-4-246](#), within 15 days after the day on which an
3829 individual who satisfies the eligibility criteria in this section or Section [26B-4-214](#) submits an
3830 application in accordance with this section or Section [26B-4-214](#), the department shall:

3831 (i) issue a medical cannabis patient card to an individual described in Subsection
3832 (2)(a);

3833 (ii) issue a medical cannabis guardian card to an individual described in Subsection
3834 (2)(b);

3835 (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

3836 (iv) issue a medical cannabis caregiver card to an individual described in Subsection
3837 [26B-4-214](#)(4).

3838 (b) (i) Upon the entry of a recommending medical provider's medical cannabis
3839 recommendation for a patient in the state electronic verification system, either by the provider
3840 or the provider's employee or by a medical cannabis pharmacy medical provider or medical

3841 cannabis pharmacy in accordance with Subsection [4-41a-1101\(10\)\(a\)](#), the department shall
3842 issue to the patient an electronic conditional medical cannabis card, in accordance with this
3843 Subsection (1)(b).

3844 (ii) A conditional medical cannabis card is valid for the lesser of:

3845 (A) 60 days; or

3846 (B) the day on which the department completes the department's review and issues a
3847 medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card
3848 application, or revokes the conditional medical cannabis card under Subsection (8).

3849 (iii) The department may issue a conditional medical cannabis card to an individual
3850 applying for a medical cannabis patient card for which approval of the Compassionate Use
3851 Board is not required.

3852 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
3853 obligations under law applicable to a holder of the medical cannabis card for which the
3854 individual applies and for which the department issues the conditional medical cannabis card.

3855 (2) (a) An individual is eligible for a medical cannabis patient card if:

3856 (i) (A) the individual is at least 21 years old; or

3857 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate
3858 Use Board under Section [26B-1-421](#), and the Compassionate Use Board recommends
3859 department approval of the petition;

3860 (ii) the individual is a Utah resident;

3861 (iii) the individual's recommending medical provider recommends treatment with
3862 medical cannabis in accordance with Subsection (4);

3863 (iv) the individual signs an acknowledgment stating that the individual received the
3864 information described in Subsection (9); and

3865 (v) the individual pays to the department a fee in an amount that, subject to Subsection
3866 [26B-1-310\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

3867 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

3868 (A) is at least 18 years old;

3869 (B) is a Utah resident;

3870 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
3871 provider recommends a medical cannabis treatment, the individual petitions the Compassionate

3872 Use Board under Section 26B-1-421, and the Compassionate Use Board recommends
3873 department approval of the petition;

3874 (D) the individual signs an acknowledgment stating that the individual received the
3875 information described in Subsection (9);

3876 (E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5),
3877 the department sets in accordance with Section 63J-1-504, plus the cost of the criminal
3878 background check described in Section 26B-4-215.

3879 (ii) The department shall notify the Department of Public Safety of each individual that
3880 the department registers for a medical cannabis guardian card.

3881 (c) (i) A minor is eligible for a provisional patient card if:

3882 (A) the minor has a qualifying condition;

3883 (B) the minor's qualified medical provider recommends a medical cannabis treatment
3884 to address the minor's qualifying condition;

3885 (C) one of the minor's parents or legal guardians petitions the Compassionate Use
3886 Board under Section 26B-1-421, and the Compassionate Use Board recommends department
3887 approval of the petition; and

3888 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
3889 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
3890 medical cannabis caregiver card under Section 26B-4-214.

3891 (ii) The department shall automatically issue a provisional patient card to the minor
3892 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
3893 guardian card to the minor's parent or legal guardian.

3894 (d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A)
3895 through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the
3896 parent or legal guardian may designate up to two caregivers in accordance with Subsection
3897 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended
3898 medical cannabis treatment.

3899 (3) (a) An individual who is eligible for a medical cannabis card described in
3900 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
3901 department:

3902 (i) through an electronic application connected to the state electronic verification

3903 system;

3904 (ii) with the recommending medical provider; and

3905 (iii) with information including:

3906 (A) the applicant's name, gender, age, and address;

3907 (B) the number of the applicant's government issued photo identification;

3908 (C) for a medical cannabis guardian card, the name, gender, and age of the minor

3909 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;

3910 and

3911 (D) for a provisional patient card, the name of the minor's parent or legal guardian who

3912 holds the associated medical cannabis guardian card.

3913 (b) The department shall ensure that a medical cannabis card the department issues

3914 under this section contains the information described in Subsection (3)(a)(iii).

3915 (c) (i) If a recommending medical provider determines that, because of age, illness, or

3916 disability, a medical cannabis patient cardholder requires assistance in administering the

3917 medical cannabis treatment that the recommending medical provider recommends, the

3918 recommending medical provider may indicate the cardholder's need in the state electronic

3919 verification system, either directly or, for a limited medical provider, through the order

3920 described in Subsections [26B-4-204\(1\)\(c\)](#) and (d).

3921 (ii) If a recommending medical provider makes the indication described in Subsection

3922 (3)(c)(i):

3923 (A) the department shall add a label to the relevant medical cannabis patient card

3924 indicating the cardholder's need for assistance;

3925 (B) any adult who is 18 years old or older and who is physically present with the

3926 cardholder at the time the cardholder needs to use the recommended medical cannabis

3927 treatment may handle the medical cannabis treatment and any associated medical cannabis

3928 device as needed to assist the cardholder in administering the recommended medical cannabis

3929 treatment; and

3930 (C) an individual of any age who is physically present with the cardholder in the event

3931 of an emergency medical condition, as that term is defined in Section [31A-1-301](#), may handle

3932 the medical cannabis treatment and any associated medical cannabis device as needed to assist

3933 the cardholder in administering the recommended medical cannabis treatment.

- 3934 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:
- 3935 (A) ingest or inhale medical cannabis;
- 3936 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
- 3937 of the immediate area where the cardholder is present or with an intent other than to provide
- 3938 assistance to the cardholder; or
- 3939 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
- 3940 the cardholder is not in the process of being dosed with medical cannabis.
- 3941 (4) To recommend a medical cannabis treatment to a patient or to renew a
- 3942 recommendation, a recommending medical provider shall:
- 3943 (a) visit with the patient face-to-face for an initial recommendation unless the patient:
- 3944 (i) prefers a virtual visit; and
- 3945 (ii) (A) is on hospice or has a terminal illness according to the patient's medical
- 3946 provider; or
- 3947 (B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a
- 3948 nursing care facility, as defined in Section 26B-2-201;
- 3949 (b) before recommending or renewing a recommendation for medical cannabis in a
- 3950 medicinal dosage form or a cannabis product in a medicinal dosage form:
- 3951 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
- 3952 guardian's government issued photo identification described in Subsection (3)(a);
- 3953 (ii) review any record related to the patient and, for a minor patient, the patient's parent
- 3954 or legal guardian in:
- 3955 (A) for a qualified medical provider, the state electronic verification system; and
- 3956 (B) the controlled substance database created in Section 58-37f-201; and
- 3957 (iii) consider the recommendation in light of the patient's qualifying condition, history
- 3958 of substance use or opioid use disorder, and history of medical cannabis and controlled
- 3959 substance use during a visit with the patient; and
- 3960 (c) state in the recommending medical provider's recommendation that the patient:
- 3961 (i) suffers from a qualifying condition, including the type of qualifying condition; and
- 3962 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
- 3963 product in a medicinal dosage form.
- 3964 (5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the

3965 department issues under this section is valid for the lesser of:

3966 (i) an amount of time that the recommending medical provider determines; or

3967 (ii) one year from the day the card is issued.

3968 (b) (i) A medical cannabis card that the department issues in relation to a terminal

3969 illness described in Section 26B-4-203 expires after one year.

3970 (ii) The recommending medical provider may revoke a recommendation that the

3971 provider made in relation to a terminal illness described in Section 26B-4-203 if the medical

3972 cannabis cardholder no longer has the terminal illness.

3973 (c) A medical cannabis card that the department issues in relation to acute pain as

3974 described in Section 26B-4-203 expires 30 days after the day on which the department first

3975 issues a conditional or full medical cannabis card.

3976 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is

3977 renewable if:

3978 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or

3979 (b); or

3980 (ii) the cardholder received the medical cannabis card through the recommendation of

3981 the Compassionate Use Board under Section 26B-1-421.

3982 (b) The recommending medical provider who made the underlying recommendation

3983 for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card

3984 through phone or video conference with the cardholder, at the recommending medical

3985 provider's discretion.

3986 (c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b)

3987 shall pay to the department a renewal fee in an amount that:

3988 (i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section

3989 63J-1-504; and

3990 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in

3991 comparison to the original application process.

3992 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional

3993 patient card renews automatically at the time the minor's parent or legal guardian renews the

3994 parent or legal guardian's associated medical cannabis guardian card.

3995 (7) (a) A cardholder under this section shall carry the cardholder's valid medical

3996 cannabis card with the patient's name.

3997 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
3998 purchase, in accordance with this part and the recommendation underlying the card, cannabis in
3999 a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
4000 device.

4001 (ii) A cardholder under this section may possess or transport, in accordance with this
4002 part and the recommendation underlying the card, cannabis in a medicinal dosage form, a
4003 cannabis product in a medicinal dosage form, or a medical cannabis device.

4004 (iii) To address the qualifying condition underlying the medical cannabis treatment
4005 recommendation:

4006 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
4007 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
4008 or a medical cannabis device; and

4009 (B) a medical cannabis guardian cardholder may assist the associated provisional
4010 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
4011 product in a medicinal dosage form, or a medical cannabis device.

4012 (8) (a) The department may revoke a medical cannabis card that the department issues
4013 under this section if:

4014 (i) the recommending medical provider withdraws the medical provider's
4015 recommendation for medical cannabis; or

4016 (ii) the cardholder:

4017 (A) violates this part; or

4018 (B) is convicted under state or federal law of, after March 17, 2021, a drug distribution
4019 offense.

4020 (b) The department may not refuse to issue a medical cannabis card to a patient solely
4021 based on a prior revocation under Subsection (8)(a)(i).

4022 (9) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
4023 Utah Administrative Rulemaking Act, a process to provide information regarding the following
4024 to an individual receiving a medical cannabis card:

4025 (a) risks associated with medical cannabis treatment;

4026 (b) the fact that a condition's listing as a qualifying condition does not suggest that

4027 medical cannabis treatment is an effective treatment or cure for that condition, as described in
4028 Subsection [26B-4-203\(1\)](#); and

4029 (c) other relevant warnings and safety information that the department determines.

4030 (10) The department may establish procedures by rule, in accordance with Title 63G,
4031 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
4032 provisions of this section.

4033 (11) (a) [~~On or before September 1, 2021, the~~] The department shall establish by rule,
4034 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to
4035 allow an individual from another state to register with the department in order to purchase
4036 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
4037 individual is visiting the state.

4038 (b) The department may only provide the registration process described in Subsection
4039 (11)(a):

4040 (i) to a nonresident patient; and

4041 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
4042 per visitation period.

4043 (12) (a) A person may submit to the department a request to conduct a research study
4044 using medical cannabis cardholder data that the state electronic verification system contains.

4045 (b) The department shall review a request described in Subsection (12)(a) to determine
4046 whether an institutional review board, as that term is defined in Section [26B-4-201](#), could
4047 approve the research study.

4048 (c) At the time an individual applies for a medical cannabis card, the department shall
4049 notify the individual:

4050 (i) of how the individual's information will be used as a cardholder;

4051 (ii) that by applying for a medical cannabis card, unless the individual withdraws
4052 consent under Subsection (12)(d), the individual consents to the use of the individual's
4053 information for external research; and

4054 (iii) that the individual may withdraw consent for the use of the individual's
4055 information for external research at any time, including at the time of application.

4056 (d) An applicant may, through the medical cannabis card application, and a medical
4057 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or

4058 cardholder's consent to participate in external research at any time.

4059 (e) The department may release, for the purposes of a study described in this
4060 Subsection (12), information about a cardholder under this section who consents to participate
4061 under Subsection (12)(c).

4062 (f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of
4063 consent:

4064 (i) applies to external research that is initiated after the withdrawal of consent; and

4065 (ii) does not apply to research that was initiated before the withdrawal of consent.

4066 (g) The department may establish standards for a medical research study's validity, by
4067 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4068 (13) The department shall record the issuance or revocation of a medical cannabis card
4069 under this section in the controlled substance database.

4070 Section 41. Section **26B-4-214** is amended to read:

4071 **26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal --**
4072 **Revocation.**

4073 (1) (a) A cardholder described in Section **26B-4-213** may designate, through the state
4074 central patient portal, up to two individuals, or an individual and a facility in accordance with
4075 Subsection (1)(b), to serve as a designated caregiver for the cardholder.

4076 (b) (i) [~~Beginning on the earlier of September 1, 2021, or the date on which the~~
4077 ~~electronic verification system is functionally capable of servicing the designation, a~~] A
4078 cardholder described in Section **26B-4-213** may designate one of the following types of
4079 facilities as one of the caregivers described in Subsection (1)(a):

4080 (A) for a patient or resident, an assisted living facility, as that term is defined in Section
4081 **26B-2-201**;

4082 (B) for a patient or resident, a nursing care facility, as that term is defined in Section
4083 **26B-2-201**; or

4084 (C) for a patient, a general acute hospital, as that term is defined in Section **26B-2-201**.

4085 (ii) A facility may:

4086 (A) assign one or more employees to assist patients with medical cannabis treatment
4087 under the caregiver designation described in this Subsection (1)(b); and

4088 (B) receive a medical cannabis shipment from a medical cannabis pharmacy or a

4089 medical cannabis courier on behalf of the medical cannabis cardholder within the facility who
4090 designated the facility as a caregiver.

4091 (iii) The department shall make rules to regulate the practice of facilities and facility
4092 employees serving as designated caregivers under this Subsection (1)(b).

4093 (c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation
4094 with the minor and the minor's qualified medical provider, may designate, through the state
4095 central patient portal, up to two individuals to serve as a designated caregiver for the minor, if
4096 the department determines that the parent or legal guardian is not eligible for a medical
4097 cannabis guardian card under Section 26B-4-213.

4098 (d) (i) [~~Beginning on the earlier of September 1, 2022, or the date on which the~~
4099 ~~electronic verification system is functionally capable of facilitating a conditional medical~~
4100 ~~cannabis caregiver card under this Subsection (1)(d), upon] Upon the entry of a caregiver
4101 designation under Subsection (1) by a patient with a terminal illness described in Section
4102 26B-4-203, the department shall issue to the designated caregiver an electronic conditional
4103 medical cannabis caregiver card, in accordance with this Subsection (1)(d).~~

4104 (ii) A conditional medical cannabis caregiver card is valid for the lesser of:

4105 (A) 60 days; or

4106 (B) the day on which the department completes the department's review and issues a
4107 medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis
4108 caregiver card application, or revokes the conditional medical cannabis caregiver card under
4109 26B-4-246.

4110 (iii) The department may issue a conditional medical cannabis card to an individual
4111 applying for a medical cannabis patient card for which approval of the Compassionate Use
4112 Board is not required.

4113 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
4114 obligations under law applicable to a holder of the medical cannabis card for which the
4115 individual applies and for which the department issues the conditional medical cannabis card.

4116 (2) An individual that the department registers as a designated caregiver under this
4117 section and a facility described in Subsection (1)(b):

4118 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
4119 card;

4120 (b) in accordance with this part, may purchase, possess, transport, or assist the patient
4121 in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage
4122 form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

4123 (c) may not charge a fee to an individual to act as the individual's designated caregiver
4124 or for a service that the designated caregiver provides in relation to the role as a designated
4125 caregiver; and

4126 (d) may accept reimbursement from the designating medical cannabis cardholder for
4127 direct costs the designated caregiver incurs for assisting with the designating cardholder's
4128 medicinal use of cannabis.

4129 (3) (a) The department shall:

4130 (i) within 15 days after the day on which an individual submits an application in
4131 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

4132 (A) is designated as a caregiver under Subsection (1);

4133 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

4134 (C) complies with this section; and

4135 (ii) notify the Department of Public Safety of each individual that the department
4136 registers as a designated caregiver.

4137 (b) The department shall ensure that a medical cannabis caregiver card contains the
4138 information described in Subsections (5)(b) and (3)(c)(i).

4139 (c) If a cardholder described in Section [26B-4-213](#) designates an individual as a
4140 caregiver who already holds a medical cannabis caregiver card, the individual with the medical
4141 cannabis caregiver card:

4142 (i) shall report to the department the information required of applicants under
4143 Subsection (5)(b) regarding the new designation;

4144 (ii) if the individual makes the report described in Subsection (3)(c)(i), is not required
4145 to file an application for another medical cannabis caregiver card;

4146 (iii) may receive an additional medical cannabis caregiver card in relation to each
4147 additional medical cannabis patient who designates the caregiver; and

4148 (iv) is not subject to an additional background check.

4149 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

4150 (a) is at least 21 years old;

- 4151 (b) is a Utah resident;
- 4152 (c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5),
4153 the department sets in accordance with Section 63J-1-504, plus the cost of the criminal
4154 background check described in Section 26B-4-215;
- 4155 (d) signs an acknowledgment stating that the applicant received the information
4156 described in Subsection 26B-4-213(9) .
- 4157 (5) An eligible applicant for a medical cannabis caregiver card shall:
- 4158 (a) submit an application for a medical cannabis caregiver card to the department
4159 through an electronic application connected to the state electronic verification system; and
- 4160 (b) submit the following information in the application described in Subsection (5)(a):
- 4161 (i) the applicant's name, gender, age, and address;
- 4162 (ii) the name, gender, age, and address of the cardholder described in Section
4163 26B-4-213 who designated the applicant;
- 4164 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
4165 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
4166 cannabis guardian cardholder; and
- 4167 (iv) any additional information that the department requests to assist in matching the
4168 application with the designating medical cannabis patient.
- 4169 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
4170 department issues under this section is valid for the lesser of:
- 4171 (a) an amount of time that the cardholder described in Section 26B-4-213 who
4172 designated the caregiver determines; or
- 4173 (b) the amount of time remaining before the card of the cardholder described in Section
4174 26B-4-213 expires.
- 4175 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
4176 designated caregiver's medical cannabis caregiver card renews automatically at the time the
4177 cardholder described in Section 26B-4-213 who designated the caregiver:
- 4178 (i) renews the cardholder's card; and
- 4179 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).
- 4180 (b) The department shall provide a method in the card renewal process to allow a
4181 cardholder described in Section 26B-4-213 who has designated a caregiver to:

- 4182 (i) signify that the cardholder renews the caregiver's designation;
- 4183 (ii) remove a caregiver's designation; or
- 4184 (iii) designate a new caregiver.

4185 (8) The department shall record the issuance or revocation of a medical cannabis card
4186 under this section in the controlled substance database.

4187 Section 42. Section **26B-4-222** is amended to read:

4188 **26B-4-222. Report.**

4189 (1) By the November interim meeting each year, [~~beginning in 2020,~~] the department
4190 shall report to the Health and Human Services Interim Committee on:

- 4191 (a) the number of applications and renewal applications filed for medical cannabis
4192 cards;
- 4193 (b) the number of qualifying patients and designated caregivers;
- 4194 (c) the nature of the debilitating medical conditions of the qualifying patients;
- 4195 (d) the age and county of residence of cardholders;
- 4196 (e) the number of medical cannabis cards revoked;
- 4197 (f) the number of practitioners providing recommendations for qualifying patients;
- 4198 (g) the number of license applications and renewal license applications received;
- 4199 (h) the number of licenses the department has issued in each county;
- 4200 (i) the number of licenses the department has revoked;
- 4201 (j) the quantity of medical cannabis shipments that the state central patient portal
4202 facilitates;
- 4203 (k) the number of overall purchases of medical cannabis and medical cannabis products
4204 from each medical cannabis pharmacy;
- 4205 (l) the expenses incurred and revenues generated from the medical cannabis program;
4206 and
- 4207 (m) an analysis of product availability in medical cannabis pharmacies in
4208 [~~consultation~~] consultation with the Department of Agriculture and Food.
- 4209 (2) The report shall include information provided by the Center for Medical Cannabis
4210 Research described in Section [53B-17-1402](#).
- 4211 (3) The department may not include personally identifying information in the report
4212 described in this section.

4213 (4) The department shall report to the working group described in Section [36-12-8.2](#) as
4214 requested by the working group.

4215 Section 43. Section **26B-4-245** is amended to read:

4216 **26B-4-245. Purchasing and use limitations.**

4217 An individual with a medical cannabis card:

4218 (1) may purchase, in any one 28-day period, up to the legal dosage limit of:

4219 (a) unprocessed cannabis in a medicinal dosage form; and

4220 (b) a cannabis product in a medicinal dosage form;

4221 (2) may not purchase:

4222 (a) more medical cannabis than described in Subsection (1)(a); or

4223 (b) if the relevant recommending medical provider did not recommend directions of
4224 use and dosing guidelines, until the individual consults with the pharmacy medical provider in

4225 accordance with Subsection [~~26B-4-231(4)~~] [26B-4-231\(5\)](#), any medical cannabis; and

4226 [~~(3)~~] (c) may not use a route of administration that the relevant recommending medical

4227 provider or the pharmacy medical provider, in accordance with Subsection [~~26B-4-231(4)~~]

4228 [26B-4-231\(5\)](#), has not recommended.

4229 Section 44. Section **26B-4-701** is amended to read:

4230 **26B-4-701. Definitions.**

4231 As used in this part:

4232 (1) "Accredited clinical education program" means a clinical education program for a
4233 health care profession that is accredited by the Accreditation Council on Graduate Medical
4234 Education.

4235 (2) "Accredited clinical training program" means a clinical training program that is
4236 accredited by an entity recognized within medical education circles as an accrediting body for
4237 medical education, advanced practice nursing education, physician [~~assistance~~] assistant
4238 education, doctor of pharmacy education, dental education, or registered nursing education.

4239 (3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and
4240 Medicaid Services within the United States Department of Health and Human Services.

4241 (4) "Health care professionals in training" means medical students and residents,
4242 [~~advance~~] advanced practice nursing students, physician assistant students, doctor of pharmacy
4243 students, dental students, and registered nursing students.

4244 (5) "Hospital" means a general acute hospital, as defined in Section [26B-2-201](#).

4245 (6) "Physician" means a person:

4246 (a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

4247 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical

4248 Practice Act.

4249 (7) "Rural county" means a county [~~with a population of less than 50,000, as~~

4250 ~~determined by:~~ of the third, fourth, fifth, or sixth class under Section [17-50-501](#).

4251 [~~(a) the most recent official census or census estimate of the United States Bureau of~~

4252 ~~the Census; or]~~

4253 [~~(b) the most recent population estimate for the county from the Utah Population~~

4254 ~~Committee, if a population figure for the county is not available under Subsection (7)(a):]~~

4255 (8) "Rural hospital" means a hospital located within a rural county.

4256 (9) "UMEC" means the Utah Medical Education Council created in Section

4257 [26B-4-706](#).

4258 Section 45. Section **26B-5-101** is amended to read:

4259 **26B-5-101. Chapter definitions.**

4260 As used in this chapter:

4261 (1) "Criminal risk factors" means a person's characteristics and behaviors that:

4262 (a) affect the person's risk of engaging in criminal behavior; and

4263 (b) are diminished when addressed by effective treatment, supervision, and other

4264 support resources, resulting in reduced risk of criminal behavior.

4265 (2) "Director" means the director appointed under Section [26B-5-103](#).

4266 (3) "Division" means the Division of Integrated Healthcare created in Section

4267 [~~26B-1-202~~] [26B-1-1202](#).

4268 (4) "Local mental health authority" means a county legislative body.

4269 (5) "Local substance abuse authority" means a county legislative body.

4270 (6) "Mental health crisis" means:

4271 (a) a mental health condition that manifests in an individual by symptoms of sufficient

4272 severity that a prudent layperson who possesses an average knowledge of mental health issues

4273 could reasonably expect the absence of immediate attention or intervention to result in:

4274 (i) serious danger to the individual's health or well-being; or

- 4275 (ii) a danger to the health or well-being of others; or
4276 (b) a mental health condition that, in the opinion of a mental health therapist or the
4277 therapist's designee, requires direct professional observation or intervention.
- 4278 (7) "Mental health crisis response training" means community-based training that
4279 educates laypersons and professionals on the warning signs of a mental health crisis and how to
4280 respond.
- 4281 (8) "Mental health crisis services" means an array of services provided to an individual
4282 who experiences a mental health crisis, which may include:
- 4283 (a) direct mental health services;
4284 (b) on-site intervention provided by a mobile crisis outreach team;
4285 (c) the provision of safety and care plans;
4286 (d) prolonged mental health services for up to 90 days after the day on which an
4287 individual experiences a mental health crisis;
4288 (e) referrals to other community resources;
4289 (f) local mental health crisis lines; and
4290 (g) the statewide mental health crisis line.
- 4291 (9) "Mental health therapist" means the same as that term is defined in Section
4292 [58-60-102](#).
- 4293 (10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
4294 mental health professionals that, in coordination with local law enforcement and emergency
4295 medical service personnel, provides mental health crisis services.
- 4296 (11) "Office" means the Office of Substance Use and Mental Health created in Section
4297 [26B-5-102](#).
- 4298 (12) (a) "Public funds" means federal money received from the department, and state
4299 money appropriated by the Legislature to the department, a county governing body, or a local
4300 substance abuse authority, or a local mental health authority for the purposes of providing
4301 substance abuse or mental health programs or services.
- 4302 (b) "Public funds" include federal and state money that has been transferred by a local
4303 substance abuse authority or a local mental health authority to a private provider under an
4304 annual or otherwise ongoing contract to provide comprehensive substance abuse or mental
4305 health programs or services for the local substance abuse authority or local mental health

4306 authority. The money maintains the nature of "public funds" while in the possession of the
4307 private entity that has an annual or otherwise ongoing contract with a local substance abuse
4308 authority or a local mental health authority to provide comprehensive substance use or mental
4309 health programs or services for the local substance abuse authority or local mental health
4310 authority.

4311 (c) Public funds received for the provision of services under substance use or mental
4312 health service plans may not be used for any other purpose except those authorized in the
4313 contract between the local mental health or substance abuse authority and provider for the
4314 provision of plan services.

4315 (13) "Severe mental disorder" means schizophrenia, major depression, bipolar
4316 disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by
4317 the division.

4318 (14) "Stabilization services" means in-home services provided to a child with, or who
4319 is at risk for, complex emotional and behavioral needs, including teaching the child's parent or
4320 guardian skills to improve family functioning.

4321 (15) "Statewide mental health crisis line" means the same as that term is defined in
4322 Section [26B-5-610](#).

4323 (16) "System of care" means a broad, flexible array of services and supports that:

4324 (a) serve a child with or who is at risk for complex emotional and behavioral needs;

4325 (b) are community based;

4326 (c) are informed about trauma;

4327 (d) build meaningful partnerships with families and children;

4328 (e) integrate service planning, service coordination, and management across state and
4329 local entities;

4330 (f) include individualized case planning;

4331 (g) provide management and policy infrastructure that supports a coordinated network
4332 of interdepartmental service providers, contractors, and service providers who are outside of
4333 the department; and

4334 (h) are guided by the type and variety of services needed by a child with or who is at
4335 risk for complex emotional and behavioral needs and by the child's family.

4336 Section 46. Section **26B-5-403** is amended to read:

4337 **26B-5-403. Residential and inpatient settings -- Commitment proceeding -- Child**
4338 **in physical custody of local mental health authority.**

4339 (1) A child may receive services from a local mental health authority in an inpatient or
4340 residential setting only after a commitment proceeding, for the purpose of transferring physical
4341 custody, has been conducted in accordance with the requirements of this section.

4342 (2) That commitment proceeding shall be initiated by a petition for commitment, and
4343 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
4344 to the procedures and requirements of this section. If the findings described in Subsection (4)
4345 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
4346 mental health authority, and the child may be placed in an inpatient or residential setting.

4347 (3) The neutral and detached fact finder who conducts the inquiry:

4348 (a) shall be a designated examiner; and

4349 (b) may not profit, financially or otherwise, from the commitment or physical
4350 placement of the child in that setting.

4351 (4) Upon determination by a fact finder that the following circumstances clearly exist,
4352 the fact finder may order that the child be committed to the physical custody of a local mental
4353 health authority:

4354 (a) the child has a mental illness;

4355 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or
4356 others;

4357 (c) the child will benefit from care and treatment by the local mental health authority;
4358 and

4359 (d) there is no appropriate less-restrictive alternative.

4360 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
4361 conducted in as informal manner as possible and in a physical setting that is not likely to have a
4362 harmful effect on the child.

4363 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of
4364 the appropriate local mental health authority:

4365 (i) shall receive informal notice of the date and time of the proceeding; and

4366 (ii) may appear and address the petition for commitment.

4367 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the

4368 testimony of any other person.

4369 (d) The fact finder may allow a child to waive the child's right to be present at the
4370 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
4371 waiver shall be made a matter of record at the proceeding.

4372 (e) At the time of the commitment proceeding, the appropriate local mental health
4373 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
4374 commitment proceeding, shall provide the neutral and detached fact finder with the following
4375 information, as it relates to the period of current admission:

4376 (i) the petition for commitment;

4377 (ii) the admission notes;

4378 (iii) the child's diagnosis;

4379 (iv) physicians' orders;

4380 (v) progress notes;

4381 (vi) nursing notes; and

4382 (vii) medication records.

4383 (f) The information described in Subsection (5)(e) shall also be provided to the child's
4384 parent or legal guardian upon written request.

4385 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
4386 duration of the commitment. Any commitment to the physical custody of a local mental health
4387 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
4388 commitment is sought, a hearing shall be conducted in the same manner as the initial
4389 commitment proceeding, in accordance with the requirements of this section.

4390 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for
4391 commitment is made, the neutral and detached fact finder shall inform the child and the child's
4392 parent or legal guardian of that decision and of the reasons for ordering commitment.

4393 (iii) The neutral and detached fact finder shall state in writing the basis of the decision,
4394 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

4395 (6) A child may be temporarily committed for a maximum of 72 hours, excluding
4396 Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health
4397 authority in accordance with the procedures described in Section [26B-5-331](#) and upon
4398 satisfaction of the risk factors described in Subsection (4). A child who is temporarily

4399 committed shall be released at the expiration of the 72 hours unless the procedures and findings
4400 required by this section for the commitment of a child are satisfied.

4401 (7) A local mental health authority shall have physical custody of each child committed
4402 to it under this section. The parent or legal guardian of a child committed to the physical
4403 custody of a local mental health authority under this section, retains legal custody of the child,
4404 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
4405 when the Division of Child and Family Services or the Division of Juvenile Justice and Youth
4406 Services has legal custody of a child, that division shall retain legal custody for purposes of this
4407 part.

4408 (8) The cost of caring for and maintaining a child in the physical custody of a local
4409 mental health authority shall be assessed to and paid by the child's parents, according to their
4410 ability to pay. For purposes of this section, the Division of Child and Family Services or the
4411 Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to
4412 the child's parents, if the child is in the legal custody of either of those divisions at the time the
4413 child is committed to the physical custody of a local mental health authority under this section,
4414 unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery
4415 Services shall assist those divisions in collecting the costs assessed pursuant to this section.

4416 (9) Whenever application is made for commitment of a minor to a local mental health
4417 authority under any provision of this section by a person other than the child's parent or
4418 guardian, the local mental health authority or its designee shall notify the child's parent or
4419 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
4420 proceeding.

4421 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
4422 days after any order for commitment. The appeal may be brought on the child's own petition or
4423 on petition of the child's parent or legal guardian, to the juvenile court in the district where the
4424 child resides or is currently physically located. With regard to a child in the custody of the
4425 Division of Child and Family Services or the Division of Juvenile Justice and Youth Services,
4426 the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's
4427 office is responsible for appeals brought pursuant to this Subsection (10)(a).

4428 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
4429 examiner previously unrelated to the case, to conduct an examination of the child in accordance

4430 with the criteria described in Subsection (4), and file a written report with the court. The court
4431 shall then conduct an appeal hearing to determine whether the findings described in Subsection
4432 (4) exist by clear and convincing evidence.

4433 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
4434 its designee, or the mental health professional who has been in charge of the child's care prior
4435 to commitment, shall provide the court and the designated examiner for the appeal hearing with
4436 the following information, as it relates to the period of current admission:

4437 (i) the original petition for commitment;

4438 (ii) admission notes;

4439 (iii) diagnosis;

4440 (iv) physicians' orders;

4441 (v) progress notes;

4442 (vi) nursing notes; and

4443 (vii) medication records.

4444 (d) Both the neutral and detached fact finder and the designated examiner appointed for
4445 the appeal hearing shall be provided with an opportunity to review the most current
4446 information described in Subsection (10)(c) prior to the appeal hearing.

4447 (e) The child, the child's parent or legal guardian, the person who submitted the
4448 original petition for commitment, and a representative of the appropriate local mental health
4449 authority shall be notified by the court of the date and time of the appeal hearing. Those
4450 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the
4451 court shall review the record and findings of the neutral and detached fact finder, the report of
4452 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,
4453 allow or require the testimony of the neutral and detached fact finder, the designated examiner,
4454 the child, the child's parent or legal guardian, the person who brought the initial petition for
4455 commitment, or any other person whose testimony the court deems relevant. The court may
4456 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that
4457 waiver is granted, the purpose shall be made a part of the court's record.

4458 (11) Each local mental health authority has an affirmative duty to conduct periodic
4459 evaluations of the mental health and treatment progress of every child committed to its physical
4460 custody under this section, and to release any child who has sufficiently improved so that the

4461 criteria justifying commitment no longer exist.

4462 (12) (a) A local mental health authority or its designee, in conjunction with the child's
4463 current treating mental health professional may release an improved child to a less restrictive
4464 environment, as they determine appropriate. Whenever the local mental health authority or its
4465 designee, and the child's current treating mental health professional, determine that the
4466 conditions justifying commitment no longer exist, the child shall be discharged and released to
4467 the child's parent or legal guardian. With regard to a child who is in the physical custody of the
4468 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the
4469 child's current treating mental health professional.

4470 (b) A local mental health authority or its designee, in conjunction with the child's
4471 current treating mental health professional, is authorized to issue a written order for the
4472 immediate placement of a child not previously released from an order of commitment into a
4473 more restrictive environment, if the local authority or its designee and the child's current
4474 treating mental health professional has reason to believe that the less restrictive environment in
4475 which the child has been placed is exacerbating the child's mental illness, or increasing the risk
4476 of harm to self or others.

4477 (c) The written order described in Subsection (12)(b) shall include the reasons for
4478 placement in a more restrictive environment and shall authorize any peace officer to take the
4479 child into physical custody and transport the child to a facility designated by the appropriate
4480 local mental health authority in conjunction with the child's current treating mental health
4481 professional. Prior to admission to the more restrictive environment, copies of the order shall
4482 be personally delivered to the child, the child's parent or legal guardian, the administrator of the
4483 more restrictive environment, or the administrator's designee, and the child's former treatment
4484 provider or facility.

4485 (d) If the child has been in a less restrictive environment for more than 30 days and is
4486 aggrieved by the change to a more restrictive environment, the child or the child's
4487 representative may request a review within 30 days of the change, by a neutral and detached
4488 fact finder as described in Subsection (3). The fact finder shall determine whether:

4489 (i) the less restrictive environment in which the child has been placed is exacerbating
4490 the child's mental illness or increasing the risk of harm to self or others; or

4491 (ii) the less restrictive environment in which the child has been placed is not

4492 exacerbating the child's mental illness or increasing the risk of harm to self or others, in which
4493 case the fact finder shall designate that the child remain in the less restrictive environment.

4494 (e) Nothing in this section prevents a local mental health authority or its designee, in
4495 conjunction with the child's current mental health professional, from discharging a child from
4496 commitment or from placing a child in an environment that is less restrictive than that
4497 designated by the neutral and detached fact finder.

4498 (13) Each local mental health authority or its designee, in conjunction with the child's
4499 current treating mental health professional shall discharge any child who, in the opinion of that
4500 local authority, or its designee, and the child's current treating mental health professional, no
4501 longer meets the criteria specified in Subsection (4), except as provided by Section [26B-5-405](#).
4502 The local authority and the mental health professional shall assure that any further supportive
4503 services required to meet the child's needs upon release will be provided.

4504 (14) Even though a child has been committed to the physical custody of a local mental
4505 health authority under this section, the child is still entitled to additional due process
4506 proceedings, in accordance with Section ~~[[26B-5-704](#)]~~ [26B-5-404](#), before any treatment that
4507 may affect a constitutionally protected liberty or privacy interest is administered. Those
4508 treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and
4509 psychosurgery.

4510 Section 47. Section **26B-6-401** is amended to read:

4511 **26B-6-401. Definitions.**

4512 As used in this part:

4513 (1) "Approved provider" means a person approved by the division to provide
4514 ~~[home-based]~~ home- and community-based services.

4515 (2) "Board" means the Utah State Developmental Center Board created under Section
4516 [26B-1-429](#).

4517 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in
4518 nature, including a cerebral vascular accident.

4519 (b) "Brain injury" does not include a deteriorating disease.

4520 (4) "Designated intellectual disability professional" means:

4521 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,
4522 who:

4523 (i) (A) has at least one year of specialized training in working with persons with an
4524 intellectual disability; or

4525 (B) has at least one year of clinical experience with persons with an intellectual
4526 disability; and

4527 (ii) is designated by the division as specially qualified, by training and experience, in
4528 the treatment of an intellectual disability; or

4529 (b) a clinical social worker, certified social worker, marriage and family therapist, or
4530 professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional
4531 Practice Act, who:

4532 (i) has at least two years of clinical experience with persons with an intellectual
4533 disability; and

4534 (ii) is designated by the division as specially qualified, by training and experience, in
4535 the treatment of an intellectual disability.

4536 (5) "Deteriorating disease" includes:

4537 (a) multiple sclerosis;

4538 (b) muscular dystrophy;

4539 (c) Huntington's chorea;

4540 (d) Alzheimer's disease;

4541 (e) ataxia; or

4542 (f) cancer.

4543 (6) "Developmental center" means the Utah State Developmental Center, established in
4544 accordance with Part 5, Utah State Developmental Center.

4545 (7) "Director" means the director of the Division of Services for People with
4546 Disabilities.

4547 (8) "Direct service worker" means a person who provides services to a person with a
4548 disability:

4549 (a) when the services are rendered in:

4550 (i) the physical presence of the person with a disability; or

4551 (ii) a location where the person rendering the services has access to the physical
4552 presence of the person with a disability; and

4553 (b) (i) under a contract with the division;

- 4554 (ii) under a grant agreement with the division; or
- 4555 (iii) as an employee of the division.
- 4556 (9) (a) "Disability" means a severe, chronic disability that:
- 4557 (i) is attributable to:
- 4558 (A) an intellectual disability;
- 4559 (B) a condition that qualifies a person as a person with a related condition, as defined
- 4560 in 42 C.F.R. Sec. 435.1010;
- 4561 (C) a physical disability; or
- 4562 (D) a brain injury;
- 4563 (ii) is likely to continue indefinitely;
- 4564 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a
- 4565 substantial functional limitation in three or more of the following areas of major life activity:
- 4566 (I) self-care;
- 4567 (II) receptive and expressive language;
- 4568 (III) learning;
- 4569 (IV) mobility;
- 4570 (V) self-direction;
- 4571 (VI) capacity for independent living; or
- 4572 (VII) economic self-sufficiency; or
- 4573 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
- 4574 limitation in three or more of the following areas:
- 4575 (I) memory or cognition;
- 4576 (II) activities of daily life;
- 4577 (III) judgment and self-protection;
- 4578 (IV) control of emotions;
- 4579 (V) communication;
- 4580 (VI) physical health; or
- 4581 (VII) employment; and
- 4582 (iv) requires a combination or sequence of special interdisciplinary or generic care,
- 4583 treatment, or other services that:
- 4584 (A) may continue throughout life; and

- 4585 (B) must be individually planned and coordinated.
- 4586 (b) "Disability" does not include a condition due solely to:
 - 4587 (i) mental illness;
 - 4588 (ii) personality disorder;
 - 4589 (iii) deafness or being hard of hearing;
 - 4590 (iv) visual impairment;
 - 4591 (v) learning disability;
 - 4592 (vi) behavior disorder;
 - 4593 (vii) substance abuse; or
 - 4594 (viii) the aging process.
- 4595 (10) "Division" means the Division of Services for People with Disabilities.
- 4596 (11) "Eligible to receive division services" or "eligibility" means qualification, based
4597 on criteria established by the division, to receive services that are administered by the division.
- 4598 (12) "Endorsed program" means a facility or program that:
 - 4599 (a) is operated:
 - 4600 (i) by the division; or
 - 4601 (ii) under contract with the division; or
 - 4602 (b) provides services to a person committed to the division under Part 6, Admission to
4603 an Intermediate Care Facility for People with an Intellectual Disability.
- 4604 (13) "Licensed physician" means:
 - 4605 (a) an individual licensed to practice medicine under:
 - 4606 (i) Title 58, Chapter 67, Utah Medical Practice Act; or
 - 4607 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
 - 4608 (b) a medical officer of the United States Government while in this state in the
4609 performance of official duties.
- 4610 (14) "Limited support services" means services that are administered by the division to
4611 individuals with a disability:
 - 4612 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for
4613 Medicare and Medicaid Services that permits the division to limit services to an individual who
4614 is eligible to receive division services; and
 - 4615 (b) through a program that:

4616 (i) was not operated by the division on or before January 1, 2020; and

4617 (ii) (A) limits the kinds of services that an individual may receive; or

4618 (B) sets a maximum total dollar amount for program services provided to each
4619 individual.

4620 (15) "Physical disability" means a medically determinable physical impairment that has
4621 resulted in the functional loss of two or more of a person's limbs.

4622 (16) "Public funds" means state or federal funds that are disbursed by the division.

4623 (17) "Resident" means an individual under observation, care, or treatment in an
4624 intermediate care facility for people with an intellectual disability.

4625 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term
4626 Sustainability Fund created in Section [26B-1-331](#).

4627 Section 48. Section **26B-7-213** is amended to read:

4628 **26B-7-213. Sexually transmitted infections -- Examinations by authorities --**
4629 **Treatment of infected persons.**

4630 State, county, and municipal health officers within their respective jurisdictions may
4631 make examinations of persons reasonably suspected of being infected with ~~[venereal disease]~~
4632 sexually transmitted infections. Persons infected with ~~[venereal disease]~~ sexually transmitted
4633 infections shall be required to report for treatment to either a reputable physician or physician
4634 assistant and continue treatment until cured or to submit to treatment provided at public
4635 expense until cured.

4636 Section 49. Section **26B-7-215** is amended to read:

4637 **26B-7-215. Sexually transmitted infections -- Examination and treatment of**
4638 **persons in prison or jail.**

4639 (1) (a) All persons confined in any state, county, or city prison or jail shall be
4640 examined, and if infected, treated for ~~[venereal diseases]~~ sexually transmitted infections by the
4641 health authorities.

4642 (b) The prison authorities of every state, county, or city prison or jail shall make
4643 available to the health authorities such portion of the prison or jail as may be necessary for a
4644 clinic or hospital wherein all persons suffering with ~~[venereal disease]~~ sexually transmitted
4645 infections at the time of the expiration of their terms of imprisonment, shall be isolated and
4646 treated at public expense until cured.

4647 (2) (a) The department may require persons suffering with [~~venerical disease~~] sexually
4648 transmitted infections at the time of the expiration of their terms of imprisonment to report for
4649 treatment to a licensed physician or physician assistant or submit to treatment provided at
4650 public expense in lieu of isolation.

4651 (b) Nothing in this section shall interfere with the service of any sentence imposed by a
4652 court as a punishment for the commission of crime.

4653 Section 50. Section **26B-8-201** is amended to read:

4654 **26B-8-201. Definitions.**

4655 As used in this part:

4656 (1) "Dead body" means the same as that term is defined in Section [26B-8-101](#).

4657 (2) (a) "Death by violence" means death that resulted by the decedent's exposure to
4658 physical, mechanical, or chemical forces.

4659 (b) "Death by violence" includes death that appears to have been due to homicide,
4660 death that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery,
4661 burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault
4662 with a dangerous weapon, assault with intent to commit any offense punishable by
4663 imprisonment for more than one year, arson punishable by imprisonment for more than one
4664 year, or any attempt to commit any of the foregoing offenses.

4665 (3) "Immediate relative" means an individual's spouse, child, parent, sibling,
4666 grandparent, or grandchild.

4667 (4) "Health care professional" means any of the following while acting in a
4668 professional capacity:

4669 (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
4670 58, Chapter 68, Utah Osteopathic Medical Practice Act;

4671 (b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
4672 Act; or

4673 (c) an advance practice registered nurse licensed under Subsection [58-31b-301\(2\)\(e\)](#).

4674 (5) "Medical examiner" means the state medical examiner appointed pursuant to
4675 Section [26B-8-202](#) or a deputy appointed by the medical examiner.

4676 (6) "Medical examiner record" means:

4677 (a) all information that the medical examiner obtains regarding a decedent; [~~and~~]

4678 (b) reports that the medical examiner makes regarding a decedent[-]; and

4679 (c) all administrative forms and correspondence related to the decedent's case.

4680 (7) "Regional pathologist" means [~~a trained~~] an American Board of Pathology certified
4681 pathologist licensed to practice medicine and surgery in the state, appointed by the medical
4682 examiner pursuant to Subsection 26B-8-202(3).

4683 (8) "Sudden death while in apparent good health" means apparently instantaneous
4684 death without obvious natural cause, death during or following an unexplained syncope or
4685 coma, or death during an acute or unexplained rapidly fatal illness.

4686 (9) "Sudden [~~infant death syndrome~~] unexpected infant death" means the death of a
4687 child who was thought to be in good health or whose terminal illness appeared to be so mild
4688 that the possibility of a fatal outcome was not anticipated.

4689 (10) "Suicide" means death caused by an intentional and voluntary act of an individual
4690 who understands the physical nature of the act and intends by such act to accomplish
4691 self-destruction.

4692 (11) "Unattended death" means a death that occurs more than 365 days after the day on
4693 which a health care professional examined or treated the deceased individual for any purpose,
4694 including writing a prescription.

4695 (12) (a) "Unavailable for postmortem investigation" means that a dead body is:

4696 (i) transported out of state;

4697 (ii) buried at sea;

4698 (iii) cremated;

4699 (iv) processed by alkaline hydrolysis; or

4700 (v) otherwise made unavailable to the medical examiner for postmortem investigation
4701 or autopsy.

4702 (b) "Unavailable for postmortem investigation" does not include embalming or burial
4703 of a dead body pursuant to the requirements of law.

4704 (13) "Within the scope of the decedent's employment" means all acts reasonably
4705 necessary or incident to the performance of work, including matters of personal convenience
4706 and comfort not in conflict with specific instructions.

4707 Section 51. Section **26B-8-202** is amended to read:

4708 **26B-8-202. Chief medical examiner -- Appointment -- Qualifications -- Authority.**

4709 (1) The executive director~~[, with the advice of an advisory board consisting of the~~
4710 ~~chairman of the Department of Pathology at the University of Utah medical school and the~~
4711 ~~dean of the law school at the University of Utah,]~~ shall appoint a chief medical examiner who
4712 shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic
4713 pathologist, certified by the American Board of Pathology.

4714 (2) (a) The medical examiner shall serve at the will of the executive director.

4715 (b) The medical examiner has authority to:

4716 (i) employ medical, technical and clerical personnel as may be required to effectively
4717 administer this chapter, subject to the rules of the department and the state merit system;

4718 (ii) conduct investigations and pathological examinations;

4719 (iii) perform autopsies authorized in this title;

4720 (iv) conduct or authorize necessary examinations on dead bodies; and

4721 (v) notwithstanding the provisions of Subsection [26B-8-321\(3\)](#), retain tissues and
4722 biological samples:

4723 (A) for scientific purposes;

4724 (B) where necessary to accurately certify the cause and manner of death; or

4725 (C) for tissue from an unclaimed body, subject to Section [26B-8-225](#), in order to
4726 donate the tissue or biological sample to an individual who is affiliated with an established
4727 search and rescue dog organization, for the purpose of training a dog to search for human
4728 remains.

4729 (c) In the case of an unidentified body, the medical examiner shall authorize or conduct
4730 investigations, tests and processes in order to determine its identity as well as the cause of
4731 death.

4732 (3) The medical examiner may appoint regional pathologists, each of whom shall be
4733 approved by the executive director.

4734 Section 52. Section [26B-8-203](#) is amended to read:

4735 **26B-8-203. County medical examiners.**

4736 The county executive, with the advice and consent of the county legislative body and
4737 approval of the chief medical examiner, may appoint medical examiners for their respective
4738 counties.

4739 Section 53. Section [26B-8-205](#) is amended to read:

4740 **26B-8-205. Jurisdiction of medical examiner.**

4741 Upon notification under Section 26B-8-206 or investigation by the medical examiner's
4742 office, the medical examiner shall assume [~~custody of~~] jurisdiction over a deceased body if it
4743 appears that death:

- 4744 (1) was by violence, gunshot, suicide, or accident;
- 4745 (2) was sudden death while in apparent good health;
- 4746 (3) occurred unattended, except that an autopsy may only be performed in accordance
4747 with the provisions of Subsection 26B-8-207(3);
- 4748 (4) occurred under suspicious or unusual circumstances;
- 4749 (5) resulted from poisoning or overdose of drugs;
- 4750 (6) resulted from a disease that may constitute a threat to the public health;
- 4751 (7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the
4752 scope of the decedent's employment;
- 4753 (8) was due to [~~sudden infant death syndrome~~] sudden unexpected infant death;
- 4754 (9) occurred while the decedent was in prison, jail, police custody, the state hospital, or
4755 in a detention or medical facility operated for the treatment of persons with a mental illness,
4756 persons who are emotionally disturbed, or delinquent persons;
- 4757 (10) resulted directly from the actions of a law enforcement officer, as defined in
4758 Section 53-13-103;
- 4759 (11) was associated with diagnostic or therapeutic procedures; or
- 4760 (12) was described in this section when request is made to assume custody by a county
4761 or district attorney or law enforcement agency in connection with a potential homicide
4762 investigation or prosecution.

4763 Section 54. Section 26B-8-207 is amended to read:

4764 **26B-8-207. Custody of dead body and personal effects -- Examination of scene of**
4765 **death -- Preservation of body -- Autopsies.**

4766 (1) (a) Upon notification of a death under Section 26B-8-206, the medical examiner
4767 shall assume [~~custody of~~] jurisdiction over the deceased body, clothing on the body, biological
4768 samples taken, and any article on or near the body which may aid the medical examiner in
4769 determining the cause of death except those articles which will assist the investigative agency
4770 to proceed without delay with the investigation.

4771 (b) In all cases the scene of the event may not be disturbed until authorization is given
4772 by the senior ranking peace officer from the law enforcement agency having jurisdiction of the
4773 case and conducting the investigation.

4774 (c) Where death appears to have occurred under circumstances listed in Section
4775 26B-8-205, the person or persons finding or having custody of the body, or jurisdiction over
4776 the investigation of the death, shall take reasonable precautions to preserve the body and body
4777 fluids so that minimum deterioration takes place.

4778 (d) A person may not move a body [~~in the custody~~] under the jurisdiction of the
4779 medical examiner unless:

4780 (i) the medical examiner, or district attorney or county attorney that has criminal
4781 jurisdiction, authorizes the person to move the body;

4782 (ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person to
4783 move the body;

4784 (iii) not moving the body would be an affront to public decency or impractical; or

4785 (iv) the medical examiner determines the cause of death is likely due to natural causes.

4786 (e) The body can under direction of the medical examiner or the medical examiner's
4787 designee be moved to a place specified by the medical examiner or the medical examiner's
4788 designee.

4789 (2) (a) If the medical examiner has [~~custody of~~] jurisdiction over a body, a person may
4790 not clean or embalm the body without first obtaining the medical examiner's permission.

4791 (b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.

4792 (3) (a) When the medical examiner assumes lawful [~~custody of~~] jurisdiction over a
4793 body under Subsection 26B-8-205(3) solely because the death was unattended, an autopsy may
4794 not be performed unless requested by the district attorney, county attorney having criminal
4795 jurisdiction, or law enforcement agency having jurisdiction of the place where the body is
4796 found.

4797 (b) The county attorney or district attorney and law enforcement agency having
4798 jurisdiction shall consult with the medical examiner to determine the need for an autopsy.

4799 (c) If the deceased chose not to be seen or treated by a health care professional for a
4800 spiritual or religious reason, a district attorney, county attorney, or law enforcement agency,
4801 may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's

4802 choice.

4803 (d) The medical examiner or medical examiner's designee may not conduct a requested
4804 autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee
4805 determines:

- 4806 (i) the request violates Subsection (3)(c); or
- 4807 (ii) the cause of death can be determined without performing an autopsy.

4808 Section 55. Section **26B-8-210** is amended to read:

4809 **26B-8-210. Medical examiner to report death caused by prescribed controlled**
4810 **substance poisoning or overdose.**

4811 (1) If a medical examiner determines that the death of a person who is 12 years old or
4812 older at the time of death resulted from poisoning or overdose involving a [~~prescribed~~
4813 controlled substance prescribed to the decedent, the medical examiner shall, within three
4814 business days after the day on which the medical examiner determines the cause of death, send
4815 a written report to the Division of Professional Licensing, created in Section **58-1-103**, that
4816 includes:

- 4817 (a) the decedent's name;
- 4818 (b) each drug or other substance found in the decedent's system that may have
4819 contributed to the poisoning or overdose, if known; and
- 4820 (c) the name of each person the medical examiner has reason to believe may have
4821 prescribed a controlled substance described in Subsection (1)(b) to the decedent.

4822 (2) This section does not create a new cause of action.

4823 Section 56. Section **26B-8-217** is amended to read:

4824 **26B-8-217. Records of medical examiner -- Confidentiality.**

4825 (1) The medical examiner shall maintain complete, original records for the medical
4826 examiner record, which shall:

- 4827 (a) be properly indexed, giving the name, if known, or otherwise identifying every
4828 individual whose death is investigated;
- 4829 (b) indicate the place where the body was found;
- 4830 (c) indicate the date of death;
- 4831 (d) indicate the cause and manner of death;
- 4832 (e) indicate the occupation of the decedent, if available;

4833 (f) include all other relevant information concerning the death; and

4834 (g) include a full report and detailed findings of the autopsy or report of the
4835 investigation.

4836 (2) (a) Upon written request from an individual described in Subsections (2)(a)(i)
4837 through (iv), the medical examiner shall provide a copy of the ~~[medical examiner's final report~~
4838 ~~of examination for the decedent, including the]~~ autopsy report, toxicology report, lab reports,
4839 ~~[and] investigative reports, documents generated by the medical examiner related to any report,~~
4840 ~~and any other specifically requested portions of the medical examiner record, if any, to any of~~
4841 the following:

4842 (i) a decedent's immediate relative;

4843 (ii) a decedent's legal representative;

4844 (iii) a physician or physician assistant who attended the decedent during the year before
4845 the decedent's death; or

4846 (iv) a county attorney, a district attorney, a criminal defense attorney, or other law
4847 enforcement official with jurisdiction, as necessary for the performance of the attorney or
4848 official's professional duties.

4849 (b) ~~[Upon]~~ Subject to Subsection (c), upon written request from the director or a
4850 designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical
4851 examiner may provide a copy of ~~[the of the medical examiner's final report of examination for~~
4852 ~~the decedent, including any other reports]~~ any medical examiner report or other portions of the
4853 medical examiner's record described in Subsection (2)(a), to any of the following entities as
4854 necessary for performance of the entity's official purposes:

4855 (i) a local health department;

4856 (ii) a local mental health authority;

4857 (iii) a public health authority; or

4858 (iv) another state or federal governmental agency.

4859 (c) The medical examiner may provide a copy of ~~[the medical examiner's final report~~
4860 ~~of examination, including any other reports]~~ a report or portion of the medical examiner's
4861 record described in Subsection (2)(a), if the ~~[final]~~ report or portion of the medical examiner's
4862 record relates to an issue of public health or safety, as further defined by rule made by the
4863 department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

4864 (3) Reports provided under Subsection (2) may not include records that the medical
4865 examiner obtains from a third party in the course of investigating the decedent's death.

4866 (4) The medical examiner may provide a medical examiner record to a researcher who:

4867 (a) has an advanced degree;

4868 (b) (i) is affiliated with an accredited college or university, a hospital, or another
4869 system of care, including an emergency medical response or a local health agency; or

4870 (ii) is part of a research firm contracted with an accredited college or university, a
4871 hospital, or another system of care;

4872 (c) requests a medical examiner record for a research project or a quality improvement
4873 initiative that will have a public health benefit, as determined by the department; and

4874 (d) provides to the medical examiner an approval from:

4875 (i) the researcher's sponsoring organization; and

4876 (ii) the Utah Department of Health and Human Services Institutional Review Board.

4877 (5) Records provided under Subsection (4) may not include a third party record, unless:

4878 (a) a court has ordered disclosure of the third party record; and

4879 (b) disclosure is conducted in compliance with state and federal law.

4880 (6) A person who obtains a medical examiner record under Subsection (4) shall:

4881 (a) maintain the confidentiality of the medical examiner record by removing personally
4882 identifying information about a decedent or the decedent's family and any other information
4883 that may be used to identify a decedent before using the medical examiner record in research;

4884 (b) conduct any research within and under the supervision of the Office of the Medical
4885 Examiner, if the medical examiner record contains a third party record with personally
4886 identifiable information;

4887 (c) limit the use of a medical examiner record to the purpose for which the person
4888 requested the medical examiner record;

4889 (d) destroy a medical examiner record and the data abstracted from the medical
4890 examiner record at the conclusion of the research for which the person requested the medical
4891 examiner record;

4892 (e) reimburse the medical examiner, as provided in Section [26B-1-209](#), for any costs
4893 incurred by the medical examiner in providing a medical examiner record;

4894 (f) allow the medical examiner to review, before public release, a publication in which

4895 data from a medical examiner record is referenced or analyzed; and

4896 (g) provide the medical examiner access to the researcher's database containing data
4897 from a medical examiner record, until the day on which the researcher permanently destroys
4898 the medical examiner record and all data obtained from the medical examiner record.

4899 (7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
4900 Administrative Rulemaking Act, and in consideration of applicable state and federal law, to
4901 establish permissible uses and disclosures of a medical examiner record or other record
4902 obtained under this section.

4903 (8) Except as provided in this chapter or ordered by a court, the medical examiner may
4904 not disclose any part of a medical examiner record.

4905 (9) A person who obtains a medical examiner record under Subsection (4) is guilty of a
4906 class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a)
4907 through (d).

4908 Section 57. Section **26B-8-221** is amended to read:

4909 **26B-8-221. Authority of county attorney or district attorney to subpoena**
4910 **witnesses and compel testimony -- Determination if decedent died by unlawful means.**

4911 (1) The district attorney or county attorney having criminal jurisdiction may subpoena
4912 witnesses and compel testimony concerning the death of any person and have such testimony
4913 reduced to writing under his direction and may employ a [~~shorthand~~] court reporter for that
4914 purpose at the same compensation as is allowed to reporters in the district courts. When the
4915 testimony has been taken down by the [~~shorthand~~] court reporter, a transcript thereof, duly
4916 certified, shall constitute the deposition of the witness.

4917 (2) Upon review of all facts and testimony taken concerning the death of a person, the
4918 district attorney or county attorney having criminal jurisdiction shall determine if the decedent
4919 died by unlawful means and shall also determine if criminal prosecution shall be instituted.

4920 Section 58. Section **26B-8-223** is amended to read:

4921 **26B-8-223. Authority of examiner to provide organ or other tissue for transplant**
4922 **purposes.**

4923 (1) When requested by the licensed physician of a patient who is in need of an organ or
4924 other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical
4925 facility, the medical examiner may provide an organ or other tissue if:

4926 (a) a decedent who may provide a suitable organ or other tissue for the transplant is in
4927 the custody of the medical examiner;

4928 (b) the medical examiner is assured that the requesting party has made reasonable
4929 search for and inquiry of next of kin of the decedent and that no objection by the next of kin is
4930 known by the requesting party; and

4931 (c) the removal of the organ or other tissue will not interfere with the investigation or
4932 autopsy or alter the post-mortem facial appearance.

4933 (2) When the medical examiner [~~is in custody of~~] has jurisdiction over a decedent who
4934 may provide a suitable organ or other tissue for transplant purposes, he may contact the
4935 appropriate eye bank, organ bank or medical facility and notify them concerning the suitability
4936 of the organ or other tissue. In such contact the medical examiner may disclose the name of the
4937 decedent so that necessary clearances can be obtained.

4938 (3) No person shall be held civilly or criminally liable for any acts performed pursuant
4939 to this section.

4940 Section 59. Section **26B-8-225** is amended to read:

4941 **26B-8-225. Burial of an unclaimed body -- Request by the school of medicine at**
4942 **the University of Utah -- Medical examiner may retain tissue for dog training.**

4943 (1) Except as described in Subsection (2) or (3), a county shall provide, at the county's
4944 expense, decent [~~burial for~~] disposition of an unclaimed body found in the county.

4945 (2) A county is not responsible for decent [~~burial~~] disposition of an unclaimed body
4946 found in the county if the body is requested by the dean of the school of medicine at the
4947 University of Utah under Section **53B-17-301**.

4948 (3) For an unclaimed body that is temporarily in the medical examiner's custody before
4949 [~~burial~~] disposition under Subsection (1), the medical examiner may retain tissue from the
4950 unclaimed body in order to donate the tissue to an individual who is affiliated with an
4951 established search and rescue dog organization, for the purpose of training a dog to search for
4952 human remains.

4953 Section 60. Section **26B-8-227** is amended to read:

4954 **26B-8-227. Registry of unidentified deceased persons.**

4955 (1) If the identity of a deceased person over which the medical examiner has
4956 jurisdiction under Section **26B-8-205** is unknown, the medical examiner shall do the following

4957 [~~before releasing the body to the county in which the body was found as provided in Section~~
4958 ~~26B-8-225~~]:

- 4959 (a) assign a unique identifying number to the body;
- 4960 (b) create and maintain a file under the assigned number;
- 4961 (c) examine the body, take samples, and perform other related tasks for the purpose of
4962 deriving information that may be useful in ascertaining the identity of the deceased person;
- 4963 (d) use the identifying number in all records created by the medical examiner that
4964 pertains to the body;
- 4965 (e) record all information pertaining to the body in the file created and maintained
4966 under Subsection (1)(b);
- 4967 (f) communicate the unique identifying number to the county in which the body was
4968 found; and
- 4969 (g) access information from available government sources and databases in an attempt
4970 to ascertain the identity of the deceased person.

4971 [~~(2) A county which has received a body to which Subsection (1) applies:~~]

4972 [~~(a) shall adopt and use the same identifying number assigned by Subsection (1) in all~~
4973 ~~records created by the county that pertain to the body;~~]

4974 [~~(b) require any funeral director or sexton who is involved in the disposition of the~~
4975 ~~body to adopt and use the same identifying number assigned by Subsection (1) in all records~~
4976 ~~created by the funeral director or sexton pertaining to the body; and]~~

4977 [~~(c) shall provide a decent burial for the body;~~]

4978 [~~(3) Within 30 days of receiving a body to which Subsection (1) applies, the county~~
4979 ~~shall inform the medical examiner of the disposition of the body including the burial plot. The~~
4980 ~~medical examiner shall record this information in the file created and maintained under~~
4981 ~~Subsection (1)(b).]~~

4982 [~~(4) The requirements of Subsections (1) and (6) apply to a county examiner appointed~~
4983 ~~under Section 26B-8-203, with the additional requirements that the county examiner:]~~

4984 [~~(a) obtain a unique identifying number from the medical examiner for the body; and]~~

4985 [~~(b) send to the medical examiner a copy of the file created and maintained in~~
4986 ~~accordance with Subsection (1)(b), including the disposition of the body and burial plot, within~~
4987 ~~30 days of releasing the body.]~~

4988 ~~[(5) The medical examiner shall maintain a file received under Subsection (4) in the~~
4989 ~~same way that it maintains a file created and maintained by the medical examiner in accordance~~
4990 ~~with Subsection (1)(b).]~~

4991 ~~[(6)]~~ (2) The medical examiner shall cooperate and share information generated and
4992 maintained under this section with a person who demonstrates:

4993 (a) a legitimate personal or governmental interest in determining the identity of a
4994 deceased person; and

4995 (b) a reasonable belief that the body of that deceased person may have come into the
4996 custody of the medical examiner.

4997 Section 61. Section **26B-8-229** is amended to read:

4998 **26B-8-229. Psychological autopsy examiner.**

4999 (1) With funds appropriated by the Legislature for this purpose, the department shall
5000 provide compensation, at a standard rate determined by the department, to a psychological
5001 autopsy examiner.

5002 (2) The psychological autopsy examiner shall:

5003 (a) work with the medical examiner to compile data regarding suicide related deaths;

5004 (b) as relatives, associates, and acquaintances of the deceased are willing, gather
5005 information [~~from relatives of the deceased~~] regarding the [~~psychological reasons for~~]
5006 circumstances that preceded the decedent's death;

5007 (c) maintain a database of information described in Subsections (2)(a) and (b);

5008 (d) in accordance with all applicable privacy laws subject to approval by the
5009 department, share the database described in Subsection (2)(c) with the University of Utah
5010 Department of Psychiatry or other university-based departments conducting research on
5011 suicide;

5012 (e) coordinate no less than monthly with the suicide prevention coordinator described
5013 in Subsection **26B-5-611(2)**; and

5014 (f) coordinate no less than quarterly with the state suicide prevention coalition.

5015 Section 62. Section **53-2d-404 (Effective 07/01/24)** is amended to read:

5016 **53-2d-404 (Effective 07/01/24). Permits for emergency medical service vehicles**
5017 **and nonemergency secured behavioral health transport vehicles.**

5018 (1) (a) To ensure that emergency medical service vehicles and nonemergency secured

5019 behavioral health transport vehicles are adequately staffed, safe, maintained, properly
5020 equipped, and safely operated, the committee shall establish permit requirements at levels it
5021 considers appropriate in the following categories:

- 5022 (i) ambulance;
5023 (ii) emergency medical response vehicle; and
5024 (iii) nonemergency secured behavioral health transport vehicle.

5025 (b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a
5026 requirement that [~~beginning on or after January 31, 2014,~~] every operator of an ambulance or
5027 emergency medical response vehicle annually provide proof of the successful completion of an
5028 emergency vehicle operator's course approved by the bureau for all ambulances and emergency
5029 medical response vehicle operators.

5030 (2) The bureau shall, based on the requirements established in Subsection (1), issue
5031 permits to emergency medical service vehicles and nonemergency secured behavioral health
5032 transport vehicles.

5033 Section 63. Section **53-2d-503 (Effective 07/01/24)** is amended to read:

5034 **53-2d-503 (Effective 07/01/24). Establishment of maximum rates.**

5035 (1) The bureau shall, after receiving recommendations under Subsection (2), establish
5036 maximum rates for ground ambulance providers and paramedic providers that are just and
5037 reasonable.

5038 (2) The committee may make recommendations to the bureau on the maximum rates
5039 that should be set under Subsection (1).

5040 (3) (a) [~~The bureau shall prohibit ground~~] Ground ambulance providers and paramedic
5041 providers [~~from charging~~] may not charge fees for transporting a patient when the provider
5042 does not transport the patient.

5043 (b) The provisions of Subsection (3)(a) do not apply to ambulance providers or
5044 paramedic providers in a geographic service area which contains a town as defined in
5045 Subsection **10-2-301(2)(f)**.

5046 Section 64. Section **53-2d-703 (Effective 07/01/24)** is amended to read:

5047 **53-2d-703 (Effective 07/01/24). Volunteer Emergency Medical Service Personnel**
5048 **Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits --**
5049 **Rulemaking -- Advisory board.**

- 5050 (1) As used in this section:
- 5051 (a) "Health benefit plan" means the same as that term is defined in Section [31A-1-301](#).
- 5052 (b) "Local government entity" means a political subdivision that:
- 5053 (i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic
- 5054 Providers; and
- 5055 (ii) [~~as of January 1, 2022,~~] does not offer health insurance benefits to volunteer
- 5056 emergency medical service personnel.
- 5057 (c) "PEHP" means the Public Employees' Benefit and Insurance Program created in
- 5058 Section [49-20-103](#).
- 5059 (d) "Political subdivision" means a county, a municipality, a limited purpose
- 5060 government entity described in Title 17B, Limited Purpose Local Government Entities -
- 5061 Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or
- 5062 an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation
- 5063 Act.
- 5064 (e) "Qualifying association" means an association that represents two or more political
- 5065 subdivisions in the state.
- 5066 (2) The Volunteer Emergency Medical Service Personnel Health Insurance Program
- 5067 shall promote recruitment and retention of volunteer emergency medical service personnel by
- 5068 making health insurance available to volunteer emergency medical service personnel.
- 5069 (3) The bureau shall contract with a qualifying association to create, implement, and
- 5070 administer the Volunteer Emergency Medical Service Personnel Health Insurance Program
- 5071 described in this section.
- 5072 (4) Participation in the program is limited to emergency medical service personnel
- 5073 who:
- 5074 (a) are licensed under Section [53-2d-402](#) and are able to perform all necessary
- 5075 functions associated with the license;
- 5076 (b) provide emergency medical services under the direction of a local governmental
- 5077 entity:
- 5078 (i) by responding to 20% of calls for emergency medical services in a rolling
- 5079 twelve-month period;
- 5080 (ii) within a county of the third, fourth, fifth, or sixth class; and

5081 (iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R.
5082 Sec. 553.106;

5083 (c) are not eligible for a health benefit plan through an employer or a spouse's
5084 employer;

5085 (d) are not eligible for medical coverage under a government sponsored healthcare
5086 program; and

5087 (e) reside in the state.

5088 (5) (a) A participant in the program is eligible to participate in PEHP in accordance
5089 with Subsection (5)(b) and Subsection 49-20-201(3).

5090 (b) Benefits available to program participants under PEHP are limited to health
5091 insurance that:

5092 (i) covers the program participant and the program participant's eligible dependents on
5093 a July 1 plan year;

5094 (ii) accepts enrollment during an open enrollment period or for a special enrollment
5095 event, including the initial eligibility of a program participant;

5096 (iii) if the program participant is no longer eligible for benefits, terminates on the last
5097 day of the last month for which the individual is a participant in the Volunteer Emergency
5098 Medical Service Personnel Health Insurance Program; and

5099 (iv) is not subject to continuation rights under state or federal law.

5100 (6) (a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah
5101 Administrative Rulemaking Act, to define additional criteria regarding benefit design and
5102 eligibility for the program.

5103 (b) The bureau shall convene an advisory board:

5104 (i) to advise the bureau on making rules under Subsection (6)(a); and

5105 (ii) that includes representation from at least the following entities:

5106 (A) the qualifying association that receives the contract under Subsection (3); and

5107 (B) PEHP.

5108 (7) For purposes of this section, the qualifying association that receives the contract
5109 under Subsection (3) shall be considered the public agency for whom the program participant is
5110 volunteering under 29 C.F.R. Sec. 553.101.

5111 Section 65. Section **53-10-404** is amended to read:

5112 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

5113 (1) As used in this section, "person" refers to any person as described under Section
5114 53-10-403.

5115 (2) (a) A person under Section 53-10-403 or any person required to register as a sex
5116 offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA
5117 specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for
5118 the cost of obtaining the DNA specimen unless:

5119 (i) the person was booked under Section 53-10-403 and is not required to reimburse the
5120 agency under Section 53-10-404.5; or

5121 (ii) the agency determines the person lacks the ability to pay.

5122 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for
5123 determining if the person is able to pay the fee.

5124 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to
5125 determine an inmate's ability to pay.

5126 (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on
5127 the inmate's county trust fund account and may allow a negative balance in the account until
5128 the \$150 is paid in full.

5129 (3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA
5130 Specimen Restricted Account created in Section 53-10-407, except that the agency collecting
5131 the fee may retain not more than \$25 per individual specimen for the costs of obtaining the
5132 saliva DNA specimen.

5133 (ii) The agency collecting the \$150 fee may not retain from each separate fee more than
5134 \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

5135 (b) The responsible agency shall determine the method of collecting the DNA
5136 specimen. Unless the responsible agency determines there are substantial reasons for using a
5137 different method of collection or the person refuses to cooperate with the collection, the
5138 preferred method of collection shall be obtaining a saliva specimen.

5139 (c) The responsible agency may use reasonable force, as established by its guidelines
5140 and procedures, to collect the DNA sample if the person refuses to cooperate with the
5141 collection.

5142 (d) If the judgment places the person on probation, the person shall submit to the

5143 obtaining of a DNA specimen as a condition of the probation.

5144 (e) (i) Under this section a person is required to provide one DNA specimen and pay
5145 the collection fee as required under this section.

5146 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
5147 previously provided is not adequate for analysis.

5148 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
5149 collected under this section.

5150 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
5151 any outstanding amount of a fee due under this section from any person who owes any portion
5152 of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section
5153 [53-10-407](#).

5154 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
5155 possible and transferred to the Department of Public Safety:

5156 (i) after a conviction or a finding of jurisdiction by the juvenile court;

5157 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
5158 person for any offense under Subsection [53-10-403\(1\)\(c\)](#); and

5159 (iii) on and after January 1, 2015, after the booking of a person for any felony offense,
5160 as provided under Subsection [53-10-403\(1\)\(d\)\(ii\)](#).

5161 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency
5162 may cause a DNA specimen to be obtained and transferred to the Department of Public Safety
5163 after the booking of a person for any felony offense, as provided under Subsection
5164 [53-10-403\(1\)\(d\)\(i\)](#).

5165 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate
5166 for analysis, the agency shall, as soon as possible:

5167 (i) obtain and transmit an additional DNA specimen; or

5168 (ii) request that another agency that has direct access to the person and that is
5169 authorized to collect DNA specimens under this section collect the necessary second DNA
5170 specimen and transmit it to the Department of Public Safety.

5171 (d) Each agency that is responsible for collecting DNA specimens under this section
5172 shall establish:

5173 (i) a tracking procedure to record the handling and transfer of each DNA specimen it

5174 obtains; and

5175 (ii) a procedure to account for the management of all fees it collects under this section.

5176 (5) (a) The Department of Corrections is the responsible agency whenever the person is
5177 committed to the custody of or is under the supervision of the Department of Corrections.

5178 (b) The juvenile court is the responsible agency regarding a minor under Subsection
5179 ~~53-10-403~~(3), but if the minor has been committed to the legal custody of the [~~Division of~~
5180 ~~Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, that division is the
5181 responsible agency if a DNA specimen of the minor has not previously been obtained by the
5182 juvenile court under Section ~~80-6-608~~.

5183 (c) The sheriff operating a county jail is the responsible agency regarding the collection
5184 of DNA specimens from persons who:

5185 (i) have pled guilty to or have been convicted of an offense listed under Subsection
5186 ~~53-10-403~~(2) but who have not been committed to the custody of or are not under the
5187 supervision of the Department of Corrections;

5188 (ii) are incarcerated in the county jail:

5189 (A) as a condition of probation for a felony offense; or

5190 (B) for a misdemeanor offense for which collection of a DNA specimen is required;

5191 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail
5192 for any offense under Subsection ~~53-10-403~~(1)(c).; and

5193 (iv) are booked at the county jail:

5194 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
5195 offense on or after May 13, 2014, through December 31, 2014, under Subsection

5196 ~~53-10-404~~(4)(b); or

5197 (B) on or after January 1, 2015, for any felony offense.

5198 (d) Each agency required to collect a DNA specimen under this section shall:

5199 (i) designate employees to obtain the saliva DNA specimens required under this
5200 section; and

5201 (ii) ensure that employees designated to collect the DNA specimens receive appropriate
5202 training and that the specimens are obtained in accordance with generally accepted protocol.

5203 (6) (a) As used in this Subsection (6), "department" means the Department of
5204 Corrections.

5205 (b) Priority of obtaining DNA specimens by the department is:

5206 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody
5207 of or under the supervision of the department before these persons are released from
5208 incarceration, parole, or probation, if their release date is prior to that of persons under
5209 Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

5210 (ii) second, the department shall obtain DNA specimens from persons who are
5211 committed to the custody of the department or who are placed under the supervision of the
5212 department after July 1, 2002, within 120 days after the commitment, if possible, but not later
5213 than prior to release from incarceration if the person is imprisoned, or prior to the termination
5214 of probation if the person is placed on probation.

5215 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
5216 is:

5217 (i) first, persons on probation;

5218 (ii) second, persons on parole; and

5219 (iii) third, incarcerated persons.

5220 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
5221 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA
5222 specimens from persons in the custody of or under the supervision of the Department of
5223 Corrections as of July 1, 2002, prior to their release.

5224 (7) (a) As used in this Subsection (7):

5225 (i) "Court" means the juvenile court.

5226 (ii) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5227 Justice and Youth Services.

5228 (b) Priority of obtaining DNA specimens by the court from minors under Section
5229 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal
5230 custody of the division shall be:

5231 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the
5232 court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

5233 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction of
5234 the court after July 1, 2002, within 120 days of the minor's case being found to be within the
5235 court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's

5236 case terminates.

5237 (c) Priority of obtaining DNA specimens by the division from minors under Section
5238 [53-10-403](#) who are committed to the legal custody of the division shall be:

5239 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
5240 division's legal custody and who have not previously provided a DNA specimen under this
5241 section, before termination of the division's legal custody of these minors; and

5242 (ii) second, to obtain specimens from minors who are placed in the legal custody of the
5243 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the
5244 division, if possible, but no later than before the termination of the court's jurisdiction over the
5245 minor's case.

5246 (8) (a) The Department of Corrections, the juvenile court, the [~~Division of Juvenile~~
5247 ~~Justice Services~~] Division of Juvenile Justice and Youth Services, and all law enforcement
5248 agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens,
5249 and shall provide training for employees designated to collect saliva DNA specimens.

5250 (b) (i) The department may designate correctional officers, including those employed
5251 by the adult probation and parole section of the department, to obtain the saliva DNA
5252 specimens required under this section.

5253 (ii) The department shall ensure that the designated employees receive appropriate
5254 training and that the specimens are obtained in accordance with accepted protocol.

5255 (c) Blood DNA specimens shall be obtained in accordance with Section [53-10-405](#).

5256 Section 66. Section **53-10-407** is amended to read:

5257 **53-10-407. DNA Specimen Restricted Account.**

5258 (1) There is created the DNA Specimen Restricted Account, which is referred to in this
5259 section as "the account."

5260 (2) The sources of money for the account are:

5261 (a) DNA collection fees paid under Section [53-10-404](#);

5262 (b) any appropriations made to the account by the Legislature; and

5263 (c) all federal money provided to the state for the purpose of funding the collection or
5264 analysis of DNA specimens collected under Section [53-10-403](#).

5265 (3) The account shall earn interest, and this interest shall be deposited in the account.

5266 (4) The Legislature may appropriate money from the account solely for the following

5267 purposes:

5268 (a) to the Department of Corrections for the costs of collecting DNA specimens as
5269 required under Section 53-10-403;

5270 (b) to the juvenile court for the costs of collecting DNA specimens as required under
5271 Sections 53-10-403 and 80-6-608;

5272 (c) to the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and
5273 Youth Services for the costs of collecting DNA specimens as required under Sections
5274 53-10-403 and 80-5-201; and

5275 (d) to the Department of Public Safety for the costs of:

5276 (i) storing and analyzing DNA specimens in accordance with the requirements of this
5277 part;

5278 (ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided
5279 in Subsection 78B-9-301(7); and

5280 (iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections
5281 53-10-404 and 53-10-404.5.

5282 (5) Appropriations from the account to the Department of Corrections, the juvenile
5283 court, the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
5284 Services, and to the Department of Public Safety are nonlapsing.

5285 Section 67. Section 53E-10-301 is amended to read:

5286 **53E-10-301. Definitions.**

5287 As used in this part:

5288 (1) "Career and technical education course" means a concurrent enrollment course in
5289 career and technical education, as determined by the policy established by the Utah Board of
5290 Higher Education under Section 53E-10-302.

5291 (2) "Concurrent enrollment" means enrollment in a course offered through the
5292 concurrent enrollment program described in Section 53E-10-302.

5293 (3) "Educator" means the same as that term is defined in Section 53E-6-102.

5294 (4) "Eligible instructor" means an instructor who meets the requirements described in
5295 Subsection 53E-10-302(6).

5296 (5) "Eligible student" means a student who:

5297 (a) (i) is enrolled in, and counted in average daily membership in, a public school

5298 within the state; or

5299 (ii) is in the custody of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5300 Justice and Youth Services and subject to the jurisdiction of the Youth Parole Authority;

5301 (b) has on file a plan for college and career readiness as described in Section
5302 53E-2-304; and

5303 (c) is in grade 9, 10, 11, or 12.

5304 (6) "Institution of higher education" means an institution described in Subsection
5305 53B-1-102(1)(a).

5306 (7) "License" means the same as that term is defined in Section 53E-6-102.

5307 (8) "Local education agency" or "LEA" means a school district or charter school.

5308 (9) "Qualifying experience" means an LEA employee's experience in an academic field
5309 that:

5310 (a) qualifies the LEA employee to teach a concurrent enrollment course in the
5311 academic field; and

5312 (b) may include the LEA employee's:

5313 (i) number of years teaching in the academic field;

5314 (ii) holding a higher level secondary teaching credential issued by the state board;

5315 (iii) research, publications, or other scholarly work in the academic field;

5316 (iv) continuing professional education in the academic field;

5317 (v) portfolio of work related to the academic field; or

5318 (vi) professional work experience or certifications in the academic field.

5319 (10) "Value of the weighted pupil unit" means the amount established each year in the
5320 enacted public education budget that is multiplied by the number of weighted pupil units to
5321 yield the funding level for the basic state-supported school program.

5322 Section 68. Section **53G-8-211** is amended to read:

5323 **53G-8-211. Responses to school-based behavior.**

5324 (1) As used in this section:

5325 (a) "Evidence-based" means a program or practice that has:

5326 (i) had multiple randomized control studies or a meta-analysis demonstrating that the
5327 program or practice is effective for a specific population;

5328 (ii) been rated as effective by a standardized program evaluation tool; or

- 5329 (iii) been approved by the state board.
- 5330 (b) "Habitual truant" means a school-age child who:
- 5331 (i) is in grade 7 or above, unless the school-age child is under 12 years old;
- 5332 (ii) is subject to the requirements of Section [53G-6-202](#); and
- 5333 (iii) (A) is truant at least 10 times during one school year; or
- 5334 (B) fails to cooperate with efforts on the part of school authorities to resolve the
- 5335 school-age child's attendance problem as required under Section [53G-6-206](#).
- 5336 (c) "Minor" means the same as that term is defined in Section [80-1-102](#).
- 5337 (d) "Mobile crisis outreach team" means the same as that term is defined in Section
- 5338 [~~62A-15-102~~] [26B-5-101](#).
- 5339 (e) "Prosecuting attorney" means the same as that term is defined in Subsections
- 5340 [80-1-102](#)(65)(b) and (c).
- 5341 (f) "Restorative justice program" means a school-based program or a program used or
- 5342 adopted by a local education agency that is designed:
- 5343 (i) to enhance school safety, reduce school suspensions, and limit referrals to law
- 5344 enforcement agencies and courts; and
- 5345 (ii) to help minors take responsibility for and repair harmful behavior that occurs in
- 5346 school.
- 5347 (g) "School administrator" means a principal of a school.
- 5348 (h) "School is in session" means a day during which the school conducts instruction for
- 5349 which student attendance is counted toward calculating average daily membership.
- 5350 (i) "School resource officer" means a law enforcement officer, as defined in Section
- 5351 [53-13-103](#), who contracts with, is employed by, or whose law enforcement agency contracts
- 5352 with a local education agency to provide law enforcement services for the local education
- 5353 agency.
- 5354 (j) "School-age child" means the same as that term is defined in Section [53G-6-201](#).
- 5355 (k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp,
- 5356 clinic, or other event or activity that is authorized by a specific local education agency or public
- 5357 school, according to LEA governing board policy, and satisfies at least one of the following
- 5358 conditions:
- 5359 (A) the activity is managed or supervised by a local education agency or public school,

5360 or local education agency or public school employee;

5361 (B) the activity uses the local education agency's or public school's facilities,
5362 equipment, or other school resources; or

5363 (C) the activity is supported or subsidized, more than inconsequentially, by public
5364 funds, including the public school's activity funds or Minimum School Program dollars.

5365 (ii) "School-sponsored activity" includes preparation for and involvement in a public
5366 performance, contest, athletic competition, demonstration, display, or club activity.

5367 (1) (i) "Status offense" means an offense that would not be an offense but for the age of
5368 the offender.

5369 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or
5370 felony.

5371 (2) This section applies to a minor enrolled in school who is alleged to have committed
5372 an offense on school property where the student is enrolled:

5373 (a) when school is in session; or

5374 (b) during a school-sponsored activity.

5375 (3) If a minor is alleged to have committed an offense on school property that is a class
5376 C misdemeanor, an infraction, or a status offense, the school administrator, the school
5377 administrator's designee, or a school resource officer may refer the minor:

5378 (a) to an evidence-based alternative intervention, including:

5379 (i) a mobile crisis outreach team;

5380 (ii) a youth services center, as defined in Section [80-5-102](#);

5381 (iii) a youth court or comparable restorative justice program;

5382 (iv) an evidence-based alternative intervention created and developed by the school or
5383 school district;

5384 (v) an evidence-based alternative intervention that is jointly created and developed by a
5385 local education agency, the state board, the juvenile court, local counties and municipalities,
5386 the Department of Health and Human Services; or

5387 (vi) a tobacco cessation or education program if the offense is a violation of Section
5388 [76-10-105](#); or

5389 (b) for prevention and early intervention youth services, as described in Section

5390 [80-5-201](#), by the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth

5391 Services if the minor refuses to participate in an evidence-based alternative intervention
5392 described in Subsection (3)(a).

5393 (4) Except as provided in Subsection (5), if a minor is alleged to have committed an
5394 offense on school property that is a class C misdemeanor, an infraction, or a status offense, a
5395 school administrator, the school administrator's designee, or a school resource officer may refer
5396 a minor to a law enforcement officer or agency or a court only if:

5397 (a) the minor allegedly committed the same offense on school property on two previous
5398 occasions; and

5399 (b) the minor was referred to an evidence-based alternative intervention, or to
5400 prevention or early intervention youth services, as described in Subsection (3) for both of the
5401 two previous offenses.

5402 (5) If a minor is alleged to have committed a traffic offense that is an infraction, a
5403 school administrator, the school administrator's designee, or a school resource officer may refer
5404 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the
5405 traffic offense.

5406 (6) Notwithstanding Subsection (4), a school resource officer may:

5407 (a) investigate possible criminal offenses and conduct, including conducting probable
5408 cause searches;

5409 (b) consult with school administration about the conduct of a minor enrolled in a
5410 school;

5411 (c) transport a minor enrolled in a school to a location if the location is permitted by
5412 law;

5413 (d) take temporary custody of a minor in accordance with Section [80-6-201](#); or

5414 (e) protect the safety of students and the school community, including the use of
5415 reasonable and necessary physical force when appropriate based on the totality of the
5416 circumstances.

5417 (7) (a) If a minor is referred to a court or a law enforcement officer or agency under
5418 Subsection (4), the school or the school district shall appoint a school representative to
5419 continue to engage with the minor and the minor's family through the court process.

5420 (b) A school representative appointed under Subsection (7)(a) may not be a school
5421 resource officer.

- 5422 (c) A school district or school shall include the following in the school district's or
5423 school's referral to the court or the law enforcement officer or agency:
- 5424 (i) attendance records for the minor;
- 5425 (ii) a report of evidence-based alternative interventions used by the school before the
5426 referral, including outcomes;
- 5427 (iii) the name and contact information of the school representative assigned to actively
5428 participate in the court process with the minor and the minor's family;
- 5429 (iv) if the minor was referred to prevention or early intervention youth services under
5430 Subsection (3)(b), a report from the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5431 Justice and Youth Services that demonstrates the minor's failure to complete or participate in
5432 prevention and early intervention youth services under Subsection (3)(b); and
- 5433 (v) any other information that the school district or school considers relevant.
- 5434 (d) A minor referred to a court under Subsection (4) may not be ordered to or placed in
5435 secure detention, including for a contempt charge or violation of a valid court order under
5436 Section 78A-6-353, when the underlying offense is a status offense or infraction.
- 5437 (e) If a minor is referred to a court under Subsection (4), the court may use, when
5438 available, the resources of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
5439 Justice and Youth Services or the [~~Division of Substance Abuse and Mental Health~~] Office of
5440 Substance Use and Mental Health to address the minor.
- 5441 (8) If a minor is alleged to have committed an offense on school property that is a class
5442 B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's
5443 designee, or a school resource officer may refer the minor directly to a court or to the
5444 evidence-based alternative interventions in Subsection (3)(a).
- 5445 Section 69. Section **53G-8-213** is amended to read:
- 5446 **53G-8-213. Reintegration plan for student alleged to have committed violent**
5447 **felony or weapon offense.**
- 5448 (1) As used in this section:
- 5449 (a) "Multidisciplinary team" means the local education agency, the juvenile court, the
5450 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services, a
5451 school resource officer if applicable, and any other relevant party that should be involved in a
5452 reintegration plan.

5453 (b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

5454 (2) If a school district receives a notification from the juvenile court or a law
5455 enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile
5456 court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons,
5457 the school shall develop a reintegration plan for the student with a multidisciplinary team, the
5458 student, and the student's parent or guardian, within five days after the day on which the school
5459 receives a notification.

5460 (3) The school may deny admission to the student until the school completes the
5461 reintegration plan under Subsection (2).

5462 (4) The reintegration plan under Subsection (2) shall address:

5463 (a) a behavioral intervention for the student;

5464 (b) a short-term mental health or counseling service for the student; and

5465 (c) an academic intervention for the student.

5466 Section 70. Section 53G-10-406 is amended to read:

5467 **53G-10-406. Underage Drinking and Substance Abuse Prevention Program --**
5468 **State board rules.**

5469 (1) As used in this section:

5470 (a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention
5471 Program Advisory Council created in this section.

5472 (b) "Program" means the Underage Drinking and Substance Abuse Prevention Program
5473 created in this section.

5474 (c) "School-based prevention program" means an evidence-based program that:

5475 (i) is aimed at preventing underage consumption of alcohol and underage use of
5476 electronic cigarette products;

5477 (ii) is delivered by methods that engage students in storytelling and visualization;

5478 (iii) addresses the behavioral risk factors associated with underage drinking and use of
5479 electronic cigarette products; and

5480 (iv) provides practical tools to address the dangers of underage drinking and use of
5481 electronic cigarette products.

5482 (2) There is created the Underage Drinking and Substance Abuse Prevention Program
5483 that consists of:

- 5484 (a) a school-based prevention program for students in grade 4 or 5;
- 5485 (b) a school-based prevention program for students in grade 7 or 8; and
- 5486 (c) a school-based prevention program for students in grade 9 or 10 that increases
- 5487 awareness of the dangers of driving under the influence of alcohol.
- 5488 (3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each
- 5489 school year to each student in grade 7 or 8 and grade 9 or 10.
- 5490 (b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA
- 5491 shall offer the program each school year to each student in grade 4 or 5.
- 5492 (c) An LEA shall select from the providers qualified by the state board under
- 5493 Subsection (6) to offer the program.
- 5494 (4) The state board shall administer the program with input from the advisory council.
- 5495 (5) There is created the Underage Drinking and Substance Abuse Prevention Program
- 5496 Advisory Council comprised of the following members:
- 5497 (a) the executive director of the Department of Alcoholic Beverage Services or the
- 5498 executive director's designee;
- 5499 (b) the executive director of the Department of Health and Human Services or the
- 5500 executive director's designee;
- 5501 (c) the director of the [~~Division of Substance Abuse and Mental Health~~] Office of
- 5502 Substance Use and Mental Health or the director's designee;
- 5503 (d) the director of the Division of Child and Family Services or the director's designee;
- 5504 (e) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
- 5505 Justice and Youth Services or the director's designee;
- 5506 (f) the state superintendent or the state superintendent's designee; and
- 5507 (g) two members of the state board, appointed by the chair of the state board.
- 5508 (6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state
- 5509 board shall qualify one or more providers to provide the program to an LEA.
- 5510 (b) In selecting a provider described in Subsection (6)(a), the state board shall consider:
- 5511 (i) whether the provider's program complies with the requirements described in this
- 5512 section;
- 5513 (ii) the extent to which the provider's prevention program aligns with core standards for
- 5514 Utah public schools; and

5515 (iii) the provider's experience in providing a program that is effective.

5516 (7) (a) The state board shall use money from the Underage Drinking and Substance
5517 Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the
5518 program.

5519 (b) The state board may use money from the Underage Drinking Prevention Program
5520 Restricted Account to fund up to .5 of a full-time equivalent position to administer the
5521 program.

5522 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5523 state board shall make rules that:

5524 (a) beginning with the 2018-19 school year, require an LEA to offer the Underage
5525 Drinking and Substance Abuse Prevention Program each school year to each student in grade 7
5526 or 8 and grade 9 or 10;

5527 (b) beginning with the 2020-21 school year, require an LEA to offer the Underage
5528 Drinking and Substance Abuse Prevention Program each school year to each student in grade 4
5529 or 5; and

5530 (c) establish criteria for the state board to use in selecting a provider described in
5531 Subsection (6).

5532 Section 71. Section 58-17b-309.7 is amended to read:

5533 **58-17b-309.7. Opioid treatment program.**

5534 (1) As used in this section:

5535 (a) "Covered provider" means an individual who is licensed to engage in:

5536 (i) the practice of advanced practice registered nursing as defined in Section
5537 58-31b-102;

5538 (ii) the practice of registered nursing as defined in Section 58-31b-102; or

5539 (iii) practice as a physician assistant as defined in Section 58-70a-102.

5540 (b) "Opioid treatment program" means a program or practitioner that is:

5541 (i) engaged in dispensing an opiate medication assisted treatment for opioid use
5542 disorder;

5543 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

5544 (iii) licensed by the [~~Office of Licensing~~] Division of Licensing and Background
5545 Checks within the Department of Health and Human Services created in Section 26B-2-103;

5546 and

5547 (iv) certified by the federal Substance Abuse and Mental Health Services

5548 Administration in accordance with 42 C.F.R. 8.11.

5549 (2) A covered provider may dispense opiate medication assisted treatment at an opioid
5550 treatment program if the covered provider:

5551 (a) is operating under the direction of a pharmacist;

5552 (b) dispenses the opiate medication assisted treatment under the direction of a
5553 pharmacist; and

5554 (c) acts in accordance with division rule made under Subsection (3).

5555 (3) The division shall, in consultation with practitioners who work in an opioid
5556 treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative
5557 Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate
5558 medication assisted treatment to a patient in an opioid treatment program under this section.

5559 Section 72. Section **58-17b-620** is amended to read:

5560 **58-17b-620. Prescriptions issued within the public health system.**

5561 (1) As used in this section:

5562 (a) "Department of Health and Human Services" means the Department of Health and
5563 Human Services created in Section [26B-1-201](#).

5564 (b) "Health department" means either the Department of Health and Human Services or
5565 a local health department.

5566 (c) "Local health departments" mean the local health departments created in Title 26A,
5567 Chapter 1, Local Health Departments.

5568 (2) When it is necessary to treat a reportable disease or non-emergency condition that
5569 has a direct impact on public health, a health department may implement the prescription
5570 procedure described in Subsection (3) for a prescription drug that is not a controlled substance
5571 for use in:

5572 (a) a clinic; or

5573 (b) a remote or temporary off-site location, including a triage facility established in the
5574 community, that provides:

5575 (i) treatment for sexually transmitted infections;

5576 (ii) fluoride treatment;

- 5577 (iii) travel immunization;
- 5578 (iv) preventative treatment for an individual with latent tuberculosis infection;
- 5579 (v) preventative treatment for an individual at risk for an infectious disease that has a
5580 direct impact on public health when the treatment is indicated to prevent the spread of disease
5581 or to mitigate the seriousness of infection in the exposed individual; or
- 5582 (vi) other treatment as defined by the Department of Health and Human Services by
5583 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 5584 (3) In a circumstance described in Subsection (2), an individual with prescriptive
5585 authority may write a prescription for each contact, as defined in Section 26B-7-201, of a
5586 patient of the individual with prescriptive authority without a face-to-face exam, if:
- 5587 (a) the individual with prescriptive authority is treating the patient for a reportable
5588 disease or non-emergency condition having a direct impact on public health; and
- 5589 (b) the contact's condition is the same as the patient of the individual with prescriptive
5590 authority.
- 5591 (4) The following prescription procedure shall be carried out in accordance with the
5592 requirements of Subsection (5) and may be used only in the circumstances described under
5593 Subsections (2) and (3):
- 5594 (a) a physician writes and signs a prescription for a prescription drug, other than a
5595 controlled substance, without the name and address of the patient and without the date the
5596 prescription is provided to the patient; and
- 5597 (b) the physician authorizes a registered nurse employed by the health department to
5598 complete the prescription written under this Subsection (4) by inserting the patient's name and
5599 address, and the date the prescription is provided to the patient, in accordance with the
5600 physician's standing written orders and a written health department protocol approved by the
5601 ~~[physician and the medical director]~~ public health department physician medical director or the
5602 physician medical director of the state Department of Health and Human Services licensed
5603 under Chapter 67, Utah Medical Practices Act, or Chapter 68, Utah Osteopathic Medical
5604 Practice Act.
- 5605 (5) A physician assumes responsibility for all prescriptions issued under this section in
5606 the physician's name.
- 5607 (6) (a) All prescription forms to be used by a physician and health department in

5608 accordance with this section shall be serially numbered according to a numbering system
5609 assigned to that health department.

5610 (b) All prescriptions issued shall contain all information required under this chapter
5611 and rules adopted under this chapter.

5612 (7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by
5613 a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug
5614 to treat a sexually transmitted infection if the drug is:

5615 (a) a prepackaged drug as defined in Section 58-17b-802;

5616 (b) dispensed under a prescription authorized by this section;

5617 (c) provided at a location that is described in Subsection (2)(a) or (b) and operated by
5618 the health department;

5619 (d) provided in accordance with a dispensing standard that is issued by a physician who
5620 is employed by the health department; and

5621 (e) if applicable, in accordance with requirements established by the division in
5622 collaboration with the board under Subsection (8).

5623 (8) The division may make rules in collaboration with the board and in accordance
5624 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific
5625 requirements regarding the dispensing of a drug under Subsection (7).

5626 Section 73. Section 63B-3-102 is amended to read:

5627 **63B-3-102. Maximum amount -- Projects authorized.**

5628 (1) The total amount of bonds issued under this part may not exceed \$64,600,000.

5629 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
5630 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
5631 Subsection (2).

5632 (b) These costs may include the cost of acquiring land, interests in land, easements and
5633 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
5634 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
5635 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
5636 covered by construction of the projects plus a period of six months after the end of the
5637 construction period and all related engineering, architectural, and legal fees.

5638 (c) For the division, proceeds shall be provided for the following:

5639	CAPITAL IMPROVEMENTS		
5640	1	Alterations, Repairs, and Improvements	\$5,000,000
5641	TOTAL IMPROVEMENTS		\$5,000,000

5642 CAPITAL AND ECONOMIC DEVELOPMENT

5643	PRIORITY PROJECT	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
5644	1	University of Utah Marriott Library Phase III (Final)	\$13,811,500	\$881,600
5645	2	Bridgerland Applied Technology Center Utah State University Space	\$2,400,000	\$0
5646	3	Weber State University - Heat Plant	\$2,332,100	\$9,600
5647	4	Department of <u>Health and Human Services</u> - [Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services] <u>Division of Juvenile Justice and Youth Services</u>	\$4,180,000	\$400,000
5648	5	Snow College - Administrative Services/Student Center	\$3,885,100	\$224,500
5649	6	Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase	\$750,000	\$0
5650	7	Department of Corrections B-Block Remodel	\$1,237,100	\$72,000

5651	8	Utah State University - Old Main Phase III Design	\$550,000	\$0
5652	9	Department of Corrections - 144 bed Uintah Expansion	\$6,700,000	\$168,800
5653	10	Southern Utah University Administrative Services/Student Center	\$5,630,400	\$314,200
5654	11	Anasazi Museum	\$760,200	\$8,500
5655	12	Hill Air Force Base - Easements Purchase	\$9,500,000	\$0
5656	13	Signetics Building Remodel	\$2,000,000	\$0
5657	14	Antelope Island Visitors Center	\$750,000	\$30,000
5658	15	State Fair Park - Master Study	\$150,000	\$0
5659	16	Utah National Guard - Draper Land	\$380,800	\$0
5660	17	Davis Applied Technology Center - Design	\$325,000	\$0
5661	18	Palisade State Park - Land and Park Development	\$800,000	\$0
5662	19	Department of Human Services - Cedar City Land	\$80,000	\$0
5663	20	Department of Human Services - Clearfield Land	\$163,400	\$0
5664	21	Electronic technology, equipment, and hardware	\$2,500,000	\$0
5665		TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	\$58,885,600	
5666		TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	\$63,885,600	

- 5667 (d) For purposes of this section, operations and maintenance costs:
- 5668 (i) are estimates only;
- 5669 (ii) may include any operations and maintenance costs already funded in existing

5670 agency budgets; and

5671 (iii) are not commitments by this Legislature or future Legislatures to fund those
5672 operations and maintenance costs.

5673 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
5674 constitute a limitation on the amount that may be expended for any project.

5675 (b) The board may revise these estimates and redistribute the amount estimated for a
5676 project among the projects authorized.

5677 (c) The commission, by resolution and in consultation with the board, may delete one
5678 or more projects from this list if the inclusion of that project or those projects in the list could
5679 be construed to violate state law or federal law or regulation.

5680 (4) (a) The division may enter into agreements related to these projects before the
5681 receipt of proceeds of bonds issued under this chapter.

5682 (b) The division shall make those expenditures from unexpended and unencumbered
5683 building funds already appropriated to the Capital Projects Fund.

5684 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
5685 of bonds issued under this chapter.

5686 (d) The commission may, by resolution, make any statement of intent relating to that
5687 reimbursement that is necessary or desirable to comply with federal tax law.

5688 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
5689 it is the intent of the Legislature that the balance necessary to complete the projects be
5690 addressed by future Legislatures, either through appropriations or through the issuance or sale
5691 of bonds.

5692 (b) For those phased projects, the division may enter into contracts for amounts not to
5693 exceed the anticipated full project funding but may not allow work to be performed on those
5694 contracts in excess of the funding already authorized by the Legislature.

5695 (c) Those contracts shall contain a provision for termination of the contract for the
5696 convenience of the state.

5697 (d) It is also the intent of the Legislature that this authorization to the division does not
5698 bind future Legislatures to fund projects initiated from this authorization.

5699 Section 74. Section **63B-3-301** is amended to read:

5700 **63B-3-301. Legislative intent -- Additional projects.**

5701 (1) It is the intent of the Legislature that, for any lease purchase agreement that the
5702 Legislature may authorize the Division of Facilities Construction and Management to enter into
5703 during its 1994 Annual General Session, the State Building Ownership Authority, at the
5704 reasonable rates and amounts it may determine, and with technical assistance from the state
5705 treasurer, the director of the Division of Finance, and the executive director of the Governor's
5706 Office of Planning and Budget, may seek out the most cost effective and prudent lease
5707 purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building
5708 Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining
5709 to:

- 5710 (a) the lease purchase obligation; or
- 5711 (b) lease rental payments under the lease purchase obligation.

5712 (2) It is the intent of the Legislature that the Department of Transportation dispose of
5713 surplus real properties and use the proceeds from those properties to acquire or construct
5714 through the Division of Facilities Construction and Management a new District Two Complex.

5715 (3) It is the intent of the Legislature that the Division of Facilities Construction and
5716 Management allocate funds from the Capital Improvement appropriation and donations to
5717 cover costs associated with the upgrade of the Governor's Residence that go beyond the
5718 restoration costs which can be covered by insurance proceeds.

5719 (4) (a) It is the intent of the Legislature to authorize the State Building Ownership
5720 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5721 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5722 participation interests may be created, to provide up to \$10,600,000 for the construction of a
5723 Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- 5724 (i) pay costs of issuance;
- 5725 (ii) pay capitalized interest; and
- 5726 (iii) fund any debt service reserve requirements.

5727 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5728 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5729 director of the Division of Finance, and the executive director of the Governor's Office of
5730 Planning and Budget.

5731 (c) It is the intent of the Legislature that the operating budget for the Department of

5732 Natural Resources not be increased to fund these lease payments.

5733 (5) (a) It is the intent of the Legislature to authorize the State Building Ownership
5734 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5735 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5736 participation interests may be created, to provide up to \$8,300,000 for the acquisition of the
5737 office buildings currently occupied by the Department of Environmental Quality and
5738 approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake
5739 City, together with additional amounts necessary to:

- 5740 (i) pay costs of issuance;
- 5741 (ii) pay capitalized interest; and
- 5742 (iii) fund any debt service reserve requirements.

5743 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5744 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5745 director of the Division of Finance, and the executive director of the Governor's Office of
5746 Planning and Budget.

5747 (6) (a) It is the intent of the Legislature to authorize the State Building Ownership
5748 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5749 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5750 participation interests may be created, to provide up to \$9,000,000 for the acquisition or
5751 construction of up to two field offices for the Department of Health and Human Services in the
5752 southwestern portion of Salt Lake County, together with additional amounts necessary to:

- 5753 (i) pay costs of issuance;
- 5754 (ii) pay capitalized interest; and
- 5755 (iii) fund any debt service reserve requirements.

5756 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5757 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5758 director of the Division of Finance, and the executive director of the Governor's Office of
5759 Planning and Budget.

5760 (7) (a) It is the intent of the Legislature to authorize the State Building Ownership
5761 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5762 issue or execute obligations or enter into or arrange for lease purchase agreements in which

5763 participation interests may be created, to provide up to \$5,000,000 for the acquisition or
5764 construction of up to 13 stores for the Department of Alcoholic Beverage Services, together
5765 with additional amounts necessary to:

- 5766 (i) pay costs of issuance;
- 5767 (ii) pay capitalized interest; and
- 5768 (iii) fund any debt service reserve requirements.

5769 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5770 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5771 director of the Division of Finance, and the executive director of the Governor's Office of
5772 Planning and Budget.

5773 (c) It is the intent of the Legislature that the operating budget for the Department of
5774 Alcoholic Beverage Services not be increased to fund these lease payments.

5775 (8) (a) It is the intent of the Legislature to authorize the State Building Ownership
5776 Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to
5777 issue or execute obligations or enter into or arrange for a lease purchase agreement in which
5778 participation interests may be created, to provide up to \$6,800,000 for the construction of a
5779 Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300
5780 beds, together with additional amounts necessary to:

- 5781 (i) pay costs of issuance;
- 5782 (ii) pay capitalized interest; and
- 5783 (iii) fund any debt service reserve requirements.

5784 (b) It is the intent of the Legislature that the authority seek out the most cost effective
5785 and prudent lease purchase plan available with technical assistance from the state treasurer, the
5786 director of the Division of Finance, and the executive director of the Governor's Office of
5787 Planning and Budget.

5788 (9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex
5789 in Salt Lake City, becomes law, it is the intent of the Legislature that:

5790 (a) the Legislative Management Committee, the Interim Appropriation Subcommittees
5791 for General Government and Capital Facilities and Executive Offices, Courts, and Corrections,
5792 the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and
5793 the Division of Facilities Construction and Management participate in a review of the proposed

5794 facility design for the Courts Complex no later than December 1994; and

5795 (b) although this review will not affect the funding authorization issued by the 1994
5796 Legislature, it is expected that Division of Facilities Construction and Management will give
5797 proper attention to concerns raised in these reviews and make appropriate design changes
5798 pursuant to the review.

5799 (10) It is the intent of the Legislature that:

5800 (a) the Division of Facilities Construction and Management, in cooperation with the
5801 ~~[Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services]~~
5802 Division of Juvenile Justice and Youth Services, formerly known as the Division of Youth
5803 Corrections and then the Division of Juvenile Justice Services, develop a flexible use prototype
5804 facility for ~~[the Division of Youth Corrections renamed in 2003 to the Division of Juvenile~~
5805 ~~Justice Services]~~ the Division of Juvenile Justice and Youth Services;

5806 (b) the development process use existing prototype proposals unless it can be
5807 quantifiably demonstrated that the proposals cannot be used;

5808 (c) the facility is designed so that with minor modifications, it can accommodate
5809 detention, observation and assessment, transition, and secure programs as needed at specific
5810 geographical locations;

5811 (d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division
5812 of Youth Corrections ~~[renamed in 2003 to the Division of Juvenile Justice Services]~~, now
5813 known as the Division of Juvenile Justice and Youth Services, is used to design and construct
5814 one facility and design the other;

5815 (ii) the ~~[Division of Youth Corrections renamed in 2003 to the Division of Juvenile~~
5816 ~~Justice Services]~~ Division of Juvenile Justice and Youth Services shall:

5817 (A) determine the location for the facility for which design and construction are fully
5818 funded; and

5819 (B) in conjunction with the Division of Facilities Construction and Management,
5820 determine the best methodology for design and construction of the fully funded facility;

5821 (e) the Division of Facilities Construction and Management submit the prototype as
5822 soon as possible to the Infrastructure and General Government Appropriations Subcommittee
5823 and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for
5824 review;

5825 (f) the Division of Facilities Construction and Management issue a Request for
5826 Proposal for one of the facilities, with that facility designed and constructed entirely by the
5827 winning firm;

5828 (g) the other facility be designed and constructed under the existing Division of
5829 Facilities Construction and Management process;

5830 (h) that both facilities follow the program needs and specifications as identified by
5831 Division of Facilities Construction and Management and the [~~Division of Youth Corrections~~
5832 ~~renamed in 2003 to the Division of Juvenile Justice Services~~] Division of Juvenile Justice and
5833 Youth Services in the prototype; and

5834 (i) the fully funded facility should be ready for occupancy by September 1, 1995.

5835 (11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair
5836 Park Master Study be used by the Division of Facilities Construction and Management to
5837 develop a master plan for the State Fair Park that:

5838 (a) identifies capital facilities needs, capital improvement needs, building
5839 configuration, and other long term needs and uses of the State Fair Park and its buildings; and

5840 (b) establishes priorities for development, estimated costs, and projected timetables.

5841 (12) It is the intent of the Legislature that:

5842 (a) the Division of Facilities Construction and Management, in cooperation with the
5843 Division of State Parks, formerly known as the Division of Parks and Recreation, and
5844 surrounding counties, develop a master plan and general program for the phased development
5845 of Antelope Island;

5846 (b) the master plan:

5847 (i) establish priorities for development;

5848 (ii) include estimated costs and projected time tables; and

5849 (iii) include recommendations for funding methods and the allocation of
5850 responsibilities between the parties; and

5851 (c) the results of the effort be reported to the Natural Resources, Agriculture, and
5852 Environmental Quality Appropriations Subcommittee and Infrastructure and General
5853 Government Appropriations Subcommittee.

5854 (13) It is the intent of the Legislature to authorize the University of Utah to use:

5855 (a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under

5856 the supervision of the director of the Division of Facilities Construction and Management
5857 unless supervisory authority is delegated by the director; and

5858 (b) donated and other nonappropriated funds to plan, design, and construct the Biology
5859 Research Building under the supervision of the director of the Division of Facilities
5860 Construction and Management unless supervisory authority is delegated by the director.

5861 (14) It is the intent of the Legislature to authorize Utah State University to use:

5862 (a) federal and other funds to plan, design, and construct the Bee Lab under the
5863 supervision of the director of the Division of Facilities Construction and Management unless
5864 supervisory authority is delegated by the director;

5865 (b) donated and other nonappropriated funds to plan, design, and construct an Athletic
5866 Facility addition and renovation under the supervision of the director of the Division of
5867 Facilities Construction and Management unless supervisory authority is delegated by the
5868 director;

5869 (c) donated and other nonappropriated funds to plan, design, and construct a renovation
5870 to the Nutrition and Food Science Building under the supervision of the director of the
5871 Division of Facilities Construction and Management unless supervisory authority is delegated
5872 by the director; and

5873 (d) federal and private funds to plan, design, and construct the Millville Research
5874 Facility under the supervision of the director of the Division of Facilities Construction and
5875 Management unless supervisory authority is delegated by the director.

5876 (15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

5877 (a) institutional funds to plan, design, and construct a remodel to the Auto Trades
5878 Office and Learning Center under the supervision of the director of the Division of Facilities
5879 Construction and Management unless supervisory authority is delegated by the director;

5880 (b) institutional funds to plan, design, and construct the relocation and expansion of a
5881 temporary maintenance compound under the supervision of the director of the Division of
5882 Facilities Construction and Management unless supervisory authority is delegated by the
5883 director; and

5884 (c) institutional funds to plan, design, and construct the Alder Amphitheater under the
5885 supervision of the director of the Division of Facilities Construction and Management unless
5886 supervisory authority is delegated by the director.

5887 (16) It is the intent of the Legislature to authorize Southern Utah University to use:

5888 (a) federal funds to plan, design, and construct a Community Services Building under
5889 the supervision of the director of the Division of Facilities Construction and Management
5890 unless supervisory authority is delegated by the director; and

5891 (b) donated and other nonappropriated funds to plan, design, and construct a stadium
5892 expansion under the supervision of the director of the Division of Facilities Construction and
5893 Management unless supervisory authority is delegated by the director.

5894 (17) It is the intent of the Legislature to authorize the Department of Corrections to use
5895 donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional
5896 Facility in Gunnison under the supervision of the director of the Division of Facilities
5897 Construction and Management unless supervisory authority is delegated by the director.

5898 (18) If the Utah National Guard does not relocate in the Signetics Building, it is the
5899 intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City
5900 to plan and design an Armory in Provo, Utah, under the supervision of the director of the
5901 Division of Facilities Construction and Management unless supervisory authority is delegated
5902 by the director.

5903 (19) It is the intent of the Legislature that the Utah Department of Transportation use
5904 \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in
5905 Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

5906 (20) It is the intent of the Legislature that the Ogden-Weber Applied Technology
5907 Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building
5908 and purchase equipment for use in that building that could be used in metal trades or other
5909 programs in other Applied Technology Centers.

5910 (21) It is the intent of the Legislature that the Bridgerland Applied Technology Center
5911 and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be
5912 considered as the highest priority projects for construction funding in fiscal year 1996.

5913 (22) It is the intent of the Legislature that:

5914 (a) the Division of Facilities Construction and Management complete physical space
5915 utilization standards by June 30, 1995, for the use of technology education activities;

5916 (b) these standards are to be developed with and approved by the State Board of
5917 Education, the Board of Regents, and the Division of Facilities Construction and Management;

5918 (c) these physical standards be used as the basis for:

5919 (i) determining utilization of any technology space based on number of stations capable
5920 and occupied for any given hour of operation; and

5921 (ii) requests for any new space or remodeling;

5922 (d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the
5923 Ogden-Weber Applied Technology Center are exempt from this process; and

5924 (e) the design of the Davis Applied Technology Center take into account the utilization
5925 formulas established by the Division of Facilities Construction and Management.

5926 (23) It is the intent of the Legislature that Utah Valley State College may use the
5927 money from the bond allocated to the remodel of the Signetics building to relocate its technical
5928 education programs at other designated sites or facilities under the supervision of the director
5929 of the Division of Facilities Construction and Management unless supervisory authority is
5930 delegated by the director.

5931 (24) It is the intent of the Legislature that the money provided for the fiscal year 1995
5932 project for the Bridgerland Applied Technology Center be used to design and construct the
5933 space associated with Utah State University and design the technology center portion of the
5934 project.

5935 (25) It is the intent of the Legislature that the governor provide periodic reports on the
5936 expenditure of the funds provided for electronic technology, equipment, and hardware to the
5937 Infrastructure and General Government Appropriations Subcommittee, and the Legislative
5938 Management Committee.

5939 Section 75. Section **63B-4-102** is amended to read:

5940 **63B-4-102. Maximum amount -- Projects authorized.**

5941 (1) The total amount of bonds issued under this part may not exceed \$45,300,000.

5942 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
5943 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
5944 Subsection (2).

5945 (b) These costs may include the cost of acquiring land, interests in land, easements and
5946 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
5947 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
5948 convenient to the facilities, interest estimated to accrue on these bonds during the period to be

5949 covered by construction of the projects plus a period of six months after the end of the
 5950 construction period, and all related engineering, architectural, and legal fees.

5951 (c) For the division, proceeds shall be provided for the following:

5952	CAPITAL IMPROVEMENTS		
5953	Alterations, Repairs, and Improvements		\$7,200,000
5954	TOTAL IMPROVEMENTS		\$7,200,000

5955 CAPITAL AND ECONOMIC DEVELOPMENT

5956	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
5957	Corrections - Uinta IVA	\$11,300,000	\$212,800
5958	Utah County Youth Correctional Facility	\$6,650,000	\$245,000
5959	Ogden Weber Applied Technology Center - Metal Trades	\$5,161,000	\$176,000
5960	Project Reserve Fund	\$3,500,000	None
5961	Weber State University - Browning Center Remodel	\$3,300,000	None
5962	Heber Wells Building Remodel	\$2,000,000	None
5963	Higher Education Davis County - Land Purchase	\$1,600,000	None
5964	National Guard -- Provo Armory	\$1,500,000	\$128,000
5965	Department of Natural Resources - Pioneer Trails Visitor Center	\$900,000	\$65,000
5966	Higher Education Design Projects	\$800,000	Varies depending upon projects selected
5967	Salt Lake Community College - South Valley Planning	\$300,000	None

5968 Division of Youth Corrections renamed in 2003 \$120,000 None
to the Division of Juvenile Justice and Youth
Services, formerly known as the Division of
Juvenile Justice Services - Logan Land Purchase

5969 TOTAL CAPITAL AND ECONOMIC DEVELOPMENT \$37,131,000

5970 TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC \$44,331,000
DEVELOPMENT

5971 (d) For purposes of this section, operations and maintenance costs:

5972 (i) are estimates only;

5973 (ii) may include any operations and maintenance costs already funded in existing
5974 agency budgets; and

5975 (iii) are not commitments by this Legislature or future Legislatures to fund those
5976 operations and maintenance costs.

5977 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
5978 constitute a limitation on the amount that may be expended for any project.

5979 (b) The board may revise these estimates and redistribute the amount estimated for a
5980 project among the projects authorized.

5981 (c) The commission, by resolution and in consultation with the board, may delete one
5982 or more projects from this list if the inclusion of that project or those projects in the list could
5983 be construed to violate state law or federal law or regulation.

5984 (4) (a) The division may enter into agreements related to these projects before the
5985 receipt of proceeds of bonds issued under this chapter.

5986 (b) The division shall make those expenditures from unexpended and unencumbered
5987 building funds already appropriated to the Capital Projects Fund.

5988 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
5989 of bonds issued under this chapter.

5990 (d) The commission may, by resolution, make any statement of intent relating to that
5991 reimbursement that is necessary or desirable to comply with federal tax law.

5992 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
5993 it is the intent of the Legislature that the balance necessary to complete the projects be
5994 addressed by future Legislatures, either through appropriations or through the issuance or sale

5995 of bonds.

5996 (b) For those phased projects, the division may enter into contracts for amounts not to
5997 exceed the anticipated full project funding but may not allow work to be performed on those
5998 contracts in excess of the funding already authorized by the Legislature.

5999 (c) Those contracts shall contain a provision for termination of the contract for the
6000 convenience of the state.

6001 (d) It is also the intent of the Legislature that this authorization to the division does not
6002 bind future Legislatures to fund projects initiated from this authorization.

6003 Section 76. Section **63B-11-702** is amended to read:

6004 **63B-11-702. Other capital facility authorizations and intent language.**

6005 (1) It is the intent of the Legislature that:

6006 (a) Salt Lake Community College use donations and other institutional funds to plan,
6007 design, and construct a renovation of and addition to the Grand Theater under the direction of
6008 the director of the Division of Facilities Construction and Management unless supervisory
6009 authority has been delegated;

6010 (b) no state funds be used for any portion of this project; and

6011 (c) the college may request state funds for operations and maintenance to the extent
6012 that the college is able to demonstrate to the Board of Regents that the facility meets approved
6013 academic and training purposes under Board of Regents policy R710.

6014 (2) It is the intent of the Legislature that:

6015 (a) the University of Utah use donations, grants, and other institutional funds to plan,
6016 design, and construct a Department of Chemistry Gauss House under the direction of the
6017 director of the Division of Facilities Construction and Management unless supervisory
6018 authority has been delegated;

6019 (b) no state funds be used for any portion of this project; and

6020 (c) the university may request state funds for operations and maintenance to the extent
6021 that the university is able to demonstrate to the Board of Regents that the facility meets
6022 approved academic and training purposes under Board of Regents policy R710.

6023 (3) It is the intent of the Legislature that:

6024 (a) the University of Utah use donations and other institutional funds to plan, design,
6025 and construct an expansion of the Eccles Health Science Library and the associated parking

6026 structure under the direction of the director of the Division of Facilities Construction and
6027 Management unless supervisory authority has been delegated;

6028 (b) no state funds be used for any portion of this project; and

6029 (c) the university may request state funds for operations and maintenance to the extent
6030 that the university is able to demonstrate to the Board of Regents that the facility meets
6031 approved academic and training purposes under Board of Regents policy R710.

6032 (4) It is the intent of the Legislature that:

6033 (a) the University of Utah use donations and other institutional funds to plan, design,
6034 and construct a Phase II Addition to the Moran Eye Center under the direction of the director of
6035 the Division of Facilities Construction and Management unless supervisory authority has been
6036 delegated;

6037 (b) no state funds be used for any portion of this project; and

6038 (c) the university may not request state funds for operations and maintenance.

6039 (5) It is the intent of the Legislature that:

6040 (a) the University of Utah use donations and other institutional funds to plan, design,
6041 and construct a Children's Dance Theatre under the direction of the director of the Division of
6042 Facilities Construction and Management unless supervisory authority has been delegated;

6043 (b) no state funds be used for any portion of this project; and

6044 (c) the university may not request state funds for operations and maintenance.

6045 (6) It is the intent of the Legislature that:

6046 (a) Utah State University use donations and other institutional funds to plan, design,
6047 and construct a Teaching Pavilion at its Animal Science Farm under the direction of the
6048 director of the Division of Facilities Construction and Management unless supervisory
6049 authority has been delegated;

6050 (b) no state funds be used for any portion of this project; and

6051 (c) the university may request state funds for operations and maintenance to the extent
6052 that the university is able to demonstrate to the Board of Regents that the facility meets
6053 approved academic and training purposes under Board of Regents policy R710.

6054 (7) It is the intent of the Legislature that:

6055 (a) the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth
6056 Services use donations to plan, design, and construct a chapel at the Slate Canyon Youth

6057 Corrections Facility under the direction of the director of the Division of Facilities
6058 Construction and Management unless supervisory authority has been delegated;

6059 (b) no state funds be used for any portion of this project; and

6060 (c) the division may not request additional state funding for operations and
6061 maintenance.

6062 (8) It is the intent of the Legislature that the Utah National Guard use federal funds and
6063 proceeds from the sale of property to acquire a site for new facilities in Salt Lake or Davis
6064 County.

6065 (9) It is the intent of the Legislature that:

6066 (a) the Utah National Guard use donations and grants to plan, design, and construct the
6067 renovation and expansion of the Fort Douglas Military Museum under the direction of the
6068 director of the Division of Facilities Construction and Management unless supervisory
6069 authority has been delegated;

6070 (b) no state funds be used for any portion of this project; and

6071 (c) the National Guard may not request additional state funding for operations and
6072 maintenance.

6073 (10) It is the intent of the Legislature that:

6074 (a) the Division of Facilities Construction and Management pursue the exchange of
6075 public safety facilities in Orem if:

6076 (i) the land and newly constructed replacement facilities meet the needs of the Driver
6077 License Division and the Utah Highway Patrol; and

6078 (ii) the replacement property and facilities can be obtained at a cost that is not less than
6079 the market value of the existing property and facilities; and

6080 (b) the division confirms the value of the properties to be exchanged.

6081 Section 77. Section **63I-1-226 (Superseded 07/01/24)** is amended to read:

6082 **63I-1-226 (Superseded 07/01/24). Repeal dates: Titles 26A through 26B.**

6083 (1) Subsection **26B-1-204(2)(i)**, related to the Primary Care Grant Committee, is
6084 repealed July 1, 2025.

6085 (2) Section **26B-1-315**, which creates the Medicaid Expansion Fund, is repealed July 1,
6086 [~~2024~~] 2029.

6087 (3) Section **26B-1-319**, which creates the Neuro-Rehabilitation Fund, is repealed

6088 January 1, 2025.

6089 (4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is
6090 repealed January 1, 2025.

6091 (5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis
6092 Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

6093 (6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response
6094 Commission, is repealed December 31, 2026.

6095 (7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is
6096 repealed July 1, 2026.

6097 (8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is
6098 repealed July 1, 2025.

6099 (9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed
6100 July 1, 2025.

6101 (10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program
6102 Advisory Council, is repealed July 1, 2025.

6103 (11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is
6104 repealed July 1, 2025.

6105 (12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric
6106 Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

6107 (13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is
6108 repealed July 1, 2029.

6109 (14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and
6110 Other Drug Prevention Program, is repealed July 1, 2025.

6111 (15) Section 26B-1-430, which creates the Coordinating Council for Persons with
6112 Disabilities, is repealed July 1, 2027.

6113 (16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating
6114 Council, is repealed July 1, 2023.

6115 (17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is
6116 repealed July 1, 2026.

6117 (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood
6118 Advisory Board, is repealed July 1, 2026.

- 6119 (19) Section [26B-2-407](#), related to drinking water quality in child care centers, is
6120 repealed July 1, 2027.
- 6121 (20) Subsection [26B-3-107\(9\)](#), which addresses reimbursement for dental hygienists, is
6122 repealed July 1, 2028.
- 6123 (21) Section [26B-3-136](#), which creates the Children's Health Care Coverage Program,
6124 is repealed July 1, 2025.
- 6125 (22) Section [26B-3-137](#), related to reimbursement for the National Diabetes Prevention
6126 Program, is repealed June 30, 2027.
- 6127 (23) Subsection [26B-3-213\(2\)](#), the language that states "and the Behavioral Health
6128 Crisis Response Commission created in Section [63C-18-202](#)" is repealed December 31, 2026.
- 6129 (24) Sections [26B-3-302](#) through [26B-3-309](#), regarding the Drug Utilization Review
6130 Board, are repealed July 1, 2027.
- 6131 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1,
6132 [~~2024~~] 2029.
- 6133 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is
6134 repealed July 1, [~~2024~~] 2029.
- 6135 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1,
6136 2028.
- 6137 (28) Section [26B-3-910](#), regarding alternative eligibility, is repealed July 1, 2028.
- 6138 (29) Section [26B-4-136](#), related to the Volunteer Emergency Medical Service
6139 Personnel Health Insurance Program, is repealed July 1, 2027.
- 6140 (30) Section [26B-4-710](#), related to rural residency training programs, is repealed July 1,
6141 2025.
- 6142 (31) Subsections [26B-5-112\(1\)](#) and (5), the language that states "In consultation with
6143 the Behavioral Health Crisis Response Commission, established in Section [63C-18-202](#)," is
6144 repealed December 31, 2026.
- 6145 (32) Section [26B-5-112.5](#) is repealed December 31, 2026.
- 6146 (33) Section [26B-5-114](#), related to the Behavioral Health Receiving Center Grant
6147 Program, is repealed December 31, 2026.
- 6148 (34) Section [26B-5-118](#), related to collaborative care grant programs, is repealed
6149 December 31, 2024.

- 6150 (35) Section 26B-5-120 is repealed December 31, 2026.
- 6151 (36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:
- 6152 (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and
- 6153 (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are
- 6154 repealed.
- 6155 (37) In relation to the Behavioral Health Crisis Response Commission, on December
- 6156 31, 2026:
- 6157 (a) Subsection 26B-5-609(1)(a) is repealed;
- 6158 (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from
- 6159 the commission," is repealed;
- 6160 (c) Subsection 26B-5-610(1)(b) is repealed;
- 6161 (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the
- 6162 commission," is repealed; and
- 6163 (e) Subsection 26B-5-610(4), the language that states "In consultation with the
- 6164 commission," is repealed.
- 6165 (38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and
- 6166 Mental Health Advisory Council, are repealed January 1, 2033.
- 6167 (39) Section 26B-5-612, related to integrated behavioral health care grant programs, is
- 6168 repealed December 31, 2025.
- 6169 (40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of
- 6170 the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 6171 (41) Section 26B-7-224, related to reports to the Legislature on violent incidents and
- 6172 fatalities involving substance abuse, is repealed December 31, 2027.
- 6173 (42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.
- 6174 (43) Section 26B-8-513, related to identifying overuse of non-evidence-based health
- 6175 care, is repealed December 31, 2023.
- 6176 Section 78. Section 63I-1-226 (Effective 07/01/24) is amended to read:
- 6177 **63I-1-226 (Effective 07/01/24). Repeal dates: Titles 26A through 26B.**
- 6178 (1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is
- 6179 repealed July 1, 2025.
- 6180 (2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1,

6181 [~~2024~~] 2029.

6182 (3) Section [26B-1-319](#), which creates the Neuro-Rehabilitation Fund, is repealed
6183 January 1, 2025.

6184 (4) Section [26B-1-320](#), which creates the Pediatric Neuro-Rehabilitation Fund, is
6185 repealed January 1, 2025.

6186 (5) Subsection [26B-1-324\(4\)](#), the language that states "the Behavioral Health Crisis
6187 Response Commission, as defined in Section [63C-18-202](#)," is repealed December 31, 2026.

6188 (6) Subsection [26B-1-329\(6\)](#), related to the Behavioral Health Crisis Response
6189 Commission, is repealed December 31, 2026.

6190 (7) Section [26B-1-402](#), related to the Rare Disease Advisory Council Grant Program, is
6191 repealed July 1, 2026.

6192 (8) Section [26B-1-409](#), which creates the Utah Digital Health Service Commission, is
6193 repealed July 1, 2025.

6194 (9) Section [26B-1-410](#), which creates the Primary Care Grant Committee, is repealed
6195 July 1, 2025.

6196 (10) Section [26B-1-416](#), which creates the Utah Children's Health Insurance Program
6197 Advisory Council, is repealed July 1, 2025.

6198 (11) Section [26B-1-417](#), which creates the Brain Injury Advisory Committee, is
6199 repealed July 1, 2025.

6200 (12) Section [26B-1-418](#), which creates the Neuro-Rehabilitation Fund and Pediatric
6201 Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

6202 (13) Section [26B-1-422](#), which creates the Early Childhood Utah Advisory Council, is
6203 repealed July 1, 2029.

6204 (14) Section [26B-1-428](#), which creates the Youth Electronic Cigarette, Marijuana, and
6205 Other Drug Prevention Program, is repealed July 1, 2025.

6206 (15) Section [26B-1-430](#), which creates the Coordinating Council for Persons with
6207 Disabilities, is repealed July 1, 2027.

6208 (16) Section [26B-1-431](#), which creates the Forensic Mental Health Coordinating
6209 Council, is repealed July 1, 2023.

6210 (17) Section [26B-1-432](#), which creates the Newborn Hearing Screening Committee, is
6211 repealed July 1, 2026.

- 6212 (18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood
6213 Advisory Board, is repealed July 1, 2026.
- 6214 (19) Section 26B-2-407, related to drinking water quality in child care centers, is
6215 repealed July 1, 2027.
- 6216 (20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is
6217 repealed July 1, 2028.
- 6218 (21) Section 26B-3-136, which creates the Children's Health Care Coverage Program,
6219 is repealed July 1, 2025.
- 6220 (22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention
6221 Program, is repealed June 30, 2027.
- 6222 (23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health
6223 Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.
- 6224 (24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review
6225 Board, are repealed July 1, 2027.
- 6226 (25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1,
6227 [~~2024~~] 2029.
- 6228 (26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is
6229 repealed July 1, 2024.
- 6230 (27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1,
6231 2028.
- 6232 (28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.
- 6233 (29) Section 26B-4-710, related to rural residency training programs, is repealed July 1,
6234 2025.
- 6235 (30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with
6236 the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is
6237 repealed December 31, 2026.
- 6238 (31) Section 26B-5-112.5 is repealed December 31, 2026.
- 6239 (32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant
6240 Program, is repealed December 31, 2026.
- 6241 (33) Section 26B-5-118, related to collaborative care grant programs, is repealed
6242 December 31, 2024.

- 6243 (34) Section 26B-5-120 is repealed December 31, 2026.
- 6244 (35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:
- 6245 (a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and
- 6246 (b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are
- 6247 repealed.
- 6248 (36) In relation to the Behavioral Health Crisis Response Commission, on December
- 6249 31, 2026:
- 6250 (a) Subsection 26B-5-609(1)(a) is repealed;
- 6251 (b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from
- 6252 the commission," is repealed;
- 6253 (c) Subsection 26B-5-610(1)(b) is repealed;
- 6254 (d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the
- 6255 commission," is repealed; and
- 6256 (e) Subsection 26B-5-610(4), the language that states "In consultation with the
- 6257 commission," is repealed.
- 6258 (37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and
- 6259 Mental Health Advisory Council, are repealed January 1, 2033.
- 6260 (38) Section 26B-5-612, related to integrated behavioral health care grant programs, is
- 6261 repealed December 31, 2025.
- 6262 (39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of
- 6263 the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.
- 6264 (40) Section 26B-7-224, related to reports to the Legislature on violent incidents and
- 6265 fatalities involving substance abuse, is repealed December 31, 2027.
- 6266 (41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.
- 6267 (42) Section 26B-8-513, related to identifying overuse of non-evidence-based health
- 6268 care, is repealed December 31, 2023.
- 6269 Section 79. Section 63M-7-208 is amended to read:
- 6270 **63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.**
- 6271 (1) The State Commission on Criminal and Juvenile Justice shall:
- 6272 (a) support implementation and expansion of evidence-based juvenile justice programs
- 6273 and practices, including assistance regarding implementation fidelity, quality assurance, and

6274 ongoing evaluation;

6275 (b) examine and make recommendations on the use of third-party entities or an
6276 intermediary organization to assist with implementation and to support the performance-based
6277 contracting system authorized in Subsection (1)(m);

6278 (c) oversee the development of performance measures to track juvenile justice reforms,
6279 and ensure early and ongoing stakeholder engagement in identifying the relevant performance
6280 measures;

6281 (d) evaluate currently collected data elements throughout the juvenile justice system
6282 and contract reporting requirements to streamline reporting, reduce redundancies, eliminate
6283 inefficiencies, and ensure a focus on recidivism reduction;

6284 (e) review averted costs from reductions in out-of-home placements for juvenile justice
6285 youth placed with the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and
6286 Youth Services and the Division of Child and Family Services, and make recommendations to
6287 prioritize the reinvestment and realignment of resources into community-based programs for
6288 youth living at home, including the following:

6289 (i) statewide expansion of:

6290 (A) juvenile receiving centers, as defined in Section [80-1-102](#);

6291 (B) mobile crisis outreach teams, as defined in Section [~~62A-15-102~~] [26B-5-101](#);

6292 (C) youth courts; and

6293 (D) victim-offender mediation;

6294 (ii) statewide implementation of nonresidential diagnostic assessment;

6295 (iii) statewide availability of evidence-based programs and practices including
6296 cognitive behavioral and family therapy programs for minors assessed by a validated risk and
6297 needs assessment as moderate or high risk;

6298 (iv) implementation and infrastructure to support the sustainability and fidelity of
6299 evidence-based juvenile justice programs, including resources for staffing, transportation, and
6300 flexible funds; and

6301 (v) early intervention programs such as family strengthening programs, family
6302 wraparound services, and proven truancy interventions;

6303 (f) assist the Administrative Office of the Courts in the development of a statewide
6304 sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's

6305 family to pay;

6306 (g) analyze the alignment of resources and the roles and responsibilities of agencies,
6307 such as the operation of early intervention services, receiving centers, and diversion, and make
6308 recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;

6309 (h) comply with the data collection and reporting requirements under Section
6310 80-6-104;

6311 (i) develop a reasonable timeline within which all programming delivered to minors in
6312 the juvenile justice system must be evidence-based or consist of practices that are rated as
6313 effective for reducing recidivism by a standardized program evaluation tool;

6314 (j) provide guidelines to be considered by the Administrative Office of the Courts and
6315 the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services in
6316 developing tools considered by the Administrative Office of the Courts and the ~~[Division of~~
6317 ~~Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services in developing or
6318 selecting tools to be used for the evaluation of juvenile justice programs;

6319 (k) develop a timeline to support improvements to juvenile justice programs to achieve
6320 reductions in recidivism and review reports from relevant state agencies on progress toward
6321 reaching that timeline;

6322 (l) subject to Subsection (2), assist in the development of training for juvenile justice
6323 stakeholders, including educators, law enforcement officers, probation staff, judges, ~~[Division~~
6324 ~~of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services staff, Division of
6325 Child and Family Services staff, and program providers;

6326 (m) subject to Subsection (3), assist in the development of a performance-based
6327 contracting system, which shall be developed by the Administrative Office of the Courts and
6328 the ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services for
6329 contracted services in the community and contracted out-of-home placement providers;

6330 (n) assist in the development of a validated detention risk assessment tool that is
6331 developed or adopted and validated by the Administrative Office of the Courts and the
6332 ~~[Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services as
6333 provided in Section 80-5-203; and

6334 (o) annually issue and make public a report to the governor, president of the Senate,
6335 speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the

6336 progress of the reforms and any additional areas in need of review.

6337 (2) Training described in Subsection (1)(l) should include instruction on
6338 evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity,
6339 and fidelity, and shall be supplemented by the following topics:

- 6340 (a) adolescent development;
- 6341 (b) identifying and using local behavioral health resources;
- 6342 (c) cross-cultural awareness;
- 6343 (d) graduated responses;
- 6344 (e) Utah juvenile justice system data and outcomes; and
- 6345 (f) gangs.

6346 (3) The system described in Subsection (1)(m) shall provide incentives for:

- 6347 (a) the use of evidence-based juvenile justice programs and practices rated as effective
6348 by the tools selected in accordance with Subsection (1)(j);
- 6349 (b) the use of three-month timelines for program completion; and
- 6350 (c) evidence-based programs and practices for minors living at home in rural areas.

6351 (4) The State Commission on Criminal and Juvenile Justice may delegate the duties
6352 imposed under this section to a subcommittee or board established by the State Commission on
6353 Criminal and Juvenile Justice in accordance with Subsection [63M-7-204\(2\)](#).

6354 Section 80. Section **63M-7-401** is amended to read:

6355 **63M-7-401. Creation -- Members -- Appointment -- Qualifications.**

6356 (1) There is created a state commission to be known as the Sentencing Commission
6357 composed of 28 members. The commission shall develop by-laws and rules in compliance
6358 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.

6359 (2) The commission's members shall be:

- 6360 (a) two members of the House of Representatives, appointed by the speaker of the
6361 House and not of the same political party;
- 6362 (b) two members of the Senate, appointed by the president of the Senate and not of the
6363 same political party;
- 6364 (c) the executive director of the Department of Corrections or a designee appointed by
6365 the executive director;
- 6366 (d) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile

- 6367 Justice and Youth Services or a designee appointed by the director;
- 6368 (e) the executive director of the Commission on Criminal and Juvenile Justice or a
6369 designee appointed by the executive director;
- 6370 (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
- 6371 (g) the chair of the Youth Parole Authority or a designee appointed by the chair;
- 6372 (h) two trial judges and an appellate judge appointed by the chair of the Judicial
6373 Council;
- 6374 (i) two juvenile court judges designated by the chair of the Judicial Council;
- 6375 (j) an attorney in private practice who is a member of the Utah State Bar, experienced
6376 in criminal defense, and appointed by the Utah Bar Commission;
- 6377 (k) an attorney who is a member of the Utah State Bar, experienced in the defense of
6378 minors in juvenile court, and appointed by the Utah Bar Commission;
- 6379 (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
- 6380 (m) the attorney general or a designee appointed by the attorney general;
- 6381 (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
- 6382 (o) a juvenile court prosecutor appointed by the Statewide Association of Public
6383 Attorneys;
- 6384 (p) a representative of the Utah Sheriff's Association appointed by the governor;
- 6385 (q) a chief of police appointed by the governor;
- 6386 (r) a licensed professional appointed by the governor who assists in the rehabilitation
6387 of adult offenders;
- 6388 (s) a licensed professional appointed by the governor who assists in the rehabilitation
6389 of juvenile offenders;
- 6390 (t) two members from the public appointed by the governor who exhibit sensitivity to
6391 the concerns of victims of crime and the ethnic composition of the population;
- 6392 (u) one member from the public at large appointed by the governor; and
- 6393 (v) a representative of an organization that specializes in civil rights or civil liberties on
6394 behalf of incarcerated individuals appointed by the governor.
- 6395 Section 81. Section **63M-7-601** is amended to read:
- 6396 **63M-7-601. Creation -- Members -- Chair.**
- 6397 (1) There is created within the governor's office the Utah Council on Victims of Crime.

- 6398 (2) The council is composed of 28 voting members as follows:
- 6399 (a) a representative of the State Commission on Criminal and Juvenile Justice
- 6400 appointed by the executive director;
- 6401 (b) a representative of the Department of Corrections appointed by the executive
- 6402 director;
- 6403 (c) a representative of the Board of Pardons and Parole appointed by the chair;
- 6404 (d) a representative of the Department of Public Safety appointed by the commissioner;
- 6405 (e) a representative of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
- 6406 Justice and Youth Services appointed by the director;
- 6407 (f) a representative of the Utah Office for Victims of Crime appointed by the director;
- 6408 (g) a representative of the Office of the Attorney General appointed by the attorney
- 6409 general;
- 6410 (h) a representative of the United States Attorney for the district of Utah appointed by
- 6411 the United States Attorney;
- 6412 (i) a representative of Utah's Native American community appointed by the director of
- 6413 the Division of Indian Affairs after input from federally recognized tribes in Utah;
- 6414 (j) a professional or volunteer working in the area of violence against women and
- 6415 families appointed by the governor;
- 6416 (k) a representative of the Department of Health and Human Services Violence and
- 6417 Injury Prevention Program appointed by the program's manager;
- 6418 (l) the chair of each judicial district's victims' rights committee;
- 6419 (m) a representative of the Statewide Association of Public Attorneys appointed by that
- 6420 association;
- 6421 (n) a representative of the Utah Chiefs of Police Association appointed by the president
- 6422 of that association;
- 6423 (o) a representative of the Utah Sheriffs' Association appointed by the president of that
- 6424 association;
- 6425 (p) a representative of a Children's Justice Center appointed by the attorney general;
- 6426 (q) the director of the Division of Child and Family Services or that individual's
- 6427 designee;
- 6428 (r) the chair of the Utah Victim Services Commission or the chair's designee; and

6429 (s) the following members appointed by the members in Subsections (2)(a) through
6430 (2)(r) to serve four-year terms:

6431 (i) an individual who engages in community based advocacy;

6432 (ii) a citizen representative; and

6433 (iii) a citizen representative who has been a victim of crime.

6434 (3) The council shall annually elect:

6435 (a) one member to serve as chair;

6436 (b) one member to serve as vice-chair; and

6437 (c) one member to serve as treasurer.

6438 Section 82. Section **63M-7-702** is amended to read:

6439 **63M-7-702. Domestic Violence Offender Treatment Board -- Creation --**
6440 **Membership -- Quorum -- Per diem -- Staff support -- Meetings.**

6441 (1) There is created within the commission the Domestic Violence Offender Treatment
6442 Board consisting of the following members:

6443 (a) the executive director of the Department of Corrections, or the executive director's
6444 designee;

6445 (b) the executive director of the Department of Health and Human Services, or the
6446 executive director's designee;

6447 (c) one individual who represents a state program that focuses on prevention of injury
6448 and domestic violence appointed by the executive director of the Department of Health and
6449 Human Services;

6450 (d) the commissioner of public safety for the Department of Public Safety, or the
6451 commissioner's designee;

6452 (e) the chair of the Utah Victim Services Commission or the chair's designee;

6453 (f) the director of the Utah Office for Victims of Crime, or the director's designee;

6454 (g) the chair of the Board of Pardons and Parole, or the chair's designee;

6455 (h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6456 Justice and Youth Services, or the director's designee;

6457 (i) one individual who represents the Administrative Office of the Courts appointed by
6458 the state court administrator; and

6459 (j) ten individuals appointed by the executive director of the commission, including:

6460 (i) the following four individuals licensed under Title 58, Chapter 60, Mental Health
6461 Professional Practice Act:

6462 (A) a clinical social worker;

6463 (B) a marriage and family therapist;

6464 (C) a professional counselor; and

6465 (D) a psychologist;

6466 (ii) one individual who represents an association of criminal defense attorneys;

6467 (iii) one criminal defense attorney who primarily represents indigent criminal

6468 defendants;

6469 (iv) one individual who represents an association of prosecuting attorneys;

6470 (v) one individual who represents law enforcement;

6471 (vi) one individual who represents an association of criminal justice victim advocates;

6472 and

6473 (vii) one individual who represents a nonprofit organization that provides domestic

6474 violence victim advocate services.

6475 (2) (a) A member may not serve on the board for more than eight consecutive years.

6476 (b) If a vacancy occurs in the membership of the board appointed under Subsection (1),
6477 the member shall be replaced in the same manner in which the original appointment was made.

6478 (c) A member of the board serves until the member's successor is appointed.

6479 (3) The members of the board shall vote on a chair and co-chair of the board to serve
6480 for two years.

6481 (4) (a) A majority of the board members constitutes a quorum.

6482 (b) The action of a majority of a quorum constitutes an action of the board.

6483 (5) A board member may not receive compensation or benefits for the member's
6484 service on the board, but may receive per diem and reimbursement for travel expenses incurred
6485 as a board member at the rates established by the Division of Finance under:

6486 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

6487 (b) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).

6488 (6) The commission shall provide staff support to the board.

6489 (7) The board shall meet at least quarterly on a date the board sets.

6490 Section 83. Section **63M-7-802** is amended to read:

6491 **63M-7-802. Sex Offense Management Board - Creation - Members appointment -**
6492 **Qualifications - Terms.**

6493 (1) There is created within the commission the Sex Offense Management Board
6494 consisting of the following members:

6495 (a) the executive director of the Department of Corrections, or the executive director's
6496 designee;

6497 (b) the commissioner of the Department of Public Safety, or the commissioner's
6498 designee;

6499 (c) the attorney general, or the attorney general's designee;

6500 (d) an officer with the adult probation and parole section of the Department of
6501 Corrections with experience supervising adults convicted of sex offenses, appointed by the
6502 executive director of the Department of Corrections;

6503 (e) the executive director of the Department of Health and Human Services, or the
6504 executive director's designee;

6505 (f) an individual who represents the Administrative Office of the Courts appointed by
6506 the state court administrator;

6507 (g) the director of the Utah Office for Victims of Crime, or the director's designee;

6508 (h) the director of the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6509 Justice and Youth Services, or the director's designee;

6510 (i) the chair of the Board of Pardons and Parole, or the chair's designee; and

6511 (j) nine individuals appointed by the executive director of the commission, including:

6512 (i) the following two individuals licensed under Title 58, Chapter 60, Mental Health
6513 Professional Practice Act:

6514 (A) an individual with experience in the treatment of adults convicted of sex offenses
6515 in the community;

6516 (B) an individual with experience in the treatment of juveniles adjudicated of sex
6517 offenses in the community;

6518 (ii) an individual who represents an association of criminal defense attorneys;

6519 (iii) an individual who is a criminal defense attorney experienced in indigent criminal
6520 defense;

6521 (iv) an individual who represents an association of prosecuting attorneys;

- 6522 (v) an individual who represents law enforcement;
- 6523 (vi) an individual who represents an association of criminal justice victim advocates;
- 6524 (vii) an individual who is a clinical polygraph examiner experienced in providing
- 6525 polygraph examinations to individuals convicted of sex offenses; and
- 6526 (viii) an individual who has been previously convicted of a sex offense and has
- 6527 successfully completed treatment and supervision for the offense.
- 6528 (2) (a) A member described in Subsection (1)(j) shall serve a four-year term.
- 6529 (b) If a vacancy occurs among a member described in Subsection (1)(j), the executive
- 6530 director of the commission may appoint a new individual to fill the remainder of the term.
- 6531 (c) When a term of a member described in Subsection (1)(j) expires, the executive
- 6532 director of the commission shall appoint a new member or reappoint the member whose term
- 6533 has expired to a new four-year term.
- 6534 (3) The members of the board shall vote on a chair and co-chair of the board from
- 6535 among the members described in Subsection (1) to serve a two-year term.
- 6536 (4) A majority of the board constitutes a quorum.
- 6537 (5) A board member may not receive compensation or benefits for the member's
- 6538 service on the board, but may receive per diem and reimbursement for travel expenses incurred
- 6539 as a board member at rates established by the Division of Finance under:
- 6540 (a) Sections [63A-3-106](#) and [63A-3-107](#); and
- 6541 (b) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
- 6542 (6) The commission shall provide staff support to the board.
- 6543 (7) The board shall meet at least six times per year on dates the board sets.
- 6544 Section 84. Section **67-5b-101** is amended to read:
- 6545 **67-5b-101. Definitions.**
- 6546 As used in this part:
- 6547 (1) "Center" means a Children's Justice Center established in accordance with Section
- 6548 [67-5b-102](#).
- 6549 (2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse
- 6550 victim.
- 6551 (3) "Child abuse victim" means a child 17 years of age or younger who is:
- 6552 (a) a victim of:

6553 (i) sexual abuse; or
6554 (ii) physical abuse; or
6555 (b) a victim or a critical witness in any criminal case, such as a child endangerment
6556 case described in Section 76-5-112.5.

6557 (4) "Officers and employees" means any person performing services for two or more
6558 public agencies as agreed in a memorandum of understanding in accordance with Section
6559 67-5b-104.

6560 (5) "Public agency" means a municipality, a county, the attorney general, the Division
6561 of Child and Family Services, the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6562 Justice and Youth Services, the Department of Corrections, the juvenile court, or the
6563 Administrative Office of the Courts.

6564 (6) "Satellite office" means a child-friendly facility supervised by a Children's Justice
6565 Center established in accordance with Section 67-5b-102.

6566 (7) (a) "Volunteer" means any individual who donates service without pay or other
6567 compensation except expenses actually and reasonably incurred as approved by the supervising
6568 agency.

6569 (b) "Volunteer" does not include an individual participating in human subjects research
6570 or a court-ordered compensatory service worker as defined in Section 67-20-2.

6571 Section 85. Section 76-3-401.5 is amended to read:

6572 **76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.**

6573 (1) As used in this section:

6574 (a) "Authority" means the Youth Parole Authority created in Section 80-5-701.

6575 (b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

6576 (c) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6577 Justice and Youth Services created in Section 80-5-103.

6578 (d) (i) "Juvenile disposition" means an order for commitment to the custody of the
6579 division under Subsection 80-6-703(2).

6580 (ii) "Juvenile disposition" includes an order for secure care under Subsection
6581 80-6-705(1).

6582 (e) "Secure correctional facility" means the same as that term is defined in Section
6583 64-13-1.

- 6584 (f) "Secure care" means the same as that term is defined in Section [80-1-102](#).
- 6585 (2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court
6586 may not terminate the juvenile disposition for the defendant when:
- 6587 (a) the defendant is convicted of an offense; and
- 6588 (b) the court imposes a sentence under Section [76-3-201](#) for the offense.
- 6589 (3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an
6590 offense and the defendant is serving a juvenile disposition at the time of sentencing, the court
6591 shall determine whether the sentence is to run concurrently or consecutively to the juvenile
6592 disposition.
- 6593 (b) The court shall state on the record and in the order of judgment and commitment
6594 whether the sentence imposed is to run concurrently or consecutively with the juvenile
6595 disposition.
- 6596 (c) In determining whether a sentence is to run concurrently or consecutively with a
6597 juvenile disposition, the court shall consider:
- 6598 (i) the gravity and circumstances of the offense for which the defendant is convicted;
- 6599 (ii) the number of victims; and
- 6600 (iii) the history, character, and rehabilitative needs of the defendant.
- 6601 (d) If an order of judgment and commitment does not clearly state whether the sentence
6602 is to run consecutively or concurrently with the juvenile disposition, the division shall request
6603 clarification from the court.
- 6604 (e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified
6605 order of judgment and commitment stating whether the sentence is to run concurrently or
6606 consecutively to the juvenile disposition.
- 6607 (4) If a court orders a sentence for imprisonment to run concurrently with a juvenile
6608 disposition for secure care, the defendant shall serve the sentence in secure care until the
6609 juvenile disposition is terminated by the authority in accordance with Section [80-6-804](#).
- 6610 (5) If a court orders a sentence for imprisonment in a county jail to run concurrently
6611 with a juvenile disposition for secure care and the disposition is terminated before the
6612 defendant's sentence for imprisonment in the county jail is terminated, the division shall:
- 6613 (a) notify the county jail at least 14 days before the day on which the defendant's
6614 disposition is terminated or the defendant is released from secure care; and

6615 (b) facilitate the transfer or release of the defendant in accordance with the order of
6616 judgment and commitment imposed by the court.

6617 (6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to
6618 run concurrently with a juvenile disposition for secure care:

6619 (i) the board has authority over the defendant for purposes of ordering parole, pardon,
6620 commutation, termination of sentence, remission of fines or forfeitures, restitution, and any
6621 other authority granted by law; and

6622 (ii) the court and the division shall immediately notify the board that the defendant will
6623 remain in secure care as described in Subsection (4) for the board to schedule a hearing for the
6624 defendant in accordance with board procedures.

6625 (b) If a court orders a sentence for imprisonment in a secure correctional facility to run
6626 concurrently with a juvenile disposition for secure care and the juvenile disposition is
6627 terminated before the defendant's sentence is terminated, the division shall:

6628 (i) notify the board and the Department of Corrections at least 14 days before the day
6629 on which the defendant's disposition is terminated or the defendant is released from the secure
6630 care; and

6631 (ii) facilitate a release or transfer of the defendant in accordance with the order of
6632 judgment and commitment imposed by the court.

6633 Section 86. Section **76-5-101** is amended to read:

6634 **76-5-101. Definitions.**

6635 Unless otherwise provided, as used in this part:

6636 (1) "Detained individual" means an individual detained under Section [77-7-15](#).

6637 (2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a
6638 lawful arrest or who is confined in a jail or other penal institution or a facility used for
6639 confinement of delinquent juveniles operated by the [~~Division of Juvenile Justice Services~~]
6640 Division of Juvenile Justice and Youth Services regardless of whether the confinement is legal.

6641 Section 87. Section **76-5-413** is amended to read:

6642 **76-5-413. Custodial sexual relations with youth receiving state services --**

6643 **Penalties -- Defenses and limitations.**

6644 (1) (a) As used in this section:

6645 (i) "Actor" means:

6646 (A) an individual employed by the Department of Health and Human Services created
6647 in Section 26B-1-201, or an employee of a private provider or contractor; or

6648 (B) an individual employed by the juvenile court of the state, or an employee of a
6649 private provider or contractor.

6650 (ii) "Department" means the Department of Health and Human Services created in
6651 Section 26B-1-201.

6652 (iii) "Juvenile court" means the juvenile court of the state created in Section
6653 78A-6-102.

6654 (iv) "Private provider or contractor" means a person that contracts with the:

6655 (A) department to provide services or functions that are part of the operation of the
6656 department; or

6657 (B) juvenile court to provide services or functions that are part of the operation of the
6658 juvenile court.

6659 (v) "Youth receiving state services" means an individual:

6660 (A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who
6661 is:

6662 (I) in the custody of the department under Section 80-6-703; or

6663 (II) receiving services from any division of the department if any portion of the costs of
6664 these services is covered by public money; or

6665 (B) younger than 21 years old:

6666 (I) who is in the custody of the [~~Division of Juvenile Justice Services~~] Division of
6667 Juvenile Justice and Youth Services, or the Division of Child and Family Services; or

6668 (II) whose case is under the jurisdiction of the juvenile court.

6669 (b) Terms defined in Section 76-1-101.5 apply to this section.

6670 (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an
6671 actor commits custodial sexual relations with a youth receiving state services if:

6672 (i) the actor commits any of the acts described in Subsection (2)(b); and

6673 (ii) (A) the actor knows that the individual is a youth receiving state services; or

6674 (B) a reasonable person in the actor's position should have known under the
6675 circumstances that the individual was a youth receiving state services.

6676 (b) Acts referred to in Subsection (2)(a)(i) are:

- 6677 (i) having sexual intercourse with a youth receiving state services;
- 6678 (ii) engaging in any sexual act with a youth receiving state services involving the
6679 genitals of one individual and the mouth or anus of another individual; or
- 6680 (iii) (A) causing the penetration, however slight, of the genital or anal opening of a
6681 youth receiving state services by any foreign object, substance, instrument, or device, including
6682 a part of the human body; and
- 6683 (B) with the intent to cause substantial emotional or bodily pain to any individual or
6684 with the intent to arouse or gratify the sexual desire of any individual.
- 6685 (c) Any touching, even if accomplished through clothing, is sufficient to constitute the
6686 relevant element of a violation of Subsection (2)(a).
- 6687 (3) (a) A violation of Subsection (2) is a third degree felony.
- 6688 (b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger
6689 than 18 years old, a violation of Subsection (2) is a second degree felony.
- 6690 (c) If the act committed under Subsection (2) amounts to an offense subject to a greater
6691 penalty under another provision of state law than is provided under this Subsection (3), this
6692 Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.
- 6693 (4) The offenses referred to in Subsection (2) are:
- 6694 (a) unlawful sexual activity with a minor, in violation of Section 76-5-401;
- 6695 (b) rape, in violation of Section 76-5-402;
- 6696 (c) rape of a child, in violation of Section 76-5-402.1;
- 6697 (d) object rape, in violation of Section 76-5-402.2;
- 6698 (e) object rape of a child, in violation of Section 76-5-402.3;
- 6699 (f) forcible sodomy, in violation of Section 76-5-403;
- 6700 (g) sodomy on a child, in violation of Section 76-5-403.1;
- 6701 (h) forcible sexual abuse, in violation of Section 76-5-404;
- 6702 (i) sexual abuse of a child, in violation of Section 76-5-404.1;
- 6703 (j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;
- 6704 (k) aggravated sexual assault, in violation of Section 76-5-405; or
- 6705 (l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).
- 6706 (5) (a) It is not a defense to the commission of, or an attempt to commit, the offense
6707 described in Subsection (2) if the youth receiving state services is younger than 18 years old,

6708 that the actor:

6709 (i) mistakenly believed the youth receiving state services to be 18 years old or older at
6710 the time of the alleged offense; or

6711 (ii) was unaware of the true age of the youth receiving state services.

6712 (b) Consent of the youth receiving state services is not a defense to any violation or
6713 attempted violation of Subsection (2).

6714 (6) It is a defense that the commission by the actor of an act under Subsection (2) is the
6715 result of compulsion, as the defense is described in Subsection 76-2-302(1).

6716 Section 88. Section 76-8-311.5 is amended to read:

6717 **76-8-311.5. Aiding or concealing a juvenile offender -- Trespass of a secure care**
6718 **facility -- Criminal penalties.**

6719 (1) As used in this section:

6720 (a) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6721 Justice and Youth Services created in Section 80-5-103.

6722 (b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

6723 (c) "Secure care" means the same as that term is defined in Section 80-1-102.

6724 (d) "Secure care facility" means the same as that term is defined in Section 80-1-102.

6725 (2) An individual who commits any of the following offenses is guilty of a class A
6726 misdemeanor:

6727 (a) entering, or attempting to enter, a building or enclosure appropriated to the use of
6728 juvenile offenders, without permission;

6729 (b) entering any premises belonging to a secure care facility and committing or
6730 attempting to commit a trespass or damage on the premises of a secure care facility; or

6731 (c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a
6732 juvenile offender in a secure care facility.

6733 (3) An individual is guilty of a third degree felony who:

6734 (a) knowingly harbors or conceals a juvenile offender who has:

6735 (i) escaped from secure care; or

6736 (ii) as described in Subsection (4), absconded from:

6737 (A) a facility or supervision; or

6738 (B) supervision of the division; or

6739 (b) willfully aided or assisted a juvenile offender who has been lawfully committed to a
6740 secure care facility in escaping or attempting to escape from the secure care facility.

6741 (4) As used in this section:

6742 (a) a juvenile offender absconds from a facility under this section when the juvenile
6743 offender:

6744 (i) leaves the facility without permission; or

6745 (ii) fails to return at a prescribed time.

6746 (b) A juvenile offender absconds from supervision when the juvenile offender:

6747 (i) changes the juvenile offender's residence from the residence that the juvenile
6748 offender reported to the division as the juvenile offender's correct address to another residence,

6749 without notifying the division or obtaining permission; or

6750 (ii) for the purpose of avoiding supervision:

6751 (A) hides at a different location from the juvenile offender's reported residence; or

6752 (B) leaves the juvenile offender's reported residence.

6753 Section 89. Section **77-16b-102** is amended to read:

6754 **77-16b-102. Definitions.**

6755 As used in this chapter:

6756 (1) "Correctional facility" means:

6757 (a) a county jail;

6758 (b) a secure correctional facility as defined by Section [64-13-1](#); or

6759 (c) a secure care facility as defined in Section [80-1-102](#).

6760 (2) "Correctional facility administrator" means:

6761 (a) a county sheriff in charge of a county jail;

6762 (b) a designee of the executive director of the Utah Department of Corrections; or

6763 (c) a designee of the director of the [~~Division of Juvenile Justice Services~~] Division of
6764 Juvenile Justice and Youth Services.

6765 (3) "Medical supervision" means under the direction of a licensed physician, physician
6766 assistant, or nurse practitioner.

6767 (4) "Mental health therapist" means the same as that term is defined in Section
6768 [58-60-102](#).

6769 (5) "Prisoner" means:

6770 (a) any individual who is a pretrial detainee or who has been committed to the custody
6771 of a sheriff or the Utah Department of Corrections, and who is physically in a correctional
6772 facility; and

6773 (b) any individual who is 18 years old or older and younger than 21 years old, and who
6774 has been committed to the custody of the [~~Division of Juvenile Justice Services~~] Division of
6775 Juvenile Justice and Youth Services.

6776 Section 90. Section ~~77-38-3~~ is amended to read:

6777 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**
6778 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact**
6779 **order.**

6780 (1) Within seven days after the day on which felony criminal charges are filed against a
6781 defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and
6782 locatable victims of the crime contained in the charges, except as otherwise provided in this
6783 chapter.

6784 (2) The initial notice to the victim of a crime shall provide information about electing
6785 to receive notice of subsequent important criminal justice hearings listed in Subsections
6786 ~~77-38-2(5)(a)~~ through (g) and rights under this chapter.

6787 (3) The prosecuting agency shall provide notice to a victim of a crime:

6788 (a) for the important criminal justice hearings, provided in Subsections ~~77-38-2(5)(a)~~
6789 through (g), which the victim has requested; and

6790 (b) for a restitution request to be submitted in accordance with Section ~~77-38b-202~~.

6791 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices
6792 in any reasonable manner, including telephonically, electronically, orally, or by means of a
6793 letter or form prepared for this purpose.

6794 (b) In the event of an unforeseen important criminal justice hearing, described in
6795 Subsections ~~77-38-2(5)(a)~~ through (g) for which a victim has requested notice, a good faith
6796 attempt to contact the victim by telephone shall be considered sufficient notice, provided that
6797 the prosecuting agency subsequently notifies the victim of the result of the proceeding.

6798 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
6799 for the proceedings provided in Subsections ~~77-38-2(5)(a)~~ through (g) permit an opportunity
6800 for victims of crimes to be notified.

6801 (b) The court shall consider whether any notification system that the court might use to
6802 provide notice of judicial proceedings to defendants could be used to provide notice of judicial
6803 proceedings to victims of crimes.

6804 (6) A defendant or, if it is the moving party, the Division of Adult Probation and
6805 Parole, shall give notice to the responsible prosecuting agency of any motion for modification
6806 of any determination made at any of the important criminal justice hearings provided in
6807 Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so
6808 that the prosecuting agency may comply with the prosecuting agency's notification obligation.

6809 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
6810 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

6811 (b) The board may provide notice in any reasonable manner, including telephonically,
6812 electronically, orally, or by means of a letter or form prepared for this purpose.

6813 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give
6814 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
6815 (g) only where the victim has responded to the initial notice, requested notice of subsequent
6816 proceedings, and provided a current address and telephone number if applicable.

6817 (9) To facilitate the payment of restitution and the notice of hearings regarding
6818 restitution, a victim who seeks restitution and notice of restitution hearings shall provide the
6819 court with the victim's current address and telephone number.

6820 (10) (a) Law enforcement and criminal justice agencies shall refer any requests for
6821 notice or information about crime victim rights from victims to the responsible prosecuting
6822 agency.

6823 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
6824 prosecuting agency shall forward any request for notice the prosecuting agency has received
6825 from a victim to the Board of Pardons and Parole.

6826 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting
6827 agency may send any notices required under this chapter in the prosecuting agency's discretion
6828 to a representative sample of the victims.

6829 (12) (a) A victim's address, telephone number, and victim impact statement maintained
6830 by a peace officer, prosecuting agency, Youth Parole Authority, [~~Division of Juvenile Justice~~
6831 ~~Services~~] Division of Juvenile Justice and Youth Services, Department of Corrections, Utah

6832 State Courts, and Board of Pardons and Parole, for purposes of providing notice under this
6833 section, are classified as protected under Subsection [63G-2-305\(10\)](#).

6834 (b) The victim's address, telephone number, and victim impact statement is available
6835 only to the following persons or entities in the performance of their duties:

6836 (i) a law enforcement agency, including the prosecuting agency;

6837 (ii) a victims' right committee as provided in Section [77-37-5](#);

6838 (iii) a governmentally sponsored victim or witness program;

6839 (iv) the Department of Corrections;

6840 (v) the Utah Office for Victims of Crime;

6841 (vi) the Commission on Criminal and Juvenile Justice;

6842 (vii) the Utah State Courts; and

6843 (viii) the Board of Pardons and Parole.

6844 (13) The notice provisions as provided in this section do not apply to misdemeanors as
6845 provided in Section [77-38-5](#) and to important juvenile justice hearings as provided in Section
6846 [77-38-2](#).

6847 (14) (a) When a defendant is charged with a felony crime under Sections [76-5-301](#)
6848 through [76-5-310.1](#) regarding kidnapping, human trafficking, and human smuggling; Sections
6849 [76-5-401](#) through [76-5-413.2](#) regarding sexual offenses; or Section [76-10-1306](#) regarding
6850 aggravated exploitation of prostitution, the court may, during any court hearing where the
6851 defendant is present, issue a pretrial criminal no contact order:

6852 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
6853 communicating with the victim directly or through a third party;

6854 (ii) ordering the defendant to stay away from the residence, school, place of
6855 employment of the victim, and the premises of any of these, or any specified place frequented
6856 by the victim or any designated family member of the victim directly or through a third party;
6857 and

6858 (iii) ordering any other relief that the court considers necessary to protect and provide
6859 for the safety of the victim and any designated family or household member of the victim.

6860 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
6861 third degree felony.

6862 (c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no

6863 contact order that has been issued if the victim can be located with reasonable effort.

6864 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
6865 domestic violence network in accordance with Section 78B-7-113.

6866 (15) (a) When a case involving a victim may resolve before trial with a plea deal, the
6867 prosecutor shall notify the victim of that possibility as soon as practicable.

6868 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
6869 explain the available details of an anticipated plea deal.

6870 Section 91. Section 77-41-102 (Superseded 07/01/24) is amended to read:

6871 **77-41-102 (Superseded 07/01/24). Definitions.**

6872 As used in this chapter:

6873 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
6874 Safety established in section 53-10-201.

6875 (2) "Business day" means a day on which state offices are open for regular business.

6876 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
6877 Identification showing that the offender has met the requirements of Section 77-41-112.

6878 (4) (a) "Convicted" means a plea or conviction of:

6879 (i) guilty;

6880 (ii) guilty with a mental condition; or

6881 (iii) no contest.

6882 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
6883 abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

6884 (c) "Convicted" does not include:

6885 (i) a withdrawn or dismissed plea in abeyance;

6886 (ii) a diversion agreement; or

6887 (iii) an adjudication of a minor for an offense under Section 80-6-701.

6888 (5) "Department" means the Department of Corrections.

6889 (6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
6890 Justice and Youth Services.

6891 (7) "Employed" or "carries on a vocation" includes employment that is full time or part
6892 time, whether financially compensated, volunteered, or for the purpose of government or
6893 educational benefit.

6894 (8) "Indian Country" means:

6895 (a) all land within the limits of any Indian reservation under the jurisdiction of the
6896 United States government, regardless of the issuance of any patent, and includes rights-of-way
6897 running through the reservation;

6898 (b) all dependent Indian communities within the borders of the United States whether
6899 within the original or subsequently acquired territory, and whether or not within the limits of a
6900 state; and

6901 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
6902 not been extinguished, including rights-of-way running through the allotments.

6903 (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any
6904 property under the jurisdiction of the United States military, Canada, the United Kingdom,
6905 Australia, or New Zealand.

6906 (10) "Kidnap offender" means any individual, other than a natural parent of the victim:

6907 (a) who has been convicted in this state of a violation of:

6908 (i) Subsection 76-5-301(2)(c) or (d), kidnapping;

6909 (ii) Section 76-5-301.1, child kidnapping;

6910 (iii) Section 76-5-302, aggravated kidnapping;

6911 (iv) Section 76-5-308, human trafficking for labor;

6912 (v) Section 76-5-308.3, human smuggling;

6913 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
6914 years old;

6915 (vii) Section 76-5-308.5, human trafficking of a child for labor;

6916 (viii) Section 76-5-310, aggravated human trafficking;

6917 (ix) Section 76-5-310.1, aggravated human smuggling;

6918 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

6919 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
6920 Subsections (10)(a)(i) through (x);

6921 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
6922 to commit a crime in another jurisdiction, including any state, federal, or military court that is
6923 substantially equivalent to the offenses listed in Subsection (10)(a); and

6924 (ii) who is:

- 6925 (A) a Utah resident; or
- 6926 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 6927 10 or more days, regardless of whether or not the offender intends to permanently reside in this
- 6928 state;
- 6929 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
- 6930 original conviction;
- 6931 (B) who is required to register as a kidnap offender by any state, federal, or military
- 6932 court; or
- 6933 (C) who would be required to register as a kidnap offender if residing in the
- 6934 jurisdiction of the conviction regardless of the date of the conviction or any previous
- 6935 registration requirements; and
- 6936 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
- 6937 regardless of whether or not the offender intends to permanently reside in this state;
- 6938 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 6939 (B) who is a student in this state; and
- 6940 (ii) (A) who was convicted of one or more offenses listed in Subsection (10), or any
- 6941 substantially equivalent offense in another jurisdiction; or
- 6942 (B) as a result of the conviction, who is required to register in the individual's state of
- 6943 residence;
- 6944 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
- 6945 of one or more offenses listed in Subsection (10); or
- 6946 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 6947 Subsection (10)(a); and
- 6948 (ii) who has been committed to the division for secure care, as defined in Section
- 6949 80-1-102, for that offense if:
- 6950 (A) the individual remains in the division's custody until 30 days before the individual's
- 6951 21st birthday;
- 6952 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 6953 under Section 80-6-605 and the individual remains in the division's custody until 30 days
- 6954 before the individual's 25th birthday; or
- 6955 (C) the individual is moved from the division's custody to the custody of the

6956 department before expiration of the division's jurisdiction over the individual.

6957 (11) "Natural parent" means a minor's biological or adoptive parent, and includes the
6958 minor's noncustodial parent.

6959 (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex
6960 offender as defined in Subsection (18).

6961 (13) "Online identifier" or "Internet identifier":

6962 (a) means any electronic mail, chat, instant messenger, social networking, or similar
6963 name used for Internet communication; and

6964 (b) does not include date of birth, social security number, PIN number, or Internet
6965 passwords.

6966 (14) "Primary residence" means the location where the offender regularly resides, even
6967 if the offender intends to move to another location or return to another location at any future
6968 date.

6969 (15) "Register" means to comply with the requirements of this chapter and
6970 administrative rules of the department made under this chapter.

6971 (16) "Registration website" means the Sex and Kidnap Offender Notification and
6972 Registration website described in Section 77-41-110 and the information on the website.

6973 (17) "Secondary residence" means any real property that the offender owns or has a
6974 financial interest in, or any location where, in any 12-month period, the offender stays
6975 overnight a total of 10 or more nights when not staying at the offender's primary residence.

6976 (18) "Sex offender" means any individual:

6977 (a) convicted in this state of:

6978 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

6979 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

6980 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;

6981 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

6982 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

6983 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

6984 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
6985 Subsection 76-5-401(3)(b) or (c);

6986 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection

- 6987 76-5-401.1(3);
- 6988 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 6989 (x) Section 76-5-402, rape;
- 6990 (xi) Section 76-5-402.1, rape of a child;
- 6991 (xii) Section 76-5-402.2, object rape;
- 6992 (xiii) Section 76-5-402.3, object rape of a child;
- 6993 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 6994 (xv) Section 76-5-403.1, sodomy on a child;
- 6995 (xvi) Section 76-5-404, forcible sexual abuse;
- 6996 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
6997 sexual abuse of a child;
- 6998 (xviii) Section 76-5-405, aggravated sexual assault;
- 6999 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
7000 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 7001 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 7002 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 7003 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 7004 (xxiii) Section 76-7-102, incest;
- 7005 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
7006 four or more times;
- 7007 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
7008 offense four or more times;
- 7009 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
7010 76-9-702.1, sexual battery, that total four or more convictions;
- 7011 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 7012 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 7013 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 7014 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
7015 Subsection (18)(a);
- 7016 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7017 to commit a crime in another jurisdiction, including any state, federal, or military court that is

7018 substantially equivalent to the offenses listed in Subsection (18)(a); and
7019 (ii) who is:
7020 (A) a Utah resident; or
7021 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
7022 10 or more days, regardless of whether the offender intends to permanently reside in this state;
7023 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
7024 original conviction;
7025 (B) who is required to register as a sex offender by any state, federal, or military court;
7026 or
7027 (C) who would be required to register as a sex offender if residing in the jurisdiction of
7028 the original conviction regardless of the date of the conviction or any previous registration
7029 requirements; and
7030 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
7031 regardless of whether or not the offender intends to permanently reside in this state;
7032 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
7033 (B) who is a student in this state; and
7034 (ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any
7035 substantially equivalent offense in any jurisdiction; or
7036 (B) who is, as a result of the conviction, required to register in the individual's
7037 jurisdiction of residence;
7038 (e) who is found not guilty by reason of insanity in this state, or in any other
7039 jurisdiction of one or more offenses listed in Subsection (18)(a); or
7040 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7041 Subsection (18)(a); and
7042 (ii) who has been committed to the division for secure care, as defined in Section
7043 80-1-102, for that offense if:
7044 (A) the individual remains in the division's custody until 30 days before the individual's
7045 21st birthday;
7046 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7047 under Section 80-6-605 and the individual remains in the division's custody until 30 days
7048 before the individual's 25th birthday; or

7049 (C) the individual is moved from the division's custody to the custody of the
7050 department before expiration of the division's jurisdiction over the individual.

7051 (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,
7052 Driving Under the Influence and Reckless Driving.

7053 (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
7054 any jurisdiction.

7055 Section 92. Section **77-41-102 (Effective 07/01/24)** is amended to read:

7056 **77-41-102 (Effective 07/01/24). Definitions.**

7057 As used in this chapter:

7058 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
7059 Safety established in section [53-10-201](#).

7060 (2) "Business day" means a day on which state offices are open for regular business.

7061 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
7062 Identification showing that the offender has met the requirements of Section [77-41-112](#).

7063 (4) (a) "Convicted" means a plea or conviction of:

7064 (i) guilty;

7065 (ii) guilty with a mental illness; or

7066 (iii) no contest.

7067 (b) "Convicted" includes, unless otherwise specified, the period a plea is held in
7068 abeyance pursuant to a plea in abeyance agreement as defined in Section [77-2a-1](#).

7069 (c) "Convicted" does not include:

7070 (i) a withdrawn or dismissed plea in abeyance;

7071 (ii) a diversion agreement; or

7072 (iii) an adjudication of a minor for an offense under Section [80-6-701](#).

7073 (5) "Department" means the Department of Public Safety.

7074 (6) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
7075 Justice and Youth Services.

7076 (7) "Employed" or "carries on a vocation" includes employment that is full time or part
7077 time, whether financially compensated, volunteered, or for the purpose of government or
7078 educational benefit.

7079 (8) "Indian Country" means:

7080 (a) all land within the limits of any Indian reservation under the jurisdiction of the
7081 United States government, regardless of the issuance of any patent, and includes rights-of-way
7082 running through the reservation;

7083 (b) all dependent Indian communities within the borders of the United States whether
7084 within the original or subsequently acquired territory, and whether or not within the limits of a
7085 state; and

7086 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
7087 not been extinguished, including rights-of-way running through the allotments.

7088 (9) "Jurisdiction" means any state, Indian Country, United States Territory, or any
7089 property under the jurisdiction of the United States military, Canada, the United Kingdom,
7090 Australia, or New Zealand.

7091 (10) "Kidnap offender" means any individual, other than a natural parent of the victim:

7092 (a) who has been convicted in this state of a violation of:

7093 (i) Subsection 76-5-301(2)(c) or (d), kidnapping;

7094 (ii) Section 76-5-301.1, child kidnapping;

7095 (iii) Section 76-5-302, aggravated kidnapping;

7096 (iv) Section 76-5-308, human trafficking for labor;

7097 (v) Section 76-5-308.3, human smuggling;

7098 (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18
7099 years old;

7100 (vii) Section 76-5-308.5, human trafficking of a child for labor;

7101 (viii) Section 76-5-310, aggravated human trafficking;

7102 (ix) Section 76-5-310.1, aggravated human smuggling;

7103 (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

7104 (xi) attempting, soliciting, or conspiring to commit any felony offense listed in
7105 Subsections (10)(a)(i) through (x);

7106 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
7107 to commit a crime in another jurisdiction, including any state, federal, or military court that is
7108 substantially equivalent to the offenses listed in Subsection (10)(a); and

7109 (ii) who is:

7110 (A) a Utah resident; or

7111 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
7112 10 or more days, regardless of whether or not the offender intends to permanently reside in this
7113 state;

7114 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
7115 original conviction;

7116 (B) who is required to register as a kidnap offender by any state, federal, or military
7117 court; or

7118 (C) who would be required to register as a kidnap offender if residing in the
7119 jurisdiction of the conviction regardless of the date of the conviction or any previous
7120 registration requirements; and

7121 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
7122 regardless of whether or not the offender intends to permanently reside in this state;

7123 (d) (i) (A) who is a nonresident regularly employed or working in this state; or

7124 (B) who is a student in this state; and

7125 (ii) (A) who was convicted of one or more offenses listed in Subsection (10), or any
7126 substantially equivalent offense in another jurisdiction; or

7127 (B) as a result of the conviction, who is required to register in the individual's state of
7128 residence;

7129 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
7130 of one or more offenses listed in Subsection (10); or

7131 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
7132 Subsection (10)(a); and

7133 (ii) who has been committed to the division for secure care, as defined in Section
7134 80-1-102, for that offense if:

7135 (A) the individual remains in the division's custody until 30 days before the individual's
7136 21st birthday;

7137 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
7138 under Section 80-6-605 and the individual remains in the division's custody until 30 days
7139 before the individual's 25th birthday; or

7140 (C) the individual is moved from the division's custody to the custody of the
7141 department before expiration of the division's jurisdiction over the individual.

7142 (11) "Natural parent" means a minor's biological or adoptive parent, and includes the
7143 minor's noncustodial parent.

7144 (12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex
7145 offender as defined in Subsection (18).

7146 (13) "Online identifier" or "Internet identifier":

7147 (a) means any electronic mail, chat, instant messenger, social networking, or similar
7148 name used for Internet communication; and

7149 (b) does not include date of birth, social security number, PIN number, or Internet
7150 passwords.

7151 (14) "Primary residence" means the location where the offender regularly resides, even
7152 if the offender intends to move to another location or return to another location at any future
7153 date.

7154 (15) "Register" means to comply with the requirements of this chapter and
7155 administrative rules of the department made under this chapter.

7156 (16) "Registration website" means the Sex and Kidnap Offender Notification and
7157 Registration website described in Section 77-41-110 and the information on the website.

7158 (17) "Secondary residence" means any real property that the offender owns or has a
7159 financial interest in, or any location where, in any 12-month period, the offender stays
7160 overnight a total of 10 or more nights when not staying at the offender's primary residence.

7161 (18) "Sex offender" means any individual:

7162 (a) convicted in this state of:

7163 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

7164 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

7165 (iii) Section 76-5-308.1, human trafficking for sexual exploitation;

7166 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

7167 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

7168 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

7169 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
7170 Subsection 76-5-401(3)(b) or (c);

7171 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
7172 76-5-401.1(3);

- 7173 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 7174 (x) Section 76-5-402, rape;
- 7175 (xi) Section 76-5-402.1, rape of a child;
- 7176 (xii) Section 76-5-402.2, object rape;
- 7177 (xiii) Section 76-5-402.3, object rape of a child;
- 7178 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 7179 (xv) Section 76-5-403.1, sodomy on a child;
- 7180 (xvi) Section 76-5-404, forcible sexual abuse;
- 7181 (xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated
- 7182 sexual abuse of a child;
- 7183 (xviii) Section 76-5-405, aggravated sexual assault;
- 7184 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
- 7185 younger than 18 years old, if the offense is committed on or after May 10, 2011;
- 7186 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 7187 (xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;
- 7188 (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 7189 (xxiii) Section 76-7-102, incest;
- 7190 (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 7191 four or more times;
- 7192 (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 7193 offense four or more times;
- 7194 (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 7195 76-9-702.1, sexual battery, that total four or more convictions;
- 7196 (xxvii) Section 76-9-702.5, lewdness involving a child;
- 7197 (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 7198 (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or
- 7199 (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this
- 7200 Subsection (18)(a);
- 7201 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 7202 to commit a crime in another jurisdiction, including any state, federal, or military court that is
- 7203 substantially equivalent to the offenses listed in Subsection (18)(a); and

- 7204 (ii) who is:
- 7205 (A) a Utah resident; or
- 7206 (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of
- 7207 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 7208 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of
- 7209 original conviction;
- 7210 (B) who is required to register as a sex offender by any state, federal, or military court;
- 7211 or
- 7212 (C) who would be required to register as a sex offender if residing in the jurisdiction of
- 7213 the original conviction regardless of the date of the conviction or any previous registration
- 7214 requirements; and
- 7215 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
- 7216 regardless of whether or not the offender intends to permanently reside in this state;
- 7217 (d) (i) (A) who is a nonresident regularly employed or working in this state; or
- 7218 (B) who is a student in this state; and
- 7219 (ii) (A) who was convicted of one or more offenses listed in Subsection (18)(a), or any
- 7220 substantially equivalent offense in any jurisdiction; or
- 7221 (B) who is, as a result of the conviction, required to register in the individual's
- 7222 jurisdiction of residence;
- 7223 (e) who is found not guilty by reason of insanity in this state, or in any other
- 7224 jurisdiction of one or more offenses listed in Subsection (18)(a); or
- 7225 (f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in
- 7226 Subsection (18)(a); and
- 7227 (ii) who has been committed to the division for secure care, as defined in Section
- 7228 80-1-102, for that offense if:
- 7229 (A) the individual remains in the division's custody until 30 days before the individual's
- 7230 21st birthday;
- 7231 (B) the juvenile court extended the juvenile court's jurisdiction over the individual
- 7232 under Section 80-6-605 and the individual remains in the division's custody until 30 days
- 7233 before the individual's 25th birthday; or
- 7234 (C) the individual is moved from the division's custody to the custody of the

7235 department before expiration of the division's jurisdiction over the individual.

7236 (19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,
7237 Driving Under the Influence and Reckless Driving.

7238 (20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
7239 any jurisdiction.

7240 Section 93. Section **78A-6-212** is amended to read:

7241 **78A-6-212. Information supplied to the Division of Juvenile Justice and Youth**
7242 **Services.**

7243 (1) A juvenile probation officer shall render full and complete cooperation to the
7244 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services in
7245 supplying the [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth
7246 Services with all pertinent information relating to a juvenile offender committed to the
7247 [~~Division of Juvenile Justice Services~~] Division of Juvenile Justice and Youth Services.

7248 (2) Information under Subsection (1) includes prior criminal history, social history,
7249 psychological evaluations, and identifying information specified by the [~~Division of Juvenile~~
7250 ~~Justice Services~~] Division of Juvenile Justice and Youth Services.

7251 Section 94. Section **78B-7-804** is amended to read:

7252 **78B-7-804. Sentencing and continuous protective orders for a domestic violence**
7253 **offense -- Modification -- Expiration.**

7254 (1) Before a perpetrator who has been convicted of or adjudicated for a domestic
7255 violence offense may be placed on probation, the court shall consider the safety and protection
7256 of the victim and any member of the victim's family or household.

7257 (2) The court may condition probation or a plea in abeyance on the perpetrator's
7258 compliance with a sentencing protective order that includes:

7259 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
7260 domestic violence against the victim or other family or household member;

7261 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
7262 otherwise communicating with the victim, directly or indirectly;

7263 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
7264 place of employment, and the premises of any of these, or a specified place frequented
7265 regularly by the victim or any designated family or household member;

7266 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
7267 or other specified weapon;

7268 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
7269 possesses; and

7270 (f) an order imposing any other condition necessary to protect the victim and any other
7271 designated family or household member or to rehabilitate the perpetrator.

7272 (3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence
7273 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of
7274 continued acts of violence subsequent to the release of a perpetrator who is convicted of or
7275 adjudicated for domestic violence, it is the finding of the Legislature that domestic violence
7276 crimes warrant the issuance of continuous protective orders under this Subsection (3) because
7277 of the need to provide ongoing protection for the victim and to be consistent with the purposes
7278 of protecting victims' rights under Title 77, Chapter 38, Crime Victims, and Article I, Section
7279 28 of the Utah Constitution.

7280 (b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic
7281 violence offense resulting in a sentence of imprisonment, including jail, that is to be served
7282 after conviction, the court shall issue a continuous protective order at the time of the conviction
7283 or sentencing limiting the contact between the perpetrator and the victim unless:

7284 (i) the court determines by clear and convincing evidence that the victim does not a
7285 have a reasonable fear of future harm or abuse; and

7286 (ii) the court conducts a hearing.

7287 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

7288 (ii) A victim has a right to request a hearing.

7289 (iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c), the
7290 court shall hold the hearing at the time determined by the court.

7291 (iv) The continuous protective order shall be in effect while the hearing is being
7292 scheduled and while the hearing is pending.

7293 (v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described in
7294 Subsection (3)(b)(ii).

7295 (d) A continuous protective order is permanent in accordance with this Subsection (3)
7296 and may include:

7297 (i) an order enjoining the perpetrator from threatening to commit or committing acts of
7298 domestic violence against the victim or other family or household member;

7299 (ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
7300 otherwise communicating with the victim, directly or indirectly;

7301 (iii) an order prohibiting the perpetrator from going to the victim's residence, school,
7302 place of employment, and the premises of any of these, or a specified place frequented
7303 regularly by the victim or any designated family or other household member;

7304 (iv) an order directing the perpetrator to pay restitution to the victim as may apply, and
7305 shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

7306 (v) any other order the court considers necessary to fully protect the victim and
7307 members of the victim's family or other household member.

7308 (4) A continuous protective order may be modified or dismissed only if the court
7309 determines by clear and convincing evidence that all requirements of Subsection (3) have been
7310 met and the victim does not have a reasonable fear of future harm or abuse.

7311 (5) Except as provided in Subsection (6), in addition to the process of issuing a
7312 continuous protective order described in Subsection (3), a district court may issue a continuous
7313 protective order at any time if the victim files a petition with the court, and after notice and
7314 hearing the court finds that a continuous protective order is necessary to protect the victim.

7315 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
7316 under Section 80-6-504, a continuous protective order may not be issued under this section
7317 against a perpetrator who is a minor.

7318 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
7319 issued under this section against a perpetrator who is a minor expires on the earlier of:

7320 (i) the day on which the juvenile court terminates jurisdiction; or

7321 (ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile~~
7322 ~~Justice Services~~] Division of Juvenile Justice and Youth Services discharges the perpetrator.

7323 Section 95. Section 78B-7-805 is amended to read:

7324 **78B-7-805. Sentencing protective orders and continuous protective orders for an**
7325 **offense that is not domestic violence -- Modification -- Expiration.**

7326 (1) Before a perpetrator has been convicted of or adjudicated for an offense that is not
7327 domestic violence is placed on probation, the court may consider the safety and protection of

7328 the victim and any member of the victim's family or household.

7329 (2) The court may condition probation or a plea in abeyance on the perpetrator's
7330 compliance with a sentencing protective order that includes:

7331 (a) an order enjoining the perpetrator from threatening to commit or committing acts of
7332 domestic violence against the victim or other family or household member;

7333 (b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or
7334 otherwise communicating with the victim, directly or indirectly;

7335 (c) an order requiring the perpetrator to stay away from the victim's residence, school,
7336 place of employment, and the premises of any of these, or a specified place frequented
7337 regularly by the victim or any designated family or household member;

7338 (d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm
7339 or other specified weapon;

7340 (e) an order directing the perpetrator to surrender any weapons the perpetrator owns or
7341 possesses; and

7342 (f) an order imposing any other condition necessary to protect the victim and any other
7343 designated family or household member or to rehabilitate the perpetrator.

7344 (3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting
7345 in a sentence of imprisonment that is to be served after conviction, the court may issue a
7346 continuous protective order at the time of the conviction or sentencing limiting the contact
7347 between the perpetrator and the victim if the court determines by clear and convincing evidence
7348 that the victim has a reasonable fear of future harm or abuse.

7349 (b) (i) The court shall notify the perpetrator of the right to request a hearing.

7350 (ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold
7351 the hearing at the time determined by the court and the continuous protective order shall be in
7352 effect while the hearing is being scheduled and while the hearing is pending.

7353 (c) Except as provided in Subsection (6), a continuous protective order is permanent in
7354 accordance with this Subsection (3)(c) and may include any order described in Subsection
7355 [78B-7-804\(3\)\(c\)](#).

7356 (4) A continuous protective order issued under this section may be modified or
7357 dismissed only in accordance with Subsection [78B-7-804\(4\)](#).

7358 (5) Except as provided in Subsection (6), in addition to the process of issuing a

7359 continuous protective order described in Subsection (3)(a), a district court may issue a
7360 continuous protective order at any time in accordance with Subsection 78B-7-804(5).

7361 (6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court
7362 under Section 80-6-504, a continuous protective order may not be issued under this section
7363 against a perpetrator who is a minor.

7364 (b) Unless the court sets an earlier date for expiration, a sentencing protective order
7365 issued under this section against a perpetrator who is a minor expires on the earlier of:

7366 (i) the day on which the juvenile court terminates jurisdiction; or

7367 (ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile~~
7368 ~~Justice Services~~] Division of Juvenile Justice and Youth Services discharges the perpetrator.

7369 Section 96. Section 78B-24-307 is amended to read:

7370 **78B-24-307. Child-placing agency compliance.**

7371 (1) [~~The Office of Licensing~~] The Division of Licensing and Background Checks,
7372 created in Section 26B-2-103, may investigate an allegation that a child-placing agency has
7373 failed to comply with this part and commence an action for injunctive or other relief or initiate
7374 administrative proceedings against the child-placing agency to enforce this part.

7375 (2) (a) The Office of Licensing may initiate a proceeding to determine whether a
7376 child-placing agency has failed to comply with this part.

7377 (b) If the Office of Licensing finds that the child-placing agency has failed to comply,
7378 the Office of Licensing may suspend or revoke the child-placing agency's license or take other
7379 action permitted by law of the state.

7380 Section 97. Section 78B-24-308 is amended to read:

7381 **78B-24-308. Rulemaking authority.**

7382 [~~The Office of Licensing~~] The Division of Licensing and Background Checks, created
7383 in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative
7384 Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and
7385 78B-24-306.

7386 Section 98. Section 80-2-301 is amended to read:

7387 **80-2-301. Division responsibilities.**

7388 (1) The division is the child, youth, and family services authority of the state.

7389 (2) The division shall:

- 7390 (a) administer services to minors and families, including:
- 7391 (i) child welfare services;
- 7392 (ii) domestic violence services; and
- 7393 (iii) all other responsibilities that the Legislature or the executive director of the
- 7394 department may assign to the division;
- 7395 (b) provide the following services:
- 7396 (i) financial and other assistance to an individual adopting a child with special needs
- 7397 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would
- 7398 provide for the child as a legal ward of the state;
- 7399 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
- 7400 including:
- 7401 (A) services designed to prevent family break-up; and
- 7402 (B) family preservation services;
- 7403 (iii) reunification services to families whose children are in substitute care in
- 7404 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
- 7405 Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 7406 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
- 7407 or neglect of a child in that family;
- 7408 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
- 7409 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 7410 (vi) domestic violence services, in accordance with the requirements of federal law;
- 7411 (vii) protective services to victims of domestic violence and the victims' children, in
- 7412 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
- 7413 Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 7414 (viii) substitute care for dependent, abused, and neglected children;
- 7415 (ix) services for minors who are victims of human trafficking or human smuggling, as
- 7416 described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or
- 7417 sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and
- 7418 (x) training for staff and providers involved in the administration and delivery of
- 7419 services offered by the division in accordance with this chapter and Chapter 2a, Removal and
- 7420 Protective Custody of a Child;

- 7421 (c) establish standards for all:
- 7422 (i) contract providers of out-of-home care for minors and families;
- 7423 (ii) facilities that provide substitute care for dependent, abused, or neglected children
- 7424 placed in the custody of the division; and
- 7425 (iii) direct or contract providers of domestic violence services described in Subsection
- 7426 (2)(b)(vi);
- 7427 (d) have authority to:
- 7428 (i) contract with a private, nonprofit organization to recruit and train foster care
- 7429 families and child welfare volunteers in accordance with Section [80-2-405](#); and
- 7430 (ii) approve facilities that meet the standards established under Subsection (2)(c) to
- 7431 provide substitute care for dependent, abused, or neglected children placed in the custody of the
- 7432 division;
- 7433 (e) cooperate with the federal government in the administration of child welfare and
- 7434 domestic violence programs and other human service activities assigned by the department;
- 7435 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
- 7436 enacted for the protection of abused, neglected, or dependent children, in accordance with this
- 7437 chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is
- 7438 expressly vested in another division or department of the state;
- 7439 (g) cooperate with the Workforce Development Division within the Department of
- 7440 Workforce Services in meeting the social and economic needs of an individual who is eligible
- 7441 for public assistance;
- 7442 (h) compile relevant information, statistics, and reports on child and family service
- 7443 matters in the state;
- 7444 (i) prepare and submit to the department, the governor, and the Legislature reports of
- 7445 the operation and administration of the division in accordance with the requirements of
- 7446 Sections [80-2-1102](#) and [80-2-1103](#);
- 7447 (j) within appropriations from the Legislature, provide or contract for a variety of
- 7448 domestic violence services and treatment methods;
- 7449 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of
- 7450 abuse and neglect in accordance with Section [80-2-503](#);
- 7451 (l) seek reimbursement of funds the division expends on behalf of a child in the

- 7452 protective custody, temporary custody, or custody of the division, from the child's parent or
7453 guardian in accordance with an order for child support under Section 78A-6-356;
- 7454 (m) ensure regular, periodic publication, including electronic publication, regarding the
7455 number of children in the custody of the division who:
- 7456 (i) have a permanency goal of adoption; or
7457 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and
7458 promote adoption of the children;
- 7459 (n) subject to Subsections (5) and (7), refer an individual receiving services from the
7460 division to the local substance abuse authority or other private or public resource for a
7461 court-ordered drug screening test;
- 7462 (o) report before November 30, 2020, and every third year thereafter, to the Social
7463 Services Appropriations Subcommittee regarding:
- 7464 (i) the daily reimbursement rate that is provided to licensed foster parents based on
7465 level of care;
- 7466 (ii) the amount of money spent on daily reimbursements for licensed foster parents
7467 during the previous fiscal year; and
- 7468 (iii) any recommended changes to the division's budget to support the daily
7469 reimbursement rates described in Subsection (2)(o)(i); and
- 7470 (p) perform other duties and functions required by law.
- 7471 (3) (a) The division may provide, directly or through contract, services that include the
7472 following:
- 7473 (i) adoptions;
- 7474 (ii) day-care services;
- 7475 (iii) out-of-home placements for minors;
- 7476 (iv) health-related services;
- 7477 (v) homemaking services;
- 7478 (vi) home management services;
- 7479 (vii) protective services for minors;
- 7480 (viii) transportation services; or
- 7481 (ix) domestic violence services.
- 7482 (b) The division shall monitor services provided directly by the division or through

7483 contract to ensure compliance with applicable law and rules made in accordance with Title
7484 63G, Chapter 3, Utah Administrative Rulemaking Act.

7485 (c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
7486 through a private contract, the division shall post the name of the service provider on the
7487 division's website.

7488 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

7489 (4) (a) The division may:

7490 (i) receive gifts, grants, devises, and donations;

7491 (ii) encourage merchants and service providers to:

7492 (A) donate goods or services; or

7493 (B) provide goods or services at a nominal price or below cost;

7494 (iii) distribute goods to applicants or consumers of division services free or for a
7495 nominal charge and tax free; and

7496 (iv) appeal to the public for funds to meet needs of applicants or consumers of division
7497 services that are not otherwise provided by law, including Sub-for-Santa programs, recreational
7498 programs for minors, and requests for household appliances and home repairs.

7499 (b) If requested by the donor and subject to state and federal law, the division shall use
7500 a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the
7501 purpose requested by the donor.

7502 (5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

7503 (i) cooperate with the juvenile courts, the ~~[Division of Juvenile Justice Services]~~
7504 Division of Juvenile Justice and Youth Services, and with all public and private licensed child
7505 welfare agencies and institutions to develop and administer a broad range of services and
7506 support;

7507 (ii) take the initiative in all matters involving the protection of abused or neglected
7508 children, if adequate provisions have not been made or are not likely to be made; and

7509 (iii) make expenditures necessary for the care and protection of the children described
7510 in Subsection (5)(a)(ii), within the division's budget.

7511 (b) If an individual is referred to a local substance abuse authority or other private or
7512 public resource for court-ordered drug screening under Subsection (2)(n), the court shall order
7513 the individual to pay all costs of the tests unless:

7514 (i) the cost of the drug screening is specifically funded or provided for by other federal
7515 or state programs;

7516 (ii) the individual is a participant in a drug court; or

7517 (iii) the court finds that the individual is an indigent individual.

7518 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter
7519 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic
7520 violence in the presence of a child, as described in Section 76-5-114.

7521 (7) (a) Except as provided in Subsection (7)(b), the division may not:

7522 (i) require a parent who has a child in the custody of the division to pay for some or all
7523 of the cost of any drug testing the parent is required to undergo; or

7524 (ii) refer an individual who is receiving services from the division for drug testing by
7525 means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

7526 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is
7527 receiving services from the division for drug testing by means of a saliva test if:

7528 (i) the individual consents to drug testing by means of a saliva test; or

7529 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,
7530 orders the individual to complete drug testing by means of a saliva test.

7531 Section 99. Section 80-2-703 is amended to read:

7532 **80-2-703. Conflict child protective services investigations -- Authority of**
7533 **investigators.**

7534 (1) (a) The department, through the [~~Office of Quality and Design created in Section~~
7535 ~~62A-18-103~~] Division of Continuous Quality and Improvement, shall conduct an independent
7536 child protective service investigation to investigate reports of abuse or neglect if:

7537 (i) the report occurs while the child is in the custody of the division; or

7538 (ii) the executive director of the department determines that, if the division conducts
7539 the investigation, the division would have an actual or potential conflict of interest in the
7540 results of the investigation.

7541 (b) If a report is made while a child is in the custody of the division that indicates the
7542 child is abused or neglected:

7543 (i) the attorney general may, in accordance with Section 67-5-16, and with the consent
7544 of the department, employ a child protective services investigator to conduct a conflict

7545 investigation of the report; or

7546 (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent
7547 of the department, conduct a conflict investigation of the report.

7548 (c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the
7549 consent of the department, conducting a criminal investigation of abuse or neglect under Title
7550 53, Public Safety Code.

7551 (2) An investigator described in Subsection (1) may also investigate allegations of
7552 abuse or neglect of a child by a department employee or a licensed substitute care provider.

7553 (3) An investigator described in Subsection (1), if not a law enforcement officer, shall
7554 have the same rights, duties, and authority of a child welfare caseworker to:

7555 (a) make a thorough investigation under Section 80-2-701 upon receiving a report of
7556 alleged abuse or neglect of a child, with the primary purpose of the investigation being the
7557 protection of the child;

7558 (b) make an inquiry into the child's home environment, emotional, or mental health, the
7559 nature and extent of the child's injuries, and the child's physical safety;

7560 (c) make a written report of the investigator's investigation, including determination
7561 regarding whether the alleged abuse or neglect is supported, unsupported, or without merit, and
7562 forward a copy of the report to the division within the time mandates for investigations
7563 established by the division; and

7564 (d) immediately consult with school authorities to verify the child's status in
7565 accordance with Sections 53G-6-201 through 53G-6-206 if a report is based on or includes an
7566 allegation of educational neglect.

7567 Section 100. Section 80-2-1001 is amended to read:

7568 **80-2-1001. Management Information System -- Contents -- Classification of**
7569 **records -- Access.**

7570 (1) The division shall develop and implement a Management Information System that
7571 meets the requirements of this section and the requirements of federal law and regulation.

7572 (2) The Management Information System shall:

7573 (a) contain all key elements of each family's current child and family plan, including:

7574 (i) the dates and number of times the plan has been administratively or judicially
7575 reviewed;

- 7576 (ii) the number of times the parent failed the child and family plan; and
7577 (iii) the exact length of time the child and family plan has been in effect; and
7578 (b) alert child welfare caseworkers regarding deadlines for completion of and
7579 compliance with policy, including child and family plans.
- 7580 (3) For a child welfare case, the Management Information System shall provide each
7581 child welfare caseworker and the [~~Office of Licensing~~] Division of Licensing and Background
7582 Checks created in Section 26B-2-103, exclusively for the purposes of foster parent licensure
7583 and monitoring, with a complete history of each child in the child welfare caseworker's
7584 caseload, including:
- 7585 (a) a record of all past action taken by the division with regard to the child and the
7586 child's siblings;
- 7587 (b) the complete case history and all reports and information in the control or keeping
7588 of the division regarding the child and the child's siblings;
- 7589 (c) the number of times the child has been in the protective custody, temporary
7590 custody, and custody of the division;
- 7591 (d) the cumulative period of time the child has been in the custody of the division;
- 7592 (e) a record of all reports of abuse or neglect received by the division with regard to the
7593 child's parent or guardian including:
- 7594 (i) for each report, documentation of the:
7595 (A) latest status; or
7596 (B) final outcome or determination; and
7597 (ii) information that indicates whether each report was found to be:
7598 (A) supported;
7599 (B) unsupported;
7600 (C) substantiated;
7601 (D) unsubstantiated; or
7602 (E) without merit;
- 7603 (f) the number of times the child's parent failed any child and family plan; and
7604 (g) the number of different child welfare caseworkers who have been assigned to the
7605 child in the past.
- 7606 (4) For child protective services cases, the Management Information System shall:

7607 (a) monitor the compliance of each case with:
7608 (i) division rule;
7609 (ii) state law; and
7610 (iii) federal law and regulation; and
7611 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
7612 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
7613 the alleged perpetrator.

7614 (5) Information or a record contained in the Management Information System is:
7615 (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government
7616 Records Access and Management Act; and
7617 (b) available only:
7618 (i) to a person or government entity with statutory authorization under Title 63G,
7619 Chapter 2, Government Records Access and Management Act, to review the information or
7620 record;
7621 (ii) to a person who has specific statutory authorization to access the information or
7622 record for the purpose of assisting the state with state or federal requirements to maintain
7623 information solely for the purpose of protecting minors and providing services to families in
7624 need;
7625 (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:
7626 (A) to comply with abuse and neglect registry checks requested by other states; or
7627 (B) to the United States Department of Health and Human Services for purposes of
7628 maintaining an electronic national registry of supported or substantiated cases of abuse and
7629 neglect;
7630 (iv) to the department, upon the approval of the executive director of the department,
7631 on a need-to-know basis;
7632 (v) as provided in Subsection (6) or Section [80-2-1002](#); or
7633 (vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described
7634 in Section [80-2-1101](#).

7635 (6) (a) The division may allow a division contract provider, court clerk designated by
7636 the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to
7637 have limited access to the Management Information System.

7638 (b) A division contract provider or Indian tribe has access only to information about a
7639 person who is currently receiving services from the specific contract provider or Indian tribe.

7640 (c) A court clerk may only have access to information necessary to comply with
7641 Subsection 78B-7-202(2).

7642 (d) (i) The Office of Guardian Ad Litem may only access:

7643 (A) the information that is entered into the Management Information System on or after
7644 July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is
7645 appointed by a court to represent the interests of the child; or

7646 (B) any abuse or neglect referral about a child or family where the office has been
7647 appointed by a court to represent the interests of the child, regardless of the date that the
7648 information is entered into the Management Information System.

7649 (ii) The division may use the information in the Management Information System to
7650 screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the
7651 Office of Guardian Ad Litem.

7652 (e) A contract provider or designated representative of the Office of Guardian Ad
7653 Litem or an Indian tribe who requests access to information contained in the Management
7654 Information System shall:

7655 (i) take all necessary precautions to safeguard the security of the information contained
7656 in the Management Information System;

7657 (ii) train its employees regarding:

7658 (A) requirements for protecting the information contained in the Management
7659 Information System under this chapter and under Title 63G, Chapter 2, Government Records
7660 Access and Management Act; and

7661 (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper
7662 release of information; and

7663 (iii) monitor its employees to ensure that the employees protect the information
7664 contained in the Management Information System as required by law.

7665 (7) The division shall take:

7666 (a) all necessary precautions, including password protection and other appropriate and
7667 available technological techniques, to prevent unauthorized access to or release of information
7668 contained in the Management Information System; and

7669 (b) reasonable precautions to ensure that the division's contract providers comply with
7670 Subsection (6).

7671 Section 101. Section **80-2-1002** is amended to read:

7672 **80-2-1002. Licensing Information System -- Contents -- Classification of records**
7673 **-- Access -- Unlawful release -- Penalty.**

7674 (1) (a) The division shall maintain a sub-part of the Management Information System
7675 as the Licensing Information System to be used:

- 7676 (i) for licensing purposes; or
- 7677 (ii) as otherwise provided by law.

7678 (b) Notwithstanding Subsection (1)(a), the department's access to information in the
7679 Management Information System for the licensure and monitoring of a foster parent is
7680 governed by Sections [80-2-1001](#) and [26B-2-121](#).

7681 (2) The Licensing Information System shall include only the following information:

7682 (a) the name and other identifying information of the alleged perpetrator in a supported
7683 finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

7684 (b) a notation to the effect that an investigation regarding the alleged perpetrator
7685 described in Subsection (2)(a) is pending;

7686 (c) the information described in Subsection (3);

7687 (d) consented-to supported findings by an alleged perpetrator under Subsection
7688 [80-2-708\(3\)\(a\)\(iii\)](#);

7689 (e) a finding from the juvenile court under Section [80-3-404](#); and

7690 (f) the information in the licensing part of the division's Management Information
7691 System as of May 6, 2002.

7692 (3) Subject to Section [80-2-1003](#), upon receipt of a finding from the juvenile court
7693 under Section [80-3-404](#), the division shall:

7694 (a) promptly amend the Licensing Information System to include the finding; and

7695 (b) enter the finding in the Management Information System.

7696 (4) Information or a record contained in the Licensing Information System is:

7697 (a) a protected record under Title 63G, Chapter 2, Government Records Access and
7698 Management Act; and

7699 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and

7700 Management Act, accessible only:

7701 (i) to the ~~[Office of Licensing]~~ Division of Licensing and Background Checks created
7702 in Section 26B-2-103:

7703 (A) for licensing purposes; or

7704 (B) as otherwise specifically provided for by law;

7705 (ii) to the division to:

7706 (A) screen an individual at the request of the Office of Guardian Ad Litem at the time
7707 the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and
7708 annually throughout the time that the individual remains with the Office of Guardian Ad Litem;
7709 and

7710 (B) respond to a request for information from an individual whose name is listed in the
7711 Licensing Information System;

7712 (iii) to a person designated by the Department of Health and Human Services, only for
7713 the following purposes:

7714 (A) licensing a child care program or provider;

7715 (B) determining whether an individual associated with a child care facility, program, or
7716 provider, who is exempt from being licensed or certified by the Department of Health and
7717 Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported
7718 finding of a severe type of child abuse or neglect; or

7719 (C) determining whether an individual who is seeking an emergency medical services
7720 license has a supported finding of a severe type of child abuse or neglect;

7721 (iv) to a person designated by the Department of Workforce Services and approved by
7722 the Department of Health and Human Services for the purpose of qualifying a child care
7723 provider under Section 35A-3-310.5;

7724 (v) as provided in Section 26B-2-121; or

7725 (vi) to the department or another person, as provided in this chapter.

7726 (5) A person designated by the Department of Health and Human Services or the
7727 Department of Workforce Services under Subsection (4) shall adopt measures to:

7728 (a) protect the security of the Licensing Information System; and

7729 (b) strictly limit access to the Licensing Information System to persons allowed access
7730 by statute.

7731 (6) The department shall approve a person allowed access by statute to information or a
7732 record contained in the Licensing Information System and provide training to the person with
7733 respect to:

7734 (a) accessing the Licensing Information System;

7735 (b) maintaining strict security; and

7736 (c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the
7737 improper release of information.

7738 (7) (a) Except as authorized by this chapter, a person may not request another person to
7739 obtain or release any other information in the Licensing Information System to screen for
7740 potential perpetrators of abuse or neglect.

7741 (b) A person who requests information knowing that the request is a violation of this
7742 Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and
7743 80-2-1005.

7744 Section 102. Section 80-5-102 is amended to read:

7745 **80-5-102. Definitions.**

7746 As used in this chapter:

7747 (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in
7748 Section 80-5-302.

7749 (2) (a) "Adult" means an individual who is 18 years old or older.

7750 (b) "Adult" does not include a juvenile offender.

7751 (3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
7752 1351.1.

7753 (4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

7754 (5) "Control" means the authority to detain, restrict, and supervise a juvenile offender
7755 in a manner consistent with public safety and the well-being of the juvenile offender and
7756 division employees.

7757 (6) "Director" means the director of the [~~Division of Juvenile Justice Services~~]
7758 Division of Juvenile Justice and Youth Services.

7759 (7) "Discharge" means the same as that term is defined in Section 80-6-102.

7760 (8) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile
7761 Justice and Youth Services created in Section 80-5-103.

- 7762 (9) "Homeless youth" means a child, other than an emancipated minor:
7763 (a) who is a runaway; or
7764 (b) who is:
7765 (i) not accompanied by the child's parent or guardian; and
7766 (ii) without care, as defined in Section 80-5-602.
- 7767 (10) "Observation and assessment program" means a nonresidential service program
7768 operated or purchased by the division that is responsible only for diagnostic assessment of
7769 minors, including for substance use disorder, mental health, psychological, and sexual behavior
7770 risk assessments.
- 7771 (11) "Performance based contracting" means a system of contracting with service
7772 providers for the provision of residential or nonresidential services that:
7773 (a) provides incentives for the implementation of evidence-based juvenile justice
7774 programs or programs rated as effective for reducing recidivism by a standardized tool in
7775 accordance with Section 63M-7-208; and
7776 (b) provides a premium rate allocation for a minor who receives the evidence-based
7777 dosage of treatment and successfully completes the program within three months.
- 7778 (12) "Rescission" means the same as that term is defined in Section 80-6-102.
- 7779 (13) "Restitution" means the same as that term is defined in Section 80-6-102.
- 7780 (14) "Revocation" means the same as that term is defined in Section 80-6-102.
- 7781 (15) "Temporary custody" means the same as that term is defined in Section 80-6-102.
- 7782 (16) "Temporary homeless youth shelter" means a facility that:
7783 (a) provides temporary shelter to homeless youth; and
7784 (b) is licensed by the Department of Health and Human Services, created in Section
7785 26B-1-201, as a residential support program.
- 7786 (17) "Termination" means the same as that term is defined in Section 80-6-102.
- 7787 (18) "Victim" means the same as that term is defined in Section 80-6-102.
- 7788 (19) "Work program" means a nonresidential public or private service work project
7789 established and administered by the division for juvenile offenders for the purpose of
7790 rehabilitation, education, and restitution to victims.
- 7791 (20) (a) "Youth services" means services provided in an effort to resolve family
7792 conflict:

- 7793 (i) for families in crisis when a minor is ungovernable or a runaway; or
- 7794 (ii) involving a minor and the minor's parent or guardian.
- 7795 (b) "Youth services" include efforts to:
- 7796 (i) resolve family conflict;
- 7797 (ii) maintain or reunite minors with the minors' families; and
- 7798 (iii) divert minors from entering or escalating in the juvenile justice system.
- 7799 (c) "Youth services" may provide:
- 7800 (i) crisis intervention;
- 7801 (ii) short-term shelter;
- 7802 (iii) time-out placement; and
- 7803 (iv) family counseling.

7804 (21) "Youth services center" means a center established by, or under contract with, the
7805 division to provide youth services.

7806 Section 103. Section **80-5-103** is amended to read:

7807 **80-5-103. Creation of division -- Jurisdiction.**

7808 (1) There is created the [~~Division of Juvenile Justice Services~~] Division of Juvenile
7809 Justice and Youth Services within the department.

7810 (2) The division shall be under the administration and supervision of the executive
7811 director of the department.

7812 (3) The division has jurisdiction over all minors committed to the division under
7813 Sections **80-6-703** and **80-6-705**.

7814 Section 104. Section **80-5-401** is amended to read:

7815 **80-5-401. Youth services for prevention and early intervention -- Program**
7816 **standards -- Program services.**

7817 (1) The division shall establish and operate prevention and early intervention youth
7818 services programs which shall include evidence-informed and research-informed interventions
7819 to:

- 7820 (a) help youth and families avoid entry into the juvenile justice system; and
- 7821 (b) improve attendance and academic achievement.

7822 (2) The division shall adopt statewide policies and procedures, including minimum
7823 standards for the organization and operation of youth services programs.

7824 (3) The division shall establish housing, programs, and procedures to ensure that
7825 minors who are receiving services under this section and who are not committed to the division
7826 are served separately from minors who are committed to the division.

7827 (4) The division may enter into contracts with state and local governmental entities and
7828 private providers to provide the youth services.

7829 (5) The division shall establish and administer juvenile receiving centers and other
7830 programs to provide temporary custody, care, risk-needs assessments, evaluations, and control
7831 for nonadjudicated and adjudicated minors placed with the division.

7832 (6) The division shall prioritize use of evidence-based juvenile justice programs and
7833 practices.

7834 (7) Receiving services under this section does not establish commitment of the minor
7835 receiving services to the division.

7836 (8) UCA 80-6-703

7837 Section 105. Section **80-6-102** is amended to read:

7838 **80-6-102. Definitions.**

7839 As used in this chapter:

7840 (1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R.
7841 1351.1.

7842 (2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

7843 (3) "Commission" means the State Commission on Criminal and Juvenile Justice
7844 created in Section 63M-7-201.

7845 (4) "Compensatory service" means service or unpaid work performed by a minor in
7846 lieu of the payment of a fine, fee, or restitution.

7847 (5) "Control" means the same as that term is defined in Section 80-5-102.

7848 (6) "Detention hearing" means a proceeding under Section 80-6-207 to determine
7849 whether a minor should remain in detention.

7850 (7) "Detention guidelines" means standards, established by the division in accordance
7851 with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

7852 (8) "Discharge" means a written order of the authority that removes a juvenile offender
7853 from the authority's jurisdiction.

7854 (9) "Division" means the [~~Division of Juvenile Justice Services~~] Division of Juvenile

7855 Justice and Youth Services created in Section 80-5-103.

7856 (10) "Family-based setting" means a home that is licensed to allow a minor to reside at
7857 the home, including a foster home, proctor care, or residential care by a professional parent.

7858 (11) "Formal referral" means a written report from a peace officer, or other person,
7859 informing the juvenile court that:

7860 (a) an offense committed by a minor is, or appears to be, within the juvenile court's
7861 jurisdiction; and

7862 (b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting
7863 attorney.

7864 (12) "Material loss" means an uninsured:

7865 (a) property loss;

7866 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

7867 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the
7868 police or prosecution; or

7869 (d) medical expense.

7870 (13) "Referral" means a formal referral, a referral to the juvenile court under Section
7871 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under
7872 Section 80-6-302.

7873 (14) "Rescission" means a written order of the authority that rescinds a date for parole.

7874 (15) "Restitution" means money or services that the juvenile court, or a juvenile
7875 probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or
7876 render to a victim for the minor's wrongful act or conduct.

7877 (16) "Revocation" means a written order of the authority that, after a hearing and
7878 determination under Section 80-6-806:

7879 (a) terminates supervision of a juvenile offender's parole; and

7880 (b) directs a juvenile offender to return to secure care.

7881 (17) "Temporary custody" means the control and responsibility of a minor, before an
7882 adjudication under Section 80-6-701, until the minor is released to a parent, guardian,
7883 responsible adult, or to an appropriate agency.

7884 (18) "Termination" means a written order of the authority that terminates a juvenile
7885 offender from parole.

7886 (19) (a) "Victim" means a person that the juvenile court determines suffered a material
7887 loss as a result of a minor's wrongful act or conduct.

7888 (b) "Victim" includes:

7889 (i) any person directly harmed by the minor's wrongful act or conduct in the course of
7890 the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that
7891 involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

7892 (ii) the Utah Office for Victims of Crime.

7893 (20) "Violent felony" means the same as that term is defined in Section [76-3-203.5](#).

7894 (21) "Work program" means the same as that term is defined in Section [80-5-102](#).

7895 (22) "Youth services" means the same as that term is defined in Section [80-5-102](#).

7896 Section 106. **Effective date.**

7897 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

7898 (2) The actions affecting the following sections take effect on July 1, 2024:

7899 (a) Section [26B-1-204](#) (Effective 07/01/24);

7900 (b) Section [26B-2-241](#) (Effective 07/01/24);

7901 (c) Section [53-2d-404](#) (Effective 07/01/24);

7902 (d) Section [53-2d-503](#) (Effective 07/01/24);

7903 (e) Section [53-2d-703](#) (Effective 07/01/24);

7904 (f) Section [63I-1-226](#) (Effective 07/01/24); and

7905 (g) Section [77-41-102](#) (Effective (07/01/24)).