

Criminal Offenses Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

LONG TITLE**Committee Note:**

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Legislative Vote: 11 voting for 1 voting against 6 absent

General Description:

This bill addresses changes related to certain criminal offenses and enhancements.

Highlighted Provisions:

This bill:

- ▶ amends the enhancement for offenses committed in concert with three or more persons or in relation to a criminal street gang;
- ▶ amends certain theft and retail theft sentencing enhancements to include prior convictions in other state, federal, or military courts;
- ▶ clarifies that in sentencing for an offense related to retail theft, the value of the stolen item is determined by the item's retail value;
- ▶ increases penalties for an individual who:
 - acts to bring a minor into a criminal street gang in certain circumstances; and
 - acts to intimidate a minor into remaining in a criminal street gang in certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.1, as last amended by Laws of Utah 2024, Chapter 96

76-6-404, as last amended by Laws of Utah 2023, Chapter 111 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 407

76-6-404.5, as last amended by Laws of Utah 2023, Chapter 111 and last amended by

32 Coordination Clause, Laws of Utah 2023, Chapter 407
 33 **76-6-404.7**, as last amended by Laws of Utah 2023, Chapter 111
 34 **76-6-405**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 35 Coordination Clause, Laws of Utah 2023, Chapter 407
 36 **76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 37 Coordination Clause, Laws of Utah 2023, Chapter 407
 38 **76-6-407**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 39 Coordination Clause, Laws of Utah 2023, Chapter 407
 40 **76-6-408**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 41 Coordination Clause, Laws of Utah 2023, Chapter 407
 42 **76-6-409**, as last amended by Laws of Utah 2023, Chapter 111
 43 **76-6-409.3**, as last amended by Laws of Utah 2023, Chapter 111
 44 **76-6-410**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 45 Coordination Clause, Laws of Utah 2023, Chapter 407
 46 **76-6-602**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
 47 Coordination Clause, Laws of Utah 2023, Chapter 407
 48 **76-6-608**, as last amended by Laws of Utah 2023, Chapter 111
 49 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96
 50 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15
 51 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96
 52 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207
 53 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207

54 ENACTS:

55 **76-9-803.1**, Utah Code Annotated 1953
 56 **76-9-803.2**, Utah Code Annotated 1953
 57 **76-9-803.3**, Utah Code Annotated 1953

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

60 Section 1. Section **76-3-203.1** is amended to read:

61 **76-3-203.1 . Enhanced penalty for offenses committed in or for a certain group.**

62 (1) As used in this section:

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

64 (b) "In concert with [~~three~~] two or more [~~persons~~] individuals" means:

65 (i) the [~~defendant~~] actor was aided or encouraged by [~~at least three other persons~~]

- 66 another individual in committing ~~[the]~~ an offense and was aware of this aid or
 67 encouragement; and
- 68 (ii) ~~[each of the other persons]~~ the other individual:
- 69 (A) was physically present; and
- 70 (B) participated as a party to ~~[any]~~ an offense listed in Subsection ~~[(4),](5)[, or (6)].~~
- 71 (c) "In concert with ~~[three]~~ two or more ~~[persons]~~ individuals" means, regarding intent:
- 72 (i) any other ~~[persons]~~ individual participating as ~~[parties]~~ a party need not have the
 73 intent to engage in the same offense or degree of offense as the ~~[defendant]~~ actor;
 74 and
- 75 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the
 76 minor were an adult.
- 77 (d) "Organized criminal group" means a group of three or more individuals, whether
 78 operating formally or informally, that:
- 79 (i) has as one of the group's purposes the commission of criminal offenses; and
- 80 (ii) whose members collectively engage in committing criminal offenses for the
 81 financial or other material benefit of the members or group.
- 82 (2) ~~[A person]~~ An actor who commits ~~[any offense in accordance with this section]~~ an
 83 offense listed in Subsection (5) is subject to an enhanced penalty for the offense as
 84 provided in Subsection (4)~~[(5), or (6)]~~ if the trier of fact finds beyond a reasonable
 85 doubt that the ~~[person]~~ actor acted:
- 86 (a) in concert with ~~[three]~~ two or more ~~[persons]~~ individuals;
- 87 (b) for the benefit of, at the direction of, or in association with ~~[any]~~ a criminal street
 88 gang ~~[as defined in Section 76-9-802]~~ or other organized criminal group; or
- 89 (c) to gain recognition, acceptance, membership, or increased status with a criminal
 90 street gang ~~[as defined in Section 76-9-802]~~ or other organized criminal group.
- 91 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be
 92 subscribed upon the information or indictment notice that the ~~[defendant]~~ actor is subject
 93 to the enhanced penalties provided under this section.
- 94 ~~[(4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:]~~
- 95 ~~[(i) for a class B misdemeanor, as a class A misdemeanor; and]~~
- 96 ~~[(ii) for a class A misdemeanor, as a third degree felony.]~~
- 97 ~~[(b) The following offenses are subject to Subsection (4)(a):]~~
- 98 ~~[(i) criminal mischief as described in Section 76-6-106;]~~
- 99 ~~[(ii) property damage or destruction as described in Section 76-6-106.1; and]~~

100 ~~[(iii) defacement by graffiti as described in Section 76-6-107.]~~

101 ~~[(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:]~~

102 ~~[(i) for a class B misdemeanor, as a class A misdemeanor;]~~

103 ~~[(ii) for a class A misdemeanor, as a third degree felony; and]~~

104 ~~[(iii) for a third degree felony, as a second degree felony.]~~

105 ~~[(b) The following offenses are subject to Subsection (5)(a):]~~

106 ~~[(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);]~~

107 ~~[(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing~~
 108 ~~Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and~~
 109 ~~76-8-312;]~~

110 ~~[(iii) tampering with a witness under Section 76-8-508;]~~

111 ~~[(iv) retaliation against a witness, victim, or informant, or other violation of Section~~
 112 ~~76-8-508.3;]~~

113 ~~[(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]~~

114 ~~[(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;]~~

115 ~~[(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]~~

116 ~~[(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.]~~

117 ~~[(6) (4)(a)]~~ For an offense listed in Subsection ~~[(6)(b)] (5)~~, ~~[a person]~~ an actor may be
 118 charged as follows:

119 ~~[(i)] (a)~~ for a class B misdemeanor, as a class A misdemeanor;

120 ~~[(ii)] (b)~~ for a class A misdemeanor, as a third degree felony;

121 ~~[(iii)] (c)~~ for a third degree felony, as a second degree felony; and

122 ~~[(iv)] (d)~~ for a second degree felony, as a first degree felony.

123 ~~[(b)] (5)~~ The ~~[following offenses are subject to Subsection (6)(a)]~~ offenses referred to in
 124 Subsection (2) are:

125 ~~(a)~~ criminal solicitation of a minor as described in Section 76-4-205;

126 ~~[(i)] (b)~~ ~~[assault and related offenses under]~~ an offense described in Chapter 5, Part 1,
 127 Assault and Related Offenses;

128 ~~[(ii)] (c)~~ ~~[any criminal homicide offense under]~~ an offense described in Chapter 5, Part 2,
 129 Criminal Homicide;

130 ~~[(iii)] (d)~~ ~~[kidnapping and related offenses under]~~ an offense described in Chapter 5, Part
 131 3, Kidnapping, Trafficking, and Smuggling;

132 ~~[(iv)] (e)~~ ~~[any felony sexual offense under]~~ a felony offense described in Chapter 5, Part 4,

132a

133 Sexual Offenses;

134 [~~(v)~~ sexual exploitation of a minor as defined in Section 76-5b-201;]

135 [~~(vi)~~ aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;]

136 (f) a felony offense described in Chapter 5b, Part 2, Sexual Exploitation;

137 (g) an offense described in Chapter 6, Part 1, Property Destruction;

138 [~~(vii)~~] (h) robbery as described in Section 76-6-202;

139 (i) [~~and~~]aggravated robbery [~~under Chapter 6, Part 3, Robbery~~] as described in Section

140 76-6-203;

141 (j) burglary as described in Subsection 76-6-202(3)(b);

142 (k) aggravated burglary as described in Section 76-6-203;

143 (l) an offense described in Chapter 6, Part 4, Theft;

144 (m) a felony offense described in Chapter 6, Part 5, Fraud;

145 (n) an offense described in Chapter 6, Part 6, Retail Theft;

146 (o) an offense described in Chapter 6, Part 11, Identity Fraud Act;

147 (p) an offense described in Chapter 8, Part 5, Falsification in Official Matters;

148 (q) a felony offense described in Chapter 10, Part 3, Explosives;

149 (r) an offense described in Chapter 10, Part 4, Weapons of Mass Destruction;

150 (s) an offense described in Chapter 10, Part 5, Weapons;[~~and~~]

151 (t) gambling fraud as described in Section 76-10-1103;

152 (u) possessing a gambling device or record as described in Section 76-10-1105;

153 (v) fringe gaming devices as described in Section 76-10-1110;

154 (w) a felony violation of aiding prostitution as described in Section 76-10-1304;

155 (x) exploiting prostitution as described in Section 76-10-1305;

156 [~~(viii)~~] (y) aggravated exploitation of prostitution under Section 76-10-1306[:];

157 (z) an offense described in Chapter 10, Part 16, Pattern of Unlawful Activity Act;

158 (aa) communications fraud as described in Section 76-10-1801;

159 (bb) an offense described in Chapter 10, Part 19, Money Laundering and Currency

160 Transaction Reporting Act;

161 (cc) burglary of a research facility as described in Section 76-10-2002; and

162 (dd) transporting or harboring aliens as described in Section 76-10-2901.

163 [~~(7)~~] (6) [~~The~~] A court may, if not otherwise prohibited from doing so by another section of

164 the code, suspend a sentence imposed under [~~Subsection (4), (5), or (6)~~] may be

165 suspended] this section and place the [~~individual placed~~] actor on probation[~~for the~~

166 higher level of offense].

167 [(8)] (7) It is not a bar to imposing the enhanced penalties under this section that the [persons]
 168 individuals with whom the actor is alleged to have acted in concert are not identified,
 169 apprehended, charged, or convicted, or that any of those [persons] individuals are
 170 charged with or convicted of a different or lesser offense.

171 Section 2. Section **76-6-404** is amended to read:

172 **76-6-404 . Theft -- Elements.**

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

174 (2) An actor commits theft if the actor obtains or exercises unauthorized control over
 175 another person's property with a purpose to deprive the person of the person's property.

176 (3) A violation of Subsection (2) is:

177 (a) a second degree felony if the:

178 (i) value of the property is or exceeds \$5,000;

179 (ii) property stolen is a firearm or an operable motor vehicle; or

180 (iii) property is stolen from the person of another;

181 (b) a third degree felony if:

182 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

183 (ii) the property is:

184 (A) a catalytic converter as defined under Section 76-6-1402; or

185 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402

186 if the value is less than \$5,000 and the suspect metal is made of or contains

187 aluminum or copper and is not a lead battery;

188 (iii) the value of the property is or exceeds \$500 and the actor has been twice before

189 convicted of any of the following offenses, if each prior offense was committed

190 within 10 years before the date of the current conviction or the date of the offense

191 upon which the current conviction is based and at least one of those convictions is

192 for a class A misdemeanor:

193 (A) any theft, any robbery, or any burglary with intent to commit theft;

194 (B) any offense under Part 5, Fraud;[-or]

195 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

196 (D) any offense in another jurisdiction, including a state, federal, or military court,

197 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),

198 (B), or (C);

199 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;

200 (B) the theft occurs on a property where the offender has committed any theft

- 201 within the past five years; and
- 202 (C) the offender has received written notice from the merchant prohibiting the
- 203 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 204 (v) the actor has been previously convicted of a felony violation of any of the
- 205 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
- 206 prior offense was committed within 10 years before the date of the current
- 207 conviction or the date of the offense upon which the current conviction is based;
- 208 (c) a class A misdemeanor if:
- 209 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 210 (ii)(A) the value of property is less than \$500;
- 211 (B) the theft occurs on a property where the offender has committed any theft
- 212 within the past five years; and
- 213 (C) the offender has received written notice from the merchant prohibiting the
- 214 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 215 (iii) the actor has been twice before convicted of any of the offenses listed in
- 216 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
- 217 committed within 10 years before the date of the current conviction or the date of
- 218 the offense upon which the current conviction is based; or
- 219 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 220 theft is not an offense under Subsection (3)(c).

221 Section 3. Section **76-6-404.5** is amended to read:

222 **76-6-404.5 . Unauthorized possession of property.**

- 223 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 224 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
- 225 unauthorized control over another person's property, without the consent of the
- 226 property's owner or legal custodian, and with the intent to temporarily appropriate,
- 227 possess, or use the property or to temporarily deprive the property's owner or legal
- 228 custodian of possession of the property.
- 229 (3) A violation of Subsection (2) is:
- 230 (a) a third degree felony if:
- 231 (i) the value of the property is or exceeds \$5,000;
- 232 (ii) the property is a firearm or an operable motor vehicle; or
- 233 (iii) the property is taken from the person of another;
- 234 (b) a class A misdemeanor if:

- 235 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 236 (ii) the property is:
- 237 (A) a catalytic converter as defined under Section 76-6-1402; or
- 238 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402
- 239 if the value is less than \$5,000 and the suspect metal is made of or contains
- 240 aluminum or copper and is not a lead battery;
- 241 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 242 convicted of any of the following offenses, if each prior offense was committed
- 243 within 10 years before the date of the current conviction or the date of the offense
- 244 upon which the current conviction is based and at least one of those convictions is
- 245 for a class A misdemeanor:
- 246 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 247 (B) any offense under Part 5, Fraud;[-~~or~~]
- 248 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 249 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 250 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 251 (B), or (C);
- 252 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 253 (B) the unauthorized possession of property occurs on a property where the
- 254 offender has committed any theft within the past five years; and
- 255 (C) the offender has received written notice from the merchant prohibiting the
- 256 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 257 (v) the actor has been previously convicted of a felony violation of any of the
- 258 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 259 prior offense was committed within 10 years before the date of the current
- 260 conviction or the date of the offense upon which the current conviction is based;
- 261 (c) a class B misdemeanor if:
- 262 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
- 263 (ii)(A) the value of property is less than \$500;
- 264 (B) the unauthorized possession of property occurs on a property where the
- 265 offender has committed any theft within the past five years; and
- 266 (C) the offender has received written notice from the merchant prohibiting the
- 267 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 268 (iii) the actor has been twice before convicted of any of the offenses listed in

269 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 270 committed within 10 years before the date of the current conviction or the date of
 271 the offense upon which the current conviction is based; or

272 (d) a class C misdemeanor if the value of the property is less than \$500 and the
 273 unauthorized possession of property is not an offense under Subsection (3)(c).

274 (4) Unauthorized possession of property is a lesser included offense of the offense of theft
 275 under Section 76-6-404.

276 (5) The consent of the owner or legal custodian of the property to the property's control by
 277 the actor is not presumed or implied because of the owner's or legal custodian's consent
 278 on a previous occasion to the control of the property by any person.

279 Section 4. Section **76-6-404.7** is amended to read:

280 **76-6-404.7 . Theft of motor vehicle fuel.**

281 (1)(a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
 282 matter, or substance that is used in an internal combustion engine for the generation
 283 of power.

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

285 (2) An actor commits theft of motor vehicle fuel if the actor:

286 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
 287 retail sale when motor fuel has been dispensed into:

288 (i) the fuel tank of the motor vehicle; or

289 (ii) any other container that is then removed from the premises by means of the motor
 290 vehicle; and

291 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
 292 operator of the premises of the motor vehicle fuel without making full payment for
 293 the fuel.

294 (3) A violation of Subsection (2) is:

295 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;

296 (b) a third degree felony if:

297 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000; [~~or~~]

298 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been
 299 twice before convicted of any of the following offenses, if each prior offense was
 300 committed within 10 years before the date of the current conviction or the date of
 301 the offense upon which the current conviction is based and at least one of those
 302 convictions is for a class A misdemeanor:

- 303 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 304 (B) any offense under Part 5, Fraud;[-~~or~~]
- 305 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 306 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 307 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 308 (B), or (C);
- 309 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
- 310 \$1,500;
- 311 (B) the theft occurs on a property where the offender has committed any theft
- 312 within the past five years; and
- 313 (C) the offender has received written notice from the merchant prohibiting the
- 314 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 315 (iv) the actor has been previously convicted of a felony violation of any of the
- 316 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if the prior
- 317 offense was committed within 10 years before the date of the current conviction or
- 318 the date of the offense upon which the current conviction is based;
- 319 (c) a class A misdemeanor if:
- 320 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 321 (ii)(A) the value of the motor vehicle fuel is less than \$500;
- 322 (B) the theft occurs on a property where the offender has committed any theft
- 323 within the past five years; and
- 324 (C) the offender has received written notice from the merchant prohibiting the
- 325 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 326 (iii) the actor has been twice before convicted of any of the offenses listed in
- 327 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if each prior offense was
- 328 committed within 10 years before the date of the current conviction or the date of
- 329 the offense upon which the current conviction is based; or
- 330 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the
- 331 theft is not an offense under Subsection (3)(c).
- 332 (4)(a) In addition to the penalties described in Subsection (3), the sentencing court may
- 333 order the suspension of the driver license of an actor convicted of theft of motor
- 334 vehicle fuel.
- 335 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
- 336 provided in Section 53-3-220.

337 Section 5. Section **76-6-405** is amended to read:

338 **76-6-405 . Theft by deception.**

339 (1)(a) As used in this section, "puffing" means an exaggerated commendation of wares
340 or worth in a communication addressed to an individual, group, or the public.

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

342 (2)(a) An actor commits theft by deception if the actor obtains or exercises control over
343 property of another person:

344 (i) by deception; and

345 (ii) with a purpose to deprive the other person of property.

346 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
347 Subsection (2)(a)(ii) may occur at separate times.

348 (3) A violation of Subsection (2) is:

349 (a) a second degree felony if the:

350 (i) value of the property is or exceeds \$5,000; or

351 (ii) property stolen is a firearm or an operable motor vehicle;

352 (b) a third degree felony if:

353 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

354 (ii) the property:

355 (A) is a catalytic converter as defined under Section 76-6-1402; or

356 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402

357 if the value is less than \$5,000 and the suspect metal is made of or contains
358 aluminum or copper and is not a lead battery;

359 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
360 convicted of any of the following offenses, if each prior offense was committed
361 within 10 years before the date of the current conviction or the date of the offense
362 upon which the current conviction is based and at least one of those convictions is
363 for a class A misdemeanor:

364 (A) any theft, any robbery, or any burglary with intent to commit theft;

365 (B) any offense under Part 5, Fraud;[-~~or~~]

366 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

367 (D) any offense in another jurisdiction, including a state, federal, or military court,
368 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),

369 (B), or (C);

370 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;

- 371 (B) the theft occurs on a property where the offender has committed any theft
 372 within the past five years; and
- 373 (C) the offender has received written notice from the merchant prohibiting the
 374 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 375 (v) the actor has been previously convicted of a felony violation of any of the
 376 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if the
 377 prior offense was committed within 10 years before the date of the current
 378 conviction or the date of the offense upon which the current conviction is based;
- 379 (c) a class A misdemeanor if:
- 380 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 381 (ii)(A) the value of property is less than \$500;
- 382 (B) the theft occurs on a property where the offender has committed any theft
 383 within the past five years; and
- 384 (C) the offender has received written notice from the merchant prohibiting the
 385 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 386 (iii) the actor has been twice before convicted of any of the offenses listed in
 387 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if each prior offense was
 388 committed within 10 years before the date of the current conviction or the date of
 389 the offense upon which the current conviction is based; or
- 390 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 391 theft is not an offense under Subsection (3)(c).

- 392 (4) Theft by deception does not occur when there is only:
- 393 (a) falsity as to matters having no pecuniary significance; or
- 394 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

395 Section 6. Section **76-6-406** is amended to read:

396 **76-6-406 . Theft by extortion.**

- 397 (1)(a) As used in this section, extortion occurs when an actor threatens to:
- 398 (i) cause physical harm in the future to the person threatened, to any other person, or
 399 to property at any time;
- 400 (ii) subject the person threatened or any other person to physical confinement or
 401 restraint;
- 402 (iii) engage in other conduct constituting a crime;
- 403 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
 404 ridicule;

- 405 (v) reveal any information sought to be concealed by the person threatened;
- 406 (vi) testify, provide information, or withhold testimony or information with respect to
- 407 a person's legal claim or defense;
- 408 (vii) take action as an official against anyone or anything, or withhold official action,
- 409 or cause such action or withholding;
- 410 (viii) bring about or continue a strike, boycott, or other similar collective action to
- 411 obtain property that is not demanded or received for the benefit of the group that
- 412 the actor purports to represent; or
- 413 (ix) do any other act which would not in itself substantially benefit the actor but
- 414 which would harm substantially any other person with respect to that person's
- 415 health, safety, business, calling, career, financial condition, reputation, or personal
- 416 relationships.
- 417 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 418 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
- 419 property of another person by extortion and with a purpose to deprive the person of the
- 420 person's property.
- 421 (3) A violation of Subsection (2) is:
- 422 (a) a second degree felony if the:
- 423 (i) value of the property is or exceeds \$5,000;
- 424 (ii) property stolen is a firearm or an operable motor vehicle; or
- 425 (iii) property is stolen from the person of another;
- 426 (b) a third degree felony if:
- 427 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 428 (ii) the property is:
- 429 (A) a catalytic converter as defined under Section 76-6-1402; or
- 430 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 431 if the value is less than \$5,000 and the suspect metal is made of or contains
- 432 aluminum or copper and is not a lead battery;
- 433 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 434 convicted of any of the following offenses, if each prior offense was committed
- 435 within 10 years before the date of the current conviction or the date of the offense
- 436 upon which the current conviction is based and at least one of those convictions is
- 437 for a class A misdemeanor:
- 438 (A) any theft, any robbery, or any burglary with intent to commit theft;

- 439 (B) any offense under Part 5, Fraud;~~[-or]~~
- 440 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 441 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 442 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 443 (B), or (C);
- 444 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 445 (B) the theft occurs on a property where the offender has committed any theft
- 446 within the past five years; and
- 447 (C) the offender has received written notice from the merchant prohibiting the
- 448 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 449 (v) the actor has been previously convicted of a felony violation of any of the
- 450 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 451 prior offense was committed within 10 years before the date of the current
- 452 conviction or the date of the offense upon which the current conviction is based;
- 453 (c) a class A misdemeanor if:
- 454 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 455 (ii)(A) the value of property is less than \$500;
- 456 (B) the theft occurs on a property where the offender has committed any theft
- 457 within the past five years; and
- 458 (C) the offender has received written notice from the merchant prohibiting the
- 459 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 460 (iii) the actor has been twice before convicted of any of the offenses listed in
- 461 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
- 462 committed within 10 years before the date of the current conviction or the date of
- 463 the offense upon which the current conviction is based; or
- 464 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 465 theft is not an offense under Subsection (3)(c).
- 466 (4)(a) A person who is adversely impacted by the conduct prohibited in Subsection (2)
- 467 may bring a civil action for equitable relief and damages.
- 468 (b) In accordance with Section 78B-2-305, a person who brings an action under
- 469 Subsection (4)(a) shall commence the action within three years after the day on
- 470 which the cause of action arises.
- 471 Section 7. Section **76-6-407** is amended to read:
- 472 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**

- 473 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 474 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:
- 475 (a) obtains another person's property and knows the property to have been lost or
- 476 mislaid, or to have been delivered under a mistake as to the identity of the recipient
- 477 or as to the nature or amount of the property, without taking reasonable measures to
- 478 return the property to the owner; and
- 479 (b) has the purpose to deprive the owner of the property when the actor obtains the
- 480 property or at any time before taking the measures described in Subsection (2)(a).
- 481 (3) A violation of Subsection (2) is:
- 482 (a) a second degree felony if the:
- 483 (i) value of the property is or exceeds \$5,000;
- 484 (ii) property stolen is a firearm or an operable motor vehicle; or
- 485 (iii) property is stolen from the person of another;
- 486 (b) a third degree felony if:
- 487 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 488 (ii) the property is:
- 489 (A) a catalytic converter as defined under Section 76-6-1402; or
- 490 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 491 if the value is less than \$5,000 and the suspect metal is made of or contains
- 492 aluminum or copper and is not a lead battery;
- 493 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 494 convicted of any of the following offenses, if each prior offense was committed
- 495 within 10 years before the date of the current conviction or the date of the offense
- 496 upon which the current conviction is based and at least one of those convictions is
- 497 for a class A misdemeanor:
- 498 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 499 (B) any offense under Part 5, Fraud; ~~or~~
- 500 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 501 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 502 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 503 (B), or (C);
- 504 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 505 (B) the theft occurs on a property where the offender has committed any theft
- 506 within the past five years; and

- 507 (C) the offender has received written notice from the merchant prohibiting the
 508 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 509 (v) the actor has been previously convicted of a felony violation of any of the
 510 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 511 prior offense was committed within 10 years before the date of the current
 512 conviction or the date of the offense upon which the current conviction is based;
 513 (c) a class A misdemeanor if:
 514 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
 515 (ii)(A) the value of property is less than \$500;
 516 (B) the theft occurs on a property where the offender has committed any theft
 517 within the past five years; and
 518 (C) the offender has received written notice from the merchant prohibiting the
 519 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 520 (iii) the actor has been twice before convicted of any of the offenses listed in
 521 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 522 committed within 10 years before the date of the current conviction or the date of
 523 the offense upon which the current conviction is based; or
 524 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 525 theft is not an offense under Subsection (3)(c).

526 Section 8. Section **76-6-408** is amended to read:

527 **76-6-408 . Theft by receiving stolen property -- Duties of pawnbrokers,**
 528 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

- 529 (1)(a) As used in this section:
 530 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
 531 13-32a-102.
 532 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
 533 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
 534 (iv) "Receives" means acquiring possession, control, title, or lending on the security
 535 of the property.
 536 (v) "Scrap metal processor" means the same as that term is defined in Section
 537 76-6-1402.
 538 (vi) "Secondhand actor" means:
 539 (A) a pawnbroker;
 540 (B) a person who has or operates a business dealing in or collecting used or

- 541 secondhand merchandise or personal property; or
- 542 (C) an agent, employee, or representative of a pawnbroker or person who buys,
- 543 receives, or obtains property.
- 544 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 545 (2) An actor commits theft by receiving stolen property if the actor receives, retains, or
- 546 disposes of the property of another knowing that the property is stolen, or believing that
- 547 the property is probably stolen, or who conceals, sells, withholds, or aids in concealing,
- 548 selling, or withholding the property from the owner, knowing or believing the property
- 549 to be stolen, intending to deprive the owner of the property.
- 550 (3) A violation of Subsection (2) is:
- 551 (a) a second degree felony if:
- 552 (i) the value of the property is or exceeds \$5,000; or
- 553 (ii) the property is a firearm or an operable motor vehicle;
- 554 (b) a third degree felony if:
- 555 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 556 (ii) the property is:
- 557 (A) a catalytic converter as defined under Section 76-6-1402; or
- 558 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 559 if the value is less the \$5,000 and the suspect metal is made of or contains
- 560 aluminum or copper and is not a lead battery;
- 561 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 562 convicted of any of the following offenses, if each prior offense was committed
- 563 within 10 years before the date of the current conviction or the date of the offense
- 564 upon which the current conviction is based and at least one of those convictions is
- 565 for a class A misdemeanor:
- 566 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 567 (B) any offense under Part 5, Fraud;[-or]
- 568 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 569 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 570 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 571 (B), or (C); or
- 572 (iv) the actor has been previously convicted of a felony violation of any of the
- 573 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 574 prior offense was committed within 10 years before the date of the current

- 575 conviction or the date of the offense upon which the current conviction is based;
- 576 (c) a class A misdemeanor if:
- 577 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
- 578 (ii) the actor has been twice before convicted of any of the offenses listed in
- 579 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if each prior offense was
- 580 committed within 10 years before the date of the current conviction or the date of
- 581 the offense upon which the current conviction is based; or
- 582 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
- 583 not an offense under Subsection (3)(c).
- 584 (4) Except as provided in Subsection (5), the knowledge or belief required under
- 585 Subsection (2) is presumed in the case of an actor who:
- 586 (a) is found in possession or control of other property stolen on a separate occasion; or
- 587 (b) has received other stolen property within the year preceding the receiving offense
- 588 charged.
- 589 (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of
- 590 a secondhand actor if the secondhand actor does not substantially comply with the
- 591 material requirements of Section 13-32a-104.
- 592 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
- 593 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the
- 594 coin dealer does not substantially comply with the requirements of Section
- 595 13-32a-104.5.
- 596 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
- 597 catalytic converter purchaser if the catalytic converter purchaser does not
- 598 substantially comply with the material requirements of Section 13-32a-104.7.
- 599 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a
- 600 scrap metal processor.
- 601 (7) This section does not preclude the admission of evidence in accordance with the Utah
- 602 Rules of Evidence.
- 603 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
- 604 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
- 605 attorney fees.

606 Section 9. Section **76-6-409** is amended to read:

607 **76-6-409 . Theft of service.**

- 608 (1)(a) As used in this section, "service" includes:

- 609 (i) labor, professional service, a public utility or transportation service, restaurant,
 610 hotel, motel, tourist cabin, rooming house, and like accommodations, the
 611 supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph
 612 service, steam, admission to entertainment, an exhibition, a sporting event, or
 613 other event for which a charge is made;
- 614 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
 615 obtained by threat, force, or a form of deception not described in Section
 616 76-6-409.3; and
- 617 (iii) telephone service, only if the service is obtained by threat, force, or a form of
 618 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
 619 76-6-409.9.
- 620 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 621 (2) An actor commits theft of service if:
- 622 (a) the actor, by deception, threat, force, or another means designed to avoid due
 623 payment, obtains a service that the actor knows is available only for compensation; or
 624 (b) the actor:
- 625 (i) has control over the disposition of another person's service; and
 626 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
 627 the actor is not entitled to the service; or
 628 (B) diverts the other person's service to the benefit of a third person, knowing that
 629 the third person is not entitled to the service.
- 630 (3) A violation of Subsection (2) is:
- 631 (a) a second degree felony if the value of the service is or exceeds \$5,000;
 632 (b) a third degree felony if:
- 633 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
 634 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
 635 convicted of any of the following offenses, if each prior offense was committed
 636 within 10 years before the date of the current conviction or the date of the offense
 637 upon which the current conviction is based and at least one of those convictions is
 638 for a class A misdemeanor:
- 639 (A) any theft, any robbery, or any burglary with intent to commit theft;
 640 (B) any offense under Part 5, Fraud;~~[-or]~~
 641 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
 642 (D) any offense in another jurisdiction, including a state, federal, or military court,

643 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
 644 (B), or (C);

645 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;

646 (B) the theft occurs on a property where the offender has committed any theft
 647 within the past five years; and

648 (C) the offender has received written notice from the merchant prohibiting the
 649 offender from entering the property pursuant to Subsection 78B-3-108(4); or

650 (iv) the actor has been previously convicted of a felony violation of any of the
 651 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if the prior
 652 offense was committed within 10 years before the date of the current conviction or
 653 the date of the offense upon which the current conviction is based;

654 (c) a class A misdemeanor if:

655 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;

656 (ii)(A) the value of the service is less than \$500;

657 (B) the theft occurs on a property where the offender has committed any theft
 658 within the past five years; and

659 (C) the offender has received written notice from the merchant prohibiting the
 660 offender from entering the property pursuant to Subsection 78B-3-108(4); or

661 (iii) the actor has been twice before convicted of any of the offenses listed in
 662 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if each prior offense was
 663 committed within 10 years before the date of the current conviction or the date of
 664 the offense upon which the current conviction is based; or

665 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
 666 an offense under Subsection (3)(c).

667 Section 10. Section **76-6-409.3** is amended to read:

668 **76-6-409.3 . Theft of utility or cable television services -- Restitution -- Civil**

669 **action for damages.**

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

671 (i) "Cable television service" means an audio, video, or data service provided for
 672 payment by a cable television company over the cable company's cable system
 673 facilities, but does not include the use of a satellite dish or antenna.

674 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
 675 part of a building, whether alone or with others.

676 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or

- 677 tenant by the entirety of the whole or a part of a building and the property on
678 which the building is located.
- 679 (iv) "Person" means an individual, firm, partnership, corporation, company,
680 association, or other legal entity.
- 681 (v) "Tenant" includes a person, including the owner, who occupies the whole or part
682 of any building, whether alone or with others.
- 683 (vi) "Utility" means any public utility, municipally owned utility, or cooperative
684 utility that provides electricity, gas, water, or sewer, or any combination of
685 electricity, gas, water, or sewer, for sale to consumers.
- 686 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 687 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due
688 payment to the utility or cable television company, the actor makes gas, electricity,
689 water, sewer, or cable television available to a tenant or occupant, including to the actor,
690 by committing any of the following acts:
- 691 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or
692 other instrument used for conducting gas, electricity, water, sewer, or cable television
693 in a manner as permits the use of the gas, electricity, water, sewer, or cable television
694 without the gas, electricity, water, sewer, or cable television passing through a meter
695 or other instrument recording the usage for billing;
- 696 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
697 other instrument used for measuring quantities of gas, electricity, water, or sewer
698 service, or making or maintaining any modification or alteration to any device
699 installed with the authorization of a cable television company for the purpose of
700 intercepting or receiving any program or other service carried by the company that
701 the actor is not authorized by the company to receive;
- 702 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
703 otherwise restoring service when one or more of those utilities or cable service has
704 been lawfully disconnected or turned off by the provider of the utility or cable service;
- 705 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
706 device, or other part of a metering device for recording usage of gas, electricity,
707 water, or sewer service, or a security system for the recording device, or a cable
708 television control device;
- 709 (e) removing a metering device designed to measure quantities of gas, electricity, water,
710 or sewer service;

- 711 (f) transferring from one location to another location a metering device for measuring
712 quantities of public utility services of gas, electricity, water, or sewer service;
- 713 (g) changing the indicated consumption, jamming the measuring device, bypassing the
714 meter or measuring device with a jumper so that it does not indicate use or registers
715 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
716 service from the utility without the gas, electricity, water, or sewer service passing
717 through a metering device for measuring quantities of consumption for billing
718 purposes;
- 719 (h) using a metering device belonging to the utility that has not been assigned to the
720 location and installed by the utility;
- 721 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
722 utility service diversion, meter tampering, meter thefts, and unauthorized cable
723 television service;
- 724 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
725 television service without payment of all lawful compensation to the company
726 providing the service;
- 727 (k) making or maintaining a connection or connections, whether physical, electrical,
728 mechanical, acoustical, or by other means, with a cable, wire, component, or other
729 device used for the distribution of cable television services without authority from the
730 cable television company; or
- 731 (l) possessing without authority any device or printed circuit board designed in whole or
732 in part to receive any cable television programming or service offered for sale over a
733 cable television system, unless the device or printed circuit board includes the use of
734 a satellite dish or antenna, with the intent that the device or printed circuit be used for
735 the reception of the cable television company's services without payment.
- 736 (3)(a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
- 737 (i) a second degree felony if:
- 738 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000;
- 739 or
- 740 (B) if the actor previously has been convicted of a violation of this section;
- 741 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is
742 or exceeds \$1,500 but is not more than \$5,000;
- 743 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service
744 is or exceeds \$500 but is not more than \$1,500; or

- 745 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service
 746 is less than \$500.
- 747 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
 748 is:
- 749 (i) a second degree felony if the value of the service is or exceeds \$5,000;
- 750 (ii) a third degree felony if:
- 751 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 752 (B) the value of the service is or exceeds \$500 and the actor has been twice before
 753 convicted of any of the following offenses, if each prior offense was committed
 754 within 10 years before the date of the current conviction or the date of the
 755 offense upon which the current conviction is based and at least one of those
 756 convictions is for a class A misdemeanor:
- 757 (I) any theft, any robbery, or any burglary with intent to commit theft;
- 758 (II) any offense under Part 5, Fraud;[~~or~~]
- 759 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);
 759a
- 760 or
- 761 (IV) any offense in another jurisdiction, including a state, federal, or military
 762 court, that is substantially equivalent to an offense under Subsection
 763 (3)(b)(ii)(B)(I), (II), or (III); or
- 764 (C) the actor has been previously convicted of a felony violation of any of the
 765 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV),
 766 if the prior offense was committed within 10 years before the date of the
 767 current conviction or the date of the offense upon which the current conviction
 768 is based;
- 769 (iii) a class A misdemeanor if:
- 770 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
- 771 (B) the actor has been twice before convicted of any of the offenses listed in
 772 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV), if each prior
 773 offense was committed within 10 years before the date of the current
 774 conviction or the date of the offense upon which the current conviction is
 775 based; or
- 776 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
 777 not an offense under Subsection (3)(b)(iii).

- 778 (c)(i) An actor who violates this section shall make restitution to the utility or cable
 779 television company for the value of the gas, electricity, water, sewer, or cable
 780 television service consumed in violation of this section plus all reasonable
 781 expenses and costs incurred on account of the violation of this section.
- 782 (ii) Reasonable expenses and costs include expenses and costs for investigation,
 783 disconnection, reconnection, service calls, employee time, and equipment use.
- 784 (4)(a) The presence on property in the possession of an actor of a device or alteration
 785 that permits the diversion or use of utility or cable service to avoid the registration of
 786 the use by or on a meter installed by the utility or to otherwise avoid the recording of
 787 use of the service for payment or otherwise avoid payment gives rise to an inference
 788 that the actor in possession of the property installed the device or caused the
 789 alteration if:
- 790 (i) the presence of the device or alteration can be attributed only to a deliberate act in
 791 furtherance of an intent to avoid payment for utility or cable television service; and
- 792 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
 793 utility or cable television service.
- 794 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
 795 76-2-202.
- 796 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
 797 cable television company to bring a civil action for redress for damages suffered as a
 798 result of the commission of any of the acts prohibited by this section.
- 799 (b) This section does not abridge or alter any other right, action, or remedy otherwise
 800 available to a utility or cable television company.
- 801 Section 11. Section **76-6-410** is amended to read:
- 802 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**
- 803 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 804 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
 805 if:
- 806 (a)(i) the actor has custody of property pursuant to an agreement between the actor
 807 or another person and the property's owner;
- 808 (ii) the actor or another person is to perform for compensation a specific service for
 809 the property's owner involving the maintenance, repair, or use of the owner's
 810 property; and
- 811 (iii) the actor intentionally uses or operates the owner's property, without the consent

- 812 of the owner, for the actor's own purposes in a manner constituting a gross
 813 deviation from the agreed purpose; or
- 814 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in
 815 which the property is to be returned in a specified manner or at a specified time;
 816 and
- 817 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
 818 return so as to render such failure a gross deviation from the agreement.
- 819 (3) A violation of Subsection (2) is:
- 820 (a) a second degree felony if the:
- 821 (i) value of the property is or exceeds \$5,000; or
 822 (ii) property stolen is a firearm or an operable motor vehicle;
- 823 (b) a third degree felony if:
- 824 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
 825 (ii) the property is:
- 826 (A) a catalytic converter as defined under Section 76-6-1402; or
 827 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
 828 if the value is less than \$5,000 and the suspect metal is made of or contains
 829 aluminum or copper and is not a lead battery;
- 830 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 831 convicted of any of the following offenses, if each prior offense was committed
 832 within 10 years before the date of the current conviction or the date of the offense
 833 upon which the current conviction is based and at least one of those convictions is
 834 for a class A misdemeanor:
- 835 (A) any theft, any robbery, or any burglary with intent to commit theft;
 836 (B) any offense under Part 5, Fraud;[-~~or~~]
 837 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 838 (D) any offense in another jurisdiction, including a state, federal, or military court,
 839 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 840 (B), or (C); or
- 841 (iv) the actor has been previously convicted of a felony violation of any of the
 842 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 843 prior offense was committed within 10 years before the date of the current
 844 conviction or the date of the offense upon which the current conviction is based;
- 845 (c) a class A misdemeanor if:

- 846 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 847 (ii) the actor has been twice before convicted of any of the offenses listed in
 848 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
 849 committed within 10 years before the date of the current conviction or the date of
 850 the offense upon which the current conviction is based; or
 851 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 852 theft is not an offense under Subsection (3)(c).

853 Section 12. Section **76-6-602** is amended to read:

854 **76-6-602 . Retail theft.**

- 855 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
 856 (2) An actor commits retail theft if the actor knowingly:
 857 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
 858 transferred, any merchandise displayed, held, stored, or offered for sale in a retail
 859 mercantile establishment with the intention of:
 860 (i) retaining the merchandise; or
 861 (ii) depriving the merchant permanently of the possession, use or benefit of such
 862 merchandise without paying the retail value of the merchandise;
 863 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or
 864 any other markings which aid in determining value of any merchandise displayed,
 865 held, stored, or offered for sale, in a retail mercantile establishment; and
 866 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
 867 or in consort with another at less than the retail value with the intention of
 868 depriving the merchant of the retail value of the merchandise;
 869 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
 870 mercantile establishment from the container in or on which the merchandise is
 871 displayed to any other container with the intention of depriving the merchant of the
 872 retail value of the merchandise;
 873 (d) under-rings with the intention of depriving the merchant of the retail value of the
 874 merchandise; or
 875 (e) removes a shopping cart from the premises of a retail mercantile establishment with
 876 the intent of depriving the merchant of the possession, use, or benefit of the shopping
 877 cart.
 878 (3) A violation of Subsection (2) is:
 879 (a) a second degree felony if the:

- 880 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;
- 881 (ii) merchandise stolen is a firearm or an operable motor vehicle;[-~~or~~]
- 882 (b) a third degree felony if:
- 883 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
- 884 (ii) the merchandise is:
- 885 (A) a catalytic converter as defined under Section 76-6-1402; or
- 886 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 887 if the retail value is less than \$5,000 and the suspect metal is made of or
- 888 contains aluminum or copper and is not a lead battery;
- 889 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
- 890 actor has been twice before convicted of any of the following offenses, if each
- 891 prior offense was committed within 10 years before the date of the current
- 892 conviction or the date of the offense upon which the current conviction is based
- 893 and at least one of those convictions is for a class A misdemeanor:
- 894 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 895 (B) any offense under Part 5, Fraud;[-~~or~~]
- 896 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 897 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 898 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 899 (B), or (C);
- 900 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
- 901 less than \$1,500;
- 902 (B) the theft occurs in a retail mercantile establishment or on the premises of a
- 903 retail mercantile establishment where the offender has committed any theft
- 904 within the past five years; and
- 905 (C) the offender has received written notice from the merchant prohibiting the
- 906 offender from entering the retail mercantile establishment or premises of a
- 907 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 908 (v) the actor has been previously convicted of a felony violation of any of the
- 909 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 910 prior offense was committed within 10 years before the date of the current
- 911 conviction or the date of the offense upon which the current conviction is based;
- 912 (c) a class A misdemeanor if:
- 913 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but

- 914 is less than \$1,500;
- 915 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 916 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 917 mercantile establishment where the offender has committed any theft within
- 918 the past five years; and
- 919 (C) the offender has received written notice from the merchant prohibiting the
- 920 offender from entering the retail mercantile establishment or premises of a
- 921 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 922 (iii) the actor has been twice before convicted of any of the offenses listed in
- 923 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
- 924 committed within 10 years before the date of the current conviction or the date of
- 925 the offense upon which the current conviction is based; or
- 926 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
- 927 is less than \$500 and the theft is not an offense under Subsection (3)(c).

928 Section 13. Section **76-6-608** is amended to read:

929 **76-6-608 . Theft detection shielding devices prohibited.**

- 930 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 931 (2) An actor commits the unlawful shielding of a theft detection device if the actor
- 932 knowingly:
- 933 (a) makes or possesses any container or device used for, intended for use for, or
- 934 represented as having the purpose of shielding merchandise from any electronic or
- 935 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 936 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any
- 937 container or device intended for use for or represented as having the purpose of
- 938 shielding merchandise from any electronic or magnetic theft alarm sensor;
- 939 (c) possesses any tool or instrument designed to remove any theft detection device from
- 940 any merchandise, with the intent to use the tool or instrument to remove any theft
- 941 detection device from any merchandise without the permission of the merchant or the
- 942 person owning or in possession of the merchandise; or
- 943 (d) intentionally removes a theft detection device from merchandise prior to purchase
- 944 and without the permission of the merchant.
- 945 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.
- 946 (b) A violation of Subsection (2)(d) is a:
- 947 (i) class B misdemeanor if the retail value of the merchandise from which the theft

948 detection device is removed is less than \$500; or
 949 (ii) class A misdemeanor if the retail value of the merchandise from which the theft
 950 detection device is removed is or exceeds \$500.

951 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
 952 Theft, or Part 6, Retail Theft.

953 (5) Criminal prosecutions under this section do not affect any person's right of civil action
 954 for redress for damages suffered as a result of any violation of this section.

955 Section 14. Section **76-9-802** is amended to read:

956 **76-9-802 . Definitions.**

957 As used in this part:

958 (1) "Criminal street gang" means an organization, association in fact, or group of three or
 959 more ~~[persons]~~ individuals, whether operated formally or informally:

960 (a) that is currently in operation;

961 (b) that has as one of its primary activities the commission of ~~[one or more predicate~~
 962 ~~gang crimes]~~ a criminal offense;

963 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

964 (d) whose members, acting individually or in concert with other members, engage in or
 965 have engaged in a pattern of criminal gang activity.

966 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
 967 harm for the purpose of causing an individual to act or refrain from acting.

968 (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.

969 (4) "Pattern of criminal gang activity" means:

970 (a) committing, attempting to commit, conspiring to commit, or soliciting the
 971 commission of two or more ~~[predicate gang crimes]~~ criminal offenses within five
 972 years;

973 (b) the ~~[predicate gang crimes]~~ criminal offenses are:

974 (i) committed by two or more ~~[persons]~~ individuals; or

975 (ii) committed by an individual at the direction of, or in association with a criminal
 976 street gang; and

977 (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to
 978 promote, further, or assist in any criminal conduct by members of the criminal street
 979 gang.

980 ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~

981 ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~

- 982 ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification~~
983 ~~number;]~~
- 984 ~~[(B) Section 41-1a-1315, regarding false evidence of title and registration;]~~
- 985 ~~[(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]~~
- 986 ~~[(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an~~
987 ~~identification number; or]~~
- 988 ~~[(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;]~~
- 989 ~~[(ii) any criminal violation of the following provisions:]~~
- 990 ~~[(A) Title 58, Chapter 37, Utah Controlled Substances Act;]~~
- 991 ~~[(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]~~
- 992 ~~[(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]~~
- 993 ~~[(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]~~
- 994 ~~[(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]~~
- 995 ~~[(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]~~
- 996 ~~[(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;]~~
- 997 ~~[(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]~~
- 998 ~~[(vii) Title 76, Chapter 6, Part 1, Property Destruction;]~~
- 999 ~~[(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]~~
- 1000 ~~[(ix) Title 76, Chapter 6, Part 3, Robbery;]~~
- 1001 ~~[(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6,~~
1002 ~~Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409,~~
1003 ~~76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and~~
1004 ~~76-6-410.5;]~~
- 1005 ~~[(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,~~
1006 ~~76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,~~
1007 ~~76-6-517, 76-6-518, and 76-6-520;]~~
- 1008 ~~[(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]~~
- 1009 ~~[(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections~~
1010 ~~76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]~~
- 1011 ~~[(xiv) tampering with a witness under Section 76-8-508;]~~
- 1012 ~~[(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]~~
- 1013 ~~[(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]~~
- 1014 ~~[(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]~~
- 1015 ~~[(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the~~

- 1016 violation occurs at an official meeting;]
- 1017 [(xix) Title 76, Chapter 10, Part 3, Explosives;]
- 1018 [(xx) Title 76, Chapter 10, Part 5, Weapons;]
- 1019 [(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]
- 1020 [(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;]
- 1021 [(xxiii) communications fraud under Section 76-10-1801;]
- 1022 [(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction
- 1023 Reporting Act; or]
- 1024 [(xxv) burglary of a research facility under Section 76-10-2002.]
- 1025 [(b) "Predicate gang crime" also includes:]
- 1026 [(i) any state or federal criminal offense that by its nature involves a substantial risk that
- 1027 physical force may be used against another in the course of committing the offense; and]
- 1028 [(ii) any felony violation of a criminal statute of any other state, the United States, or any
- 1029 district, possession, or territory of the United States which would constitute a violation
- 1030 of any offense in Subsection (4)(a) if committed in this state.]
- 1031 Section 15. Section **76-9-803** is amended to read:
- 1032 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
- 1033 **criminal street gang.**
- 1034 [(1) It is a class B misdemeanor to:]
- 1035 [(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether or
- 1036 not the minor actually joins the criminal street gang;]
- 1037 [(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor to
- 1038 join a criminal street gang; or]
- 1039 [(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal street
- 1040 gang or ending the minor's affiliation with a criminal street gang.]
- 1041 [(2) It is a class A misdemeanor for any person who is a member of or actively involved
- 1042 with a criminal street gang to:]
- 1043 [(a) intimidate or otherwise cause a minor to commit or attempt to commit any
- 1044 misdemeanor criminal offense; or]
- 1045 [(b) commit a violation of Subsection (1)(a):]
- 1046 [(i) more than once;]
- 1047 [(ii) regarding the same minor; and]
- 1048 [(iii) within a period of 180 days.]
- 1049 [(3) Prosecution for any offense under this section does not prohibit prosecution for any

1050 other criminal offense.]

- 1051 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1052 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
 1053 criminal street gang if the actor:
- 1054 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
 1055 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a
 1056 minor to join a criminal street gang.
- 1057 (3) A violation of Subsection (2) is:
- 1058 (a) a class A misdemeanor if the actor is a minor; or
 1059 (b) a third degree felony if the actor is 18 years old or older.
- 1060 (4) It is not a defense to a prosecution under this section that the minor did not join the
 1061 criminal street gang.

1062 Section 16. Section **76-9-803.1** is enacted to read:

1063 **76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to**
 1064 **join a criminal street gang.**

- 1065 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1066 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to
 1067 join a criminal street gang if, in the course of committing an offense under Section
 1068 76-9-803, the offense:
- 1069 (a) involves the use of a dangerous weapon;
 1070 (b) results in serious bodily injury to any individual; or
 1071 (c) results in serious emotional distress to any individual.
- 1072 (3) A violation of Subsection (2) is:
- 1073 (a) a third degree felony if the actor is a minor; or
 1074 (b) a second degree felony if the actor is 18 years old or older.
- 1075 (4) It is not a defense to a prosecution under this section that the minor did not join the
 1076 criminal street gang.

1077 Section 17. Section **76-9-803.2** is enacted to read:

1078 **76-9-803.2 . Intimidating a minor to remain in a criminal street gang.**

- 1079 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1080 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor
 1081 intimidates a minor to prevent the minor from leaving a criminal street gang or ending
 1082 the minor's affiliation with a criminal street gang.
- 1083 (3) A violation of Subsection (2) is:

- 1084 (a) a class A misdemeanor if the actor is a minor; or
 1085 (b) a third degree felony if the actor is 18 years old or older.
- 1086 (4) It is not a defense to a prosecution under this section that the minor described in
 1087 Subsection (2) left or ended the minor's affiliation with a criminal street gang.
- 1088 Section 18. Section **76-9-803.3** is enacted to read:
- 1089 **76-9-803.3 . Aggravated intimidating a minor to remain in a criminal street gang.**
- 1090 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1091 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if,
 1092 in the course of committing an offense under Section 76-9-803.2, the offense:
- 1093 (a) involves the use of a dangerous weapon;
 1094 (b) results in serious bodily injury to any individual; or
 1095 (c) results in serious emotional distress to any individual.
- 1096 (3) A violation of Subsection (2) is:
- 1097 (a) a third degree felony if the actor is a minor; or
 1098 (b) a second degree felony if the actor is 18 years old or older.
- 1099 (4) It is not a defense to a prosecution under this section that the minor described in
 1100 Subsection (2) left or ended the minor's affiliation with a criminal street gang.
- 1101 Section 19. Section **76-10-1602** is amended to read:
- 1102 **76-10-1602 . Definitions.**
- 1103 As used in this part:
- 1104 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
 1105 business trust, association, or other legal entity, and any union or group of individuals
 1106 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 1107 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
 1108 commission of at least three episodes of unlawful activity, which episodes are not
 1109 isolated, but have the same or similar purposes, results, participants, victims, or methods
 1110 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
 1111 together, the episodes shall demonstrate continuing unlawful conduct and be related
 1112 either to each other or to the enterprise. At least one of the episodes comprising a
 1113 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
 1114 constituting part of a pattern of unlawful activity as defined by this part shall have
 1115 occurred within five years of the commission of the next preceding act alleged as part of
 1116 the pattern.
- 1117 (3) "Person" includes any individual or entity capable of holding a legal or beneficial

- 1118 interest in property, including state, county, and local governmental entities.
- 1119 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
1120 encourage, or intentionally aid another person to engage in conduct which would
1121 constitute any offense described by the following crimes or categories of crimes, or to
1122 attempt or conspire to engage in an act which would constitute any of those offenses,
1123 regardless of whether the act is in fact charged or indicted by any authority or is
1124 classified as a misdemeanor or a felony:
- 1125 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
1126 Recording Practices Act;
 - 1127 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
1128 Code, Sections 19-1-101 through 19-7-109;
 - 1129 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
1130 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
1131 Section 23A-5-311;
 - 1132 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
1133 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
 - 1134 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
1135 Offenses and Procedure Act;
 - 1136 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
1137 Uniform Land Sales Practices Act;
 - 1138 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
1139 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
1140 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
1141 Chapter 37d, Clandestine Drug Lab Act;
 - 1142 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
1143 Securities Act;
 - 1144 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
1145 Procurement Code;
 - 1146 (j) assault under Section 76-5-102;
 - 1147 (k) aggravated assault under Section 76-5-103;
 - 1148 (l) a threat of terrorism under Section 76-5-107.3;
 - 1149 (m) a criminal homicide offense under Section 76-5-201;
 - 1150 (n) kidnapping under Section 76-5-301;
 - 1151 (o) aggravated kidnapping under Section 76-5-302;

- 1152 (p) human trafficking for labor under Section 76-5-308;
- 1153 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1154 (r) human smuggling under Section 76-5-308.3;
- 1155 (s) human trafficking of a child under Section 76-5-308.5;
- 1156 (t) benefiting from trafficking and human smuggling under Section 76-5-309;
- 1157 (u) aggravated human trafficking under Section 76-5-310;
- 1158 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1159 (w) aggravated sexual exploitation of a minor under Section 76-5b-201.1;
- 1160 (x) arson under Section 76-6-102;
- 1161 (y) aggravated arson under Section 76-6-103;
- 1162 (z) causing a catastrophe under Section 76-6-105;
- 1163 (aa) burglary under Section 76-6-202;
- 1164 (bb) aggravated burglary under Section 76-6-203;
- 1165 (cc) burglary of a vehicle under Section 76-6-204;
- 1166 (dd) manufacture or possession of an instrument for burglary or theft under Section
1167 76-6-205;
- 1168 (ee) robbery under Section 76-6-301;
- 1169 (ff) aggravated robbery under Section 76-6-302;
- 1170 (gg) theft under Section 76-6-404;
- 1171 (hh) theft by deception under Section 76-6-405;
- 1172 (ii) theft by extortion under Section 76-6-406;
- 1173 (jj) receiving stolen property under Section 76-6-408;
- 1174 (kk) theft of services under Section 76-6-409;
- 1175 (ll) forgery under Section 76-6-501;
- 1176 (mm) unlawful use of financial transaction card under Section 76-6-506.2;
- 1177 (nn) unlawful acquisition, possession, or transfer of financial transaction card under
1178 Section 76-6-506.3;
- 1179 (oo) financial transaction card offenses under Section 76-6-506.6;
- 1180 (pp) deceptive business practices under Section 76-6-507;
- 1181 (qq) bribery or receiving bribe by person in the business of selection, appraisal, or
1182 criticism of goods under Section 76-6-508;
- 1183 (rr) bribery of a labor official under Section 76-6-509;
- 1184 (ss) defrauding creditors under Section 76-6-511;
- 1185 (tt) acceptance of deposit by insolvent financial institution under Section 76-6-512;

- 1186 (uu) unlawful dealing with property by fiduciary under Section 76-6-513;
1187 (vv) bribery or threat to influence contest under Section 76-6-514;
1188 (ww) making a false credit report under Section 76-6-517;
1189 (xx) criminal simulation under Section 76-6-518;
1190 (yy) criminal usury under Section 76-6-520;
1191 (zz) insurance fraud under Section 76-6-521;
1192 (aaa) retail theft under Section 76-6-602;
1193 (bbb) computer crimes under Section 76-6-703;
1194 (ccc) identity fraud under Section 76-6-1102;
1195 (ddd) mortgage fraud under Section 76-6-1203;
1196 (eee) sale of a child under Section 76-7-203;
1197 (fff) bribery to influence official or political actions under Section 76-8-103;
1198 (ggg) threat to influence official or political action under Section 76-8-104;
1199 (hhh) receiving bribe or bribery by public servant under Section 76-8-105;
1200 (iii) receiving bribe for endorsement of person as a public servant under Section
1201 76-8-106;
1202 (jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;
1203 (kkk) official misconduct based on unauthorized act or failure of duty under Section
1204 76-8-201;
1205 (lll) official misconduct concerning inside information under Section 76-8-202;
1206 (mmm) obstruction of justice in a criminal investigation or proceeding under Section
1207 76-8-306;
1208 (nnn) acceptance of bribe or bribery to prevent criminal prosecution under Section
1209 76-8-308;
1210 (ooo) harboring or concealing offender who has escaped from official custody under
1211 Section 76-8-309.2;
1212 (ppp) making a false or inconsistent material statement under Section 76-8-502;
1213 (qqq) making a false or inconsistent statement under Section 76-8-503;
1214 (rrr) making a written false statement under Section 76-8-504;
1215 (sss) tampering with a witness under Section 76-8-508;
1216 (ttt) retaliation against a witness, victim, or informant under Section 76-8-508.3;
1217 (uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
1218 (vvv) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;
1219 (www) tampering with evidence under Section 76-8-510.5;

1220 (xxx) falsification or alteration of a government record under Section 76-8-511, if the
 1221 record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
 1222 Lobbyist Disclosure and Regulation Act;

1223 (yyy) public assistance fraud by an applicant for public assistance under Section
 1224 76-8-1203.1;

1225 (zzz) public assistance fraud by a recipient of public assistance under Section
 1226 76-8-1203.3;

1227 (aaaa) public assistance fraud by a provider under Section 76-8-1203.5;

1228 (bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

1229 (cccc) false statement to obtain or increase unemployment compensation under Section
 1230 76-8-1301;

1231 (dddd) false statement to prevent or reduce unemployment compensation or liability
 1232 under Section 76-8-1302;

1233 (eeee) unlawful failure to comply with Employment Security Act requirements under
 1234 Section 76-8-1303;

1235 (ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

1236 (gggg) intentionally or knowingly causing one animal to fight with another under
 1237 Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

1238 (hhhh) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street
 1239 gang under Section 76-9-803;

1240 (iiii) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
 1241 street gang under Section 76-9-803.1;

1242 (jjjj) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;
 1243 (kkkk) aggravated intimidating a minor to remain in a criminal street gang under Section
 1244 76-9-803.3;

1245 [~~(hhhh)~~] (llll) possession, use, or removal of explosives, chemical, or incendiary devices
 1246 or parts under Section 76-10-306;

1247 [~~(iiii)~~] (mmmm) delivery to common carrier, mailing, or placement on premises of an
 1248 incendiary device under Section 76-10-307;

1249 [~~(jjjj)~~] (nnnn) possession of a deadly weapon with intent to assault under Section
 1250 76-10-507;

1251 [~~(kkkk)~~] (oooo) unlawful marking of pistol or revolver under Section 76-10-521;

1252 [~~(HHH)~~] (pppp) alteration of number or mark on pistol or revolver under Section 76-10-522;

1253 [~~(mmmm)~~] (qqqq) forging or counterfeiting trademarks, trade name, or trade device

1254 under Section 76-10-1002;

1255 [~~(nnnn)~~] (rrrr) selling goods under counterfeited trademark, trade name, or trade devices

1256 under Section 76-10-1003;

1257 [~~(oooo)~~] (ssss) sales in containers bearing registered trademark of substituted articles

1258 under Section 76-10-1004;

1259 [~~(pppp)~~] (tttt) selling or dealing with article bearing registered trademark or service mark

1260 with intent to defraud under Section 76-10-1006;

1261 [~~(qqqq)~~] (uuuu) gambling under Section 76-10-1102;

1262 [~~(rrrr)~~] (vvvv) gambling fraud under Section 76-10-1103;

1263 [~~(ssss)~~] (wwww) gambling promotion under Section 76-10-1104;

1264 [~~(tttt)~~] (xxxx) possessing a gambling device or record under Section 76-10-1105;

1265 [~~(uuuu)~~] (yyyy) confidence game under Section 76-10-1109;

1266 [~~(vvvv)~~] (zzzz) distributing pornographic material under Section 76-10-1204;

1267 [~~(wwww)~~] (aaaa) inducing acceptance of pornographic material under Section

1268 76-10-1205;

1269 [~~(xxxx)~~] (bbbb) dealing in harmful material to a minor under Section 76-10-1206;

1270 [~~(yyyy)~~] (cccc) distribution of pornographic films under Section 76-10-1222;

1271 [~~(zzzz)~~] (dddd) indecent public displays under Section 76-10-1228;

1272 [~~(aaaa)~~] (eeee) prostitution under Section 76-10-1302;

1273 [~~(bbbb)~~] (ffff) aiding prostitution under Section 76-10-1304;

1274 [~~(eeee)~~] (gggg) exploiting prostitution under Section 76-10-1305;

1275 [~~(dddd)~~] (hhhh) aggravated exploitation of prostitution under Section 76-10-1306;

1276 [~~(eeee)~~] (iiii) communications fraud under Section 76-10-1801;

1277 [~~(ffff)~~] (jjjj) an act prohibited by the criminal provisions of Part 19, Money Laundering

1278 and Currency Transaction Reporting Act;

1279 [~~(gggg)~~] (kkkk) vehicle compartment for contraband under Section 76-10-2801;

1280 [~~(hhhh)~~] (llll) an act prohibited by the criminal provisions of the laws governing

1281 taxation in this state; or

1282 [~~(iiii)~~] (mmmm) an act illegal under the laws of the United States and enumerated in

1283 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

1284 Section 20. Section **78B-6-1101** is amended to read:

1285 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**

1286 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an

1287 obstruction to the free use of property, so as to interfere with the comfortable enjoyment

- 1288 of life or property. A nuisance may be the subject of an action.
- 1289 (2) A nuisance may include the following:
- 1290 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
- 1291 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
- 1292 (c) criminal activity committed in concert with [~~three~~] two or more [~~persons~~] individuals
- 1293 as provided in Section 76-3-203.1;
- 1294 (d) criminal activity committed for the benefit of, at the direction of, or in association
- 1295 with any criminal street gang as defined in Section 76-9-802;
- 1296 (e) criminal activity committed to gain recognition, acceptance, membership, or
- 1297 increased status with a criminal street gang as defined in Section 76-9-802;
- 1298 (f) party houses that frequently create conditions defined in Subsection (1); and
- 1299 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1300 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
- 1301 person rents, leases, or owns, from another residential or commercial unit and the smoke:
- 1302 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
- 1303 (b) creates any of the conditions under Subsection (1).
- 1304 (4) Subsection (3) does not apply to:
- 1305 (a) a residential rental unit available for temporary rental, such as for a vacation, or
- 1306 available for only 30 or fewer days at a time; or
- 1307 (b) a hotel or motel room.
- 1308 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
- 1309 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
- 1310 57-19-2.
- 1311 (6) An action may be brought by a person whose property is injuriously affected, or whose
- 1312 personal enjoyment is lessened by the nuisance.
- 1313 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
- 1314 44, Agricultural Operations Nuisances Act.
- 1315 (8) "Critical infrastructure materials operations" means the same as that term is defined in
- 1316 Section 10-9a-901.
- 1317 (9) "Manufacturing facility" means a factory, plant, or other facility including its
- 1318 appurtenances, where the form of raw materials, processed materials, commodities, or
- 1319 other physical objects is converted or otherwise changed into other materials,
- 1320 commodities, or physical objects or where such materials, commodities, or physical
- 1321 objects are combined to form a new material, commodity, or physical object.

1322 Section 21. Section **78B-6-1107** is amended to read:

1323 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
1324 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**

1325 (1) Every building or place is a nuisance where:

1326 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
1327 acquisition occurs of any controlled substance, precursor, or analog specified in Title
1328 58, Chapter 37, Utah Controlled Substances Act;

1329 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
1330 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
1331 defined in Subsection 78B-6-1101(1);

1332 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals
1333 as provided in Section 76-3-203.1;

1334 (d) criminal activity is committed for the benefit of, at the direction of, or in association
1335 with any criminal street gang as defined in Section 76-9-802;

1336 (e) criminal activity is committed to gain recognition, acceptance, membership, or
1337 increased status with a criminal street gang as defined in Section 76-9-802;

1338 (f) parties occur frequently which create the conditions of a nuisance as defined in
1339 Subsection 78B-6-1101(1);

1340 (g) prostitution or promotion of prostitution is regularly carried on by one or more
1341 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

1342 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

1343 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
1344 defendant is lawfully entitled to possession of a controlled substance.

1345 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
1346 nuisance as defined in Subsection (1).

1347 Section 22. **Effective date.**

1348 This bill takes effect on May 7, 2025.