

CRIMINAL CODE RECODIFICATION AND CROSS

REFERENCES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: _____

LONG TITLE

Committee Note:

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

Legislative Vote: 13 voting for 0 voting against 4 absent

General Description:

This bill modifies Title 76, Chapters 6, Offenses Against Property, and 6a, Pyramid Scheme Act, by redrafting offense statutes into a new structure and clarifies existing law.

Highlighted Provisions:

This bill:

- ▶ reorders language into a standardized format;
- ▶ moves penalty enhancement statutes to part concerning penalty enhancements;
- ▶ for clarity, codifies names of offenses;
- ▶ reorganizes the offenses of criminal mischief and property damage or destruction by enacting property damage or destruction as a stand-alone statute;
- ▶ reorganizes the offense concerning defacement by graffiti;
- ▶ reorganizes the offenses of criminal trespass on agricultural land or range land and cutting, destroying, or rendering ineffective fencing of agricultural or range land by enacting cutting, destroying, or rendering ineffective fencing of agricultural or range land as a stand-alone statute;



- 28 ▶ repeals stand-alone penalty statute for theft and incorporates penalty information
- 29 into applicable statutes;
- 30 ▶ renames the offense of wrongful appropriation to unauthorized possession of
- 31 property;
- 32 ▶ renames the offense of receiving stolen property to theft by receiving stolen
- 33 property;
- 34 ▶ reorganizes the offenses of forgery and producing or transferring false identification
- 35 by enacting producing or transferring false identification as a stand-alone statute;
- 36 ▶ clarifies application of law enforcement defense and forfeiture provisions as applied
- 37 to fraud offenses;
- 38 ▶ reorganizes the offenses of wrongful liens and fraudulent handling of recordable
- 39 writings by enacting fraudulent handling of recordable writings as a stand-alone
- 40 offense;
- 41 ▶ reorganizes financial transaction card offenses by enacting separate stand-alone
- 42 offenses;
- 43 ▶ reorganizes computer crimes offenses by enacting separate stand-alone offenses;
- 44 ▶ for clarity, revises names of offenses concerning library theft;
- 45 ▶ reorganizes offenses concerning cultural sites protection by enacting separate
- 46 stand-alone offenses and incorporating existing penalties into each offense;
- 47 ▶ repeals the stand-alone penalty statute for violations by metal dealers and
- 48 incorporates the penalty information into new offense sections enacted adjacent to
- 49 the relevant statutory requirements;
- 50 ▶ for clarity, reorganizes offenses concerning pyramid schemes; and
- 51 ▶ makes technical and conforming changes.

52 **Money Appropriated in this Bill:**

53 None

54 **Other Special Clauses:**

55 None

56 **Utah Code Sections Affected:**

57 AMENDS:

58 **13-19-3**, as last amended by Laws of Utah 2018, Chapter 433

59 [24-1-102](#), as last amended by Laws of Utah 2022, Chapter 179
60 [26-7-14](#), as last amended by Laws of Utah 2022, Chapter 430
61 [26-20-9](#), as last amended by Laws of Utah 2007, Chapter 48
62 [31A-23a-409](#), as last amended by Laws of Utah 2021, Chapter 252
63 [31A-36-118](#), as last amended by Laws of Utah 2009, Chapter 355
64 [35A-4-312.5](#), as last amended by Laws of Utah 2011, Chapter 57
65 [41-1a-1314](#), as last amended by Laws of Utah 2005, Chapter 71
66 [58-9-607](#), as last amended by Laws of Utah 2020, Chapter 251
67 [58-9-613](#), as enacted by Laws of Utah 2018, Chapter 326
68 [58-55-503](#), as last amended by Laws of Utah 2022, Chapter 415
69 [63I-1-226](#), as last amended by Laws of Utah 2022, Chapters 194, 206, 224, 253, 255,
70 347, and 451
71 [63M-7-404](#), as last amended by Laws of Utah 2022, Chapters 115, 185 and 328
72 [73-2-27](#), as last amended by Laws of Utah 2015, Chapters 245, 249
73 [76-3-203.1](#), as last amended by Laws of Utah 2022, Chapter 185
74 [76-3-203.3](#), as last amended by Laws of Utah 2020, Chapter 394
75 [76-3-203.5](#), as last amended by Laws of Utah 2022, Chapters 181, 185, and 418
76 [76-6-101](#), as last amended by Laws of Utah 2011, Chapter 340
77 [76-6-102](#), as last amended by Laws of Utah 2022, Chapter 181
78 [76-6-103](#), as last amended by Laws of Utah 1986, Chapter 59
79 [76-6-104](#), as last amended by Laws of Utah 2010, Chapter 193
80 [76-6-104.5](#), as last amended by Laws of Utah 2009, Chapter 320
81 [76-6-105](#), as last amended by Laws of Utah 2002, Chapter 166
82 [76-6-106](#), as last amended by Laws of Utah 2012, Chapter 135
83 [76-6-107](#), as last amended by Laws of Utah 2019, Chapters 292 and 494
84 [76-6-107.5](#), as enacted by Laws of Utah 2019, Chapter 292
85 [76-6-108](#), as last amended by Laws of Utah 2000, Chapter 54
86 [76-6-111](#), as last amended by Laws of Utah 2021, Chapters 57 and 260
87 [76-6-112](#), as enacted by Laws of Utah 2012, Chapter 213
88 [76-6-202](#), as last amended by Laws of Utah 2012, Chapter 303
89 [76-6-203](#), as last amended by Laws of Utah 2022, Chapter 181

- 90 [76-6-204](#), as enacted by Laws of Utah 1973, Chapter 196
- 91 [76-6-204.5](#), as enacted by Laws of Utah 2008, Chapter 366
- 92 [76-6-205](#), as enacted by Laws of Utah 1973, Chapter 196
- 93 [76-6-206](#), as last amended by Laws of Utah 2022, Chapter 87
- 94 [76-6-206.1](#), as enacted by Laws of Utah 1997, Chapter 223
- 95 [76-6-206.2](#), as last amended by Laws of Utah 2021, Chapters 260 and 280
- 96 [76-6-206.3](#), as last amended by Laws of Utah 2022, Chapter 87
- 97 [76-6-206.4](#), as enacted by Laws of Utah 2017, Chapter 287
- 98 [76-6-301](#), as last amended by Laws of Utah 2004, Chapter 112
- 99 [76-6-302](#), as last amended by Laws of Utah 2022, Chapter 181
- 100 [76-6-403](#), as last amended by Laws of Utah 1974, Chapter 32
- 101 [76-6-404](#), as enacted by Laws of Utah 1973, Chapter 196
- 102 [76-6-404.5](#), as last amended by Laws of Utah 2001, Chapter 48
- 103 [76-6-404.7](#), as enacted by Laws of Utah 2009, Chapter 328
- 104 [76-6-405](#), as last amended by Laws of Utah 2012, Chapter 156
- 105 [76-6-406](#), as last amended by Laws of Utah 2022, Chapter 164
- 106 [76-6-407](#), as enacted by Laws of Utah 1973, Chapter 196
- 107 [76-6-408](#), as last amended by Laws of Utah 2022, Chapter 201
- 108 [76-6-409](#), as last amended by Laws of Utah 1994, Chapter 215
- 109 [76-6-409.1](#), as last amended by Laws of Utah 1987, Chapter 38
- 110 [76-6-409.3](#), as last amended by Laws of Utah 2010, Chapter 193
- 111 [76-6-409.5](#), as last amended by Laws of Utah 1997, Chapter 78
- 112 [76-6-409.6](#), as last amended by Laws of Utah 1997, Chapter 78
- 113 [76-6-409.7](#), as last amended by Laws of Utah 1997, Chapter 78
- 114 [76-6-409.8](#), as last amended by Laws of Utah 1997, Chapter 78
- 115 [76-6-409.9](#), as last amended by Laws of Utah 1997, Chapter 78
- 116 [76-6-409.10](#), as last amended by Laws of Utah 1996, Chapter 79
- 117 [76-6-410](#), as enacted by Laws of Utah 1973, Chapter 196
- 118 [76-6-410.5](#), as enacted by Laws of Utah 2001, Chapter 112
- 119 [76-6-413](#), as enacted by Laws of Utah 1997, Chapter 119
- 120 [76-6-501](#), as last amended by Laws of Utah 2016, Chapter 117

121 [76-6-502](#), as last amended by Laws of Utah 2018, Chapter 221
122 [76-6-503.5](#), as last amended by Laws of Utah 2014, Chapter 114
123 [76-6-503.7](#), as enacted by Laws of Utah 2015, Chapter 228
124 [76-6-504](#), as last amended by Laws of Utah 2005, Chapter 93
125 [76-6-505](#), as last amended by Laws of Utah 2010, Chapter 193
126 [76-6-506](#), as last amended by Laws of Utah 2010, Chapter 254
127 [76-6-506.2](#), as last amended by Laws of Utah 2009, Chapter 166
128 [76-6-506.3](#), as last amended by Laws of Utah 2018, Chapter 221
129 [76-6-506.6](#), as enacted by Laws of Utah 1991, Chapter 60
130 [76-6-506.7](#), as last amended by Laws of Utah 2015, Chapter 258
131 [76-6-507](#), as last amended by Laws of Utah 1985, Chapter 157
132 [76-6-508](#), as last amended by Laws of Utah 1991, Chapter 241
133 [76-6-509](#), as enacted by Laws of Utah 1973, Chapter 196
134 [76-6-510](#), as enacted by Laws of Utah 1973, Chapter 196
135 [76-6-511](#), as last amended by Laws of Utah 1991, Chapter 241
136 [76-6-512](#), as last amended by Laws of Utah 1997, Chapter 10
137 [76-6-513](#), as last amended by Laws of Utah 2019, Chapter 211
138 [76-6-514](#), as enacted by Laws of Utah 1973, Chapter 196
139 [76-6-515](#), as enacted by Laws of Utah 1973, Chapter 196
140 [76-6-516](#), as enacted by Laws of Utah 1973, Chapter 196
141 [76-6-517](#), as enacted by Laws of Utah 1973, Chapter 196
142 [76-6-518](#), as last amended by Laws of Utah 2010, Chapter 193
143 [76-6-520](#), as enacted by Laws of Utah 1973, Chapter 196
144 [76-6-521](#), as last amended by Laws of Utah 2022, Chapter 198
145 [76-6-522](#), as last amended by Laws of Utah 1992, Chapter 1
146 [76-6-523](#), as enacted by Laws of Utah 2009, Chapter 306
147 [76-6-524](#), as last amended by Laws of Utah 2012, Chapter 278
148 [76-6-601](#), as last amended by Laws of Utah 1998, Chapter 282
149 [76-6-602](#), as enacted by Laws of Utah 1979, Chapter 78
150 [76-6-608](#), as last amended by Laws of Utah 2010, Chapter 193
151 [76-6-703](#), as last amended by Laws of Utah 2017, Chapters 462 and 467

152 **76-6-705**, as last amended by Laws of Utah 2017, Chapter 462
153 **76-6-801**, as last amended by Laws of Utah 1987, Chapter 245
154 **76-6-803**, as last amended by Laws of Utah 1987, Chapter 245
155 **76-6-803.30**, as enacted by Laws of Utah 1987, Chapter 245
156 **76-6-803.60**, as enacted by Laws of Utah 1987, Chapter 245
157 **76-6-803.90**, as enacted by Laws of Utah 1987, Chapter 245
158 **76-6-902**, as last amended by Laws of Utah 2006, Chapter 111
159 **76-6-1001**, as last amended by Laws of Utah 2021, Chapter 329
160 **76-6-1002**, as last amended by Laws of Utah 2002, Chapter 166
161 **76-6-1003**, as last amended by Laws of Utah 2020, Chapter 223
162 **76-6-1102**, as last amended by Laws of Utah 2021, Chapter 260
163 **76-6-1105**, as last amended by Laws of Utah 2021, Chapter 260
164 **76-6-1203**, as enacted by Laws of Utah 2008, Chapter 370
165 **76-6-1303**, as last amended by Laws of Utah 2015, Chapter 258
166 **76-6-1403**, as last amended by Laws of Utah 2014, Chapter 261
167 **76-6-1404**, as renumbered and amended by Laws of Utah 2013, Chapter 187
168 **76-6-1405**, as renumbered and amended by Laws of Utah 2013, Chapter 187
169 **76-6-1406**, as last amended by Laws of Utah 2022, Chapter 201
170 **76-6-1408**, as last amended by Laws of Utah 2016, Chapter 316
171 **76-6-1409**, as renumbered and amended by Laws of Utah 2013, Chapter 187
172 **76-9-201**, as last amended by Laws of Utah 2021, Chapter 152
173 **76-10-204**, as last amended by Laws of Utah 2002, Chapter 166
174 **76-10-1302**, as last amended by Laws of Utah 2022, Chapters 124, 181, and 185
175 **76-10-1602**, as last amended by Laws of Utah 2022, Chapters 181 and 185
176 **77-18-105**, as last amended by Laws of Utah 2022, Chapters 115, 359
177 **77-23a-8**, as last amended by Laws of Utah 2022, Chapter 430
178 **77-36-1.1**, as last amended by Laws of Utah 2021, Chapter 213
179 **77-42-105**, as last amended by Laws of Utah 2016, Chapter 319
180 **78B-3-108**, as last amended by Laws of Utah 2022, Chapter 201
181 **78B-9-104**, as last amended by Laws of Utah 2022, Chapter 120
182 **80-6-610**, as renumbered and amended by Laws of Utah 2021, Chapter 261

183 **80-6-709**, as last amended by Laws of Utah 2022, Chapter 155

184 ENACTS:

185 **76-6-106.1**, Utah Code Annotated 1953

186 **76-6-206.5**, Utah Code Annotated 1953

187 **76-6-412.1**, Utah Code Annotated 1953

188 **76-6-501.5**, Utah Code Annotated 1953

189 **76-6-503.6**, Utah Code Annotated 1953

190 **76-6-506.8**, Utah Code Annotated 1953

191 **76-6-506.9**, Utah Code Annotated 1953

192 **76-6-703.1**, Utah Code Annotated 1953

193 **76-6-703.3**, Utah Code Annotated 1953

194 **76-6-703.5**, Utah Code Annotated 1953

195 **76-6-703.7**, Utah Code Annotated 1953

196 **76-6-902.1**, Utah Code Annotated 1953

197 **76-6-902.2**, Utah Code Annotated 1953

198 **76-6-1403.1**, Utah Code Annotated 1953

199 **76-6-1404.1**, Utah Code Annotated 1953

200 **76-6-1405.1**, Utah Code Annotated 1953

201 **76-6-1406.1**, Utah Code Annotated 1953

202 **76-6-1409.1**, Utah Code Annotated 1953

203 **76-6a-102**, Utah Code Annotated 1953

204 **76-6a-103**, Utah Code Annotated 1953

205 REPEALS AND REENACTS:

206 **76-6-1101**, as enacted by Laws of Utah 2000, Chapter 57

207 RENUMBERS AND AMENDS:

208 **76-3-203.15**, (Renumbered from 76-6-109, as last amended by Laws of Utah 2000,
209 Chapter 214)

210 **76-3-203.16**, (Renumbered from 76-6-110, as last amended by Laws of Utah 2021,
211 Chapter 57)

212 **76-3-410**, (Renumbered from 76-6-107.1, as last amended by Laws of Utah 2021,
213 Chapter 260)

214 **76-6a-101**, (Renumbered from 76-6a-2, as last amended by Laws of Utah 2006,
215 Chapter 247)

216 **76-6a-104**, (Renumbered from 76-6a-6, as enacted by Laws of Utah 1983, Chapter 89)

217 REPEALS:

218 **76-6-412**, as last amended by Laws of Utah 2022, Chapter 201

219 **76-6-506.5**, as last amended by Laws of Utah 2010, Chapter 193

220 **76-6-606**, as last amended by Laws of Utah 2000, Chapter 236

221 **76-6-701**, as last amended by Laws of Utah 1986, Chapter 123

222 **76-6-802**, as last amended by Laws of Utah 1987, Chapter 245

223 **76-6-804**, as enacted by Laws of Utah 1981, Chapter 168

224 **76-6-805**, as enacted by Laws of Utah 1981, Chapter 168

225 **76-6-903**, as last amended by Laws of Utah 2013, Chapter 394

226 **76-6-1004**, as enacted by Laws of Utah 1998, Chapter 87

227 **76-6-1201**, as enacted by Laws of Utah 2008, Chapter 370

228 **76-6-1204**, as last amended by Laws of Utah 2010, Chapter 193

229 **76-6-1301**, as enacted by Laws of Utah 2012, Chapter 32

230 **76-6-1401**, as renumbered and amended by Laws of Utah 2013, Chapter 187

231 **76-6-1407**, as last amended by Laws of Utah 2016, Chapter 316

232 **76-6a-1**, as enacted by Laws of Utah 1983, Chapter 89

233 **76-6a-3**, as last amended by Laws of Utah 2006, Chapter 247

234 **76-6a-4**, as last amended by Laws of Utah 2006, Chapter 247

235 **76-6a-5**, as enacted by Laws of Utah 1983, Chapter 89

236

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

238 Section 1. Section **13-19-3** is amended to read:

239 **13-19-3. Violation an infraction.**

240 Notwithstanding the penalty provisions of [~~Section 76-6-606~~] Title 76, Chapter 6, Part
241 6, Retail Theft, a violation of this chapter is an infraction.

242 Section 2. Section **24-1-102** is amended to read:

243 **24-1-102. Definitions.**

244 As used in this title:

- 245 (1) "Account" means the Criminal Forfeiture Restricted Account created in Section
246 24-4-116.
- 247 (2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not
248 guilty.
- 249 (b) "Acquitted" does not include:
- 250 (i) a verdict of guilty on a lesser or reduced charge;
- 251 (ii) a plea of guilty to a lesser or reduced charge; or
- 252 (iii) dismissal of a charge as a result of a negotiated plea agreement.
- 253 (3) (a) "Agency" means an agency of this state or a political subdivision of this state.
- 254 (b) "Agency" includes a law enforcement agency or a multijurisdictional task force.
- 255 (4) "Claimant" means:
- 256 (a) an owner of property as defined in this section;
- 257 (b) an interest holder as defined in this section; or
- 258 (c) an individual or entity who asserts a claim to any property seized for forfeiture
259 under this title.
- 260 (5) "Commission" means the State Commission on Criminal and Juvenile Justice
261 created in Section 63M-7-201.
- 262 (6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real
263 or personal property under this title.
- 264 (7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other
265 high-speed data processing device that performs logical, arithmetic, and storage functions.
- 266 (b) "Computer" includes any device that is used for the storage of digital or electronic
267 files, flash memory, software, or other electronic information.
- 268 (c) "Computer" does not mean a computer server of an Internet or electronic service
269 provider, or the service provider's employee, if used to comply with the requirements under 18
270 U.S.C. Sec. 2258A.
- 271 (8) "Constructive seizure" means a seizure of property where the property is left in the
272 control of the owner and an agency posts the property with a notice of intent to seek forfeiture.
- 273 (9) (a) "Contraband" means any property, item, or substance that is unlawful to
274 produce or to possess under state or federal law.
- 275 (b) "Contraband" includes:

276 (i) a controlled substance that is possessed, transferred, distributed, or offered for
277 distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

278 (ii) a computer that:

279 (A) contains or houses child pornography, or is used to create, download, transfer,
280 upload to a storage account, or store any electronic or digital files containing child
281 pornography; or

282 (B) contains the personal identifying information of another individual, as defined in
283 [Subsection] ~~[76-6-1102(1)]~~ Section 76-6-1101, whether that individual is alive or deceased,
284 and the personal identifying information has been used to create false or fraudulent
285 identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part
286 5, Fraud.

287 (10) "Forfeit" means to divest a claimant of an ownership interest in property seized
288 under this title.

289 (11) "Innocent owner" means a claimant who:

290 (a) held an ownership interest in property at the time of the commission of an offense
291 subjecting the property to forfeiture under this title, and:

292 (i) did not have actual knowledge of the offense subjecting the property to forfeiture; or

293 (ii) upon learning of the commission of the offense, took reasonable steps to prohibit
294 the use of the property in the commission of the offense; or

295 (b) acquired an ownership interest in the property and had no knowledge that the
296 commission of the offense subjecting the property to forfeiture under this title had occurred or
297 that the property had been seized for forfeiture, and:

298 (i) acquired the property in a bona fide transaction for value;

299 (ii) was an individual, including a minor child, who acquired an interest in the property
300 through probate or inheritance; or

301 (iii) was a spouse who acquired an interest in property through dissolution of marriage
302 or by operation of law.

303 (12) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a
304 party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest
305 or encumbrance pertaining to an interest in property, whose interest would be perfected against
306 a good faith purchaser for value.

- 307 (b) "Interest holder" does not mean a person:
- 308 (i) who holds property for the benefit of or as an agent or nominee for another person;
- 309 or
- 310 (ii) who is not in substantial compliance with any statute requiring an interest in
- 311 property to be:
- 312 (A) recorded or reflected in public records in order to perfect the interest against a good
- 313 faith purchaser for value; or
- 314 (B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance
- 315 with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for
- 316 value.
- 317 (13) "Known address" means any address provided by a claimant to the peace officer
- 318 or agency at the time the property is seized, or the claimant's most recent address on record
- 319 with a governmental entity if no address was provided at the time of the seizure.
- 320 (14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture
- 321 action.
- 322 (15) "Legislative body" means:
- 323 (a) (i) the Legislature, county commission, county council, city commission, city
- 324 council, or town council that has fiscal oversight and budgetary approval authority over an
- 325 agency; or
- 326 (ii) the agency's governing political subdivision; or
- 327 (b) the lead governmental entity of a multijurisdictional task force, as designated in a
- 328 memorandum of understanding executed by the agencies participating in the task force.
- 329 (16) "Multijurisdictional task force" means a law enforcement task force or other
- 330 agency comprised of individuals who are employed by or acting under the authority of different
- 331 governmental entities, including federal, state, county, or municipal governments, or any
- 332 combination of federal, state, county, or municipal agencies.
- 333 (17) "Owner" means an individual or entity, other than an interest holder, that
- 334 possesses a bona fide legal or equitable interest in real or personal property.
- 335 (18) "Peace officer" means an employee:
- 336 (a) of an agency;
- 337 (b) whose duties consist primarily of the prevention and detection of violations of laws

338 of this state or a political subdivision of this state; and

339 (c) who is authorized by the agency to seize property under this title.

340 (19) (a) "Proceeds" means:

341 (i) property of any kind that is obtained directly or indirectly as a result of the
342 commission of an offense; or

343 (ii) any property acquired directly or indirectly from, produced through, realized
344 through, or caused by an act or omission regarding property under Subsection (19)(a)(i).

345 (b) "Proceeds" includes any property of any kind without reduction for expenses
346 incurred in the acquisition, maintenance, or production of that property, or any other purpose
347 regarding property under Subsection (19)(a)(i).

348 (c) "Proceeds" is not limited to the net gain or profit realized from the offense that
349 subjects the property to forfeiture.

350 (20) "Program" means the State Asset Forfeiture Grant Program created in Section
351 [24-4-117](#).

352 (21) (a) "Property" means all property, whether real or personal, tangible or intangible.

353 (b) "Property" does not include contraband.

354 (22) "Prosecuting attorney" means:

355 (a) the attorney general and an assistant attorney general;

356 (b) a district attorney or deputy district attorney;

357 (c) a county attorney or assistant county attorney; and

358 (d) an attorney authorized to commence an action on behalf of the state under this title.

359 (23) "Public interest use" means a:

360 (a) use by a government agency as determined by the legislative body of the agency's
361 jurisdiction; or

362 (b) donation of the property to a nonprofit charity registered with the state.

363 (24) "Real property" means land, including any building, fixture, improvement,
364 appurtenance, structure, or other development that is affixed permanently to land.

365 Section 3. Section **26-7-14** is amended to read:

366 **26-7-14. Study on violent incidents and fatalities involving substance abuse --**
367 **Report.**

368 (1) As used in this section:

369 (a) "Drug overdose event" means an acute condition, including a decreased level of
370 consciousness or respiratory depression resulting from the consumption or use of a controlled
371 substance, or another substance with which a controlled substance or alcohol was combined,
372 that results in an individual requiring medical assistance.

373 (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
374 substances.

375 (c) "Violent incident" means:

376 (i) aggravated assault as described in Section 76-5-103;

377 (ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and
378 76-5-114;

379 (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

380 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

381 (v) a burglary offense described in Sections 76-6-202 [through], 76-6-203, 76-6-204,
382 and 76-6-204.5;

383 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

384 (vii) a domestic violence offense, as defined in Section 77-36-1; and

385 (viii) any other violent offense, as determined by the department.

386 (2) In 2021 and continuing every other year, the department shall provide a report
387 before October 1 to the Health and Human Services Interim Committee regarding the number
388 of:

389 (a) violent incidents and fatalities that occurred in the state during the preceding
390 calendar year that, at the time of occurrence, involved substance abuse;

391 (b) drug overdose events in the state during the preceding calendar year; and

392 (c) recommendations for legislation, if any, to prevent the occurrence of the events
393 described in Subsections (2)(a) and (b).

394 (3) Before October 1, 2020, the department shall:

395 (a) determine what information is necessary to complete the report described in
396 Subsection (2) and from which local, state, and federal agencies the information may be
397 obtained;

398 (b) determine the cost of any research or data collection that is necessary to complete
399 the report described in Subsection (2);

400 (c) make recommendations for legislation, if any, that is necessary to facilitate the
401 research or data collection described in Subsection (3)(b), including recommendations for
402 legislation to assist with information sharing between local, state, federal, and private entities
403 and the department; and

404 (d) report the findings described in Subsections (3)(a) through (c) to the Health and
405 Human Services Interim Committee.

406 (4) The department may contract with another state agency, private entity, or research
407 institution to assist the department with the report described in Subsection (2).

408 Section 4. Section 26-20-9 is amended to read:

409 **26-20-9. Criminal penalties.**

410 (1) (a) Except as provided in Subsection (1)(b) the culpable mental state required for a
411 criminal violation of this chapter is knowingly, intentionally, or recklessly as defined in Section
412 76-2-103.

413 (b) The culpable mental state required for a criminal violation of this chapter for
414 kickbacks and bribes under Section 26-20-4 is knowingly and intentionally as defined in
415 Section 76-2-103.

416 (2) The punishment for a criminal violation of any provision of this chapter, except as
417 provided under Section 26-20-5, is determined by the cumulative value of the funds or other
418 benefits received or claimed in the commission of all violations of a similar nature, and not by
419 each separate violation.

420 (3) Punishment for criminal violation of this chapter, except as provided under Section
421 26-20-5, is [~~a felony of the second degree, felony of the third degree, class A misdemeanor, or~~
422 ~~class B misdemeanor based on the dollar amounts as prescribed by Subsection 76-6-412(1) for~~
423 ~~theft of property and services]:~~

424 (a) a second degree felony if the value of the property or service is or exceeds \$5,000;

425 (b) a third degree felony if the value of the property or service is or exceeds \$1,500 but
426 is less than \$5,000;

427 (c) a class A misdemeanor if the value of the property or service is or exceeds \$500 but
428 is less than \$1,500; or

429 (d) a class B misdemeanor if the value of the property or service is less than \$500.

430 Section 5. Section 31A-23a-409 is amended to read:

431 **31A-23a-409. Trust obligation for money collected.**

432 (1) (a) Subject to Subsection (7), a licensee is a trustee for money that is paid to,
433 received by, or collected by a licensee for forwarding to insurers or to insureds.

434 (b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust
435 funds with:

436 (A) the licensee's own money; or

437 (B) money held in any other capacity.

438 (ii) This Subsection (1)(b) does not apply to:

439 (A) amounts necessary to pay bank charges; and

440 (B) money paid by insureds and belonging in part to the licensee as a fee or
441 commission.

442 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers
443 the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds
444 through the licensee.

445 (d) (i) Unless money is sent to the appropriate payee by the close of the next business
446 day after their receipt, the licensee shall deposit them in an account authorized under
447 Subsection (2).

448 (ii) Money deposited under this Subsection (1)(d) shall remain in an account
449 authorized under Subsection (2) until sent to the appropriate payee.

450 (2) Money required to be deposited under Subsection (1) shall be deposited:

451 (a) ~~in~~ into a federally insured trust account in a depository institution, as defined in
452 Section [7-1-103](#), which:

453 (i) has an office in this state, if the licensee depositing the money is a resident licensee;

454 (ii) has federal deposit insurance; and

455 (iii) is authorized by its primary regulator to engage in the trust business, as defined by
456 Section [7-5-1](#), in this state; or

457 (b) ~~in~~ into some other account, that:

458 (i) the commissioner approves by rule or order; and

459 (ii) provides safety comparable to an account described in Subsection (2)(a).

460 (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the
461 amount of the federal insurance on the accounts.

462 (4) A trust account into which money is deposited may be interest bearing. The
463 interest accrued on the account may be paid to the licensee, so long as the licensee otherwise
464 complies with this section and with the contract with the insurer.

465 (5) A depository institution or other organization holding trust funds under this section
466 may not offset or impound trust account funds against debts and obligations incurred by the
467 licensee.

468 (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any
469 portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft
470 under Title 76, Chapter 6, Part 4, Theft. [~~Section 76-6-412 applies in determining the~~
471 ~~classification of the offense.~~] Sanctions under Section 31A-2-308 also apply.

472 (7) A nonresident licensee:

473 (a) shall comply with Subsection (1)(a) by complying with the trust account
474 requirements of the nonresident licensee's home state; and

475 (b) is not required to comply with the other provisions of this section.

476 Section 6. Section 31A-36-118 is amended to read:

477 **31A-36-118. Criminal penalties and restitution.**

478 (1) A person subject to this chapter is subject to:

479 (a) Section 31A-2-308 for an administrative violation of this title;

480 (b) prosecution under [~~Section 76-6-412~~] Title 76, Chapter 6, Part 4, Theft, for [a
481]criminal activity involving a life settlement; or

482 (c) prosecution under Section 31A-31-103 for insurance fraud involving a life
483 settlement.

484 (2) A person found to be in violation of this chapter may:

485 (a) be ordered to pay restitution to persons aggrieved by the violation;

486 (b) be ordered to pay a forfeiture;

487 (c) be imprisoned if found guilty of a criminal law by a court of competent jurisdiction;

488 and

489 (d) be subject to a combination of the penalties described in this Subsection (2).

490 (3) Except for a fraudulent act committed by an owner, this section does not apply to
491 the owner.

492 Section 7. Section 35A-4-312.5 is amended to read:

493 **35A-4-312.5. Suspected misuse of personal identifying information.**

494 (1) As used in this section:

495 (a) "Child identity protection plan" is a program operated by the attorney general that
496 uses IRIS and allows the attorney general to enter into an agreement with a third party to
497 transmit verified personal information of a person younger than 18 years of age through
498 secured means to enable the protection of the person's Social Security number from misuse.

499 (b) "IRIS" means the Identity Theft Reporting Information System operated by the
500 attorney general.

501 (c) "Personal identifying information" has the same meaning as defined in Section
502 ~~[76-6-1102]~~ [76-6-1101](#).

503 (d) "Suspected misuse of personal identifying information" includes:

504 (i) a ~~[Social Security]~~ social security number under which wages are being reported by
505 two or more individuals; or

506 (ii) a ~~[Social Security]~~ social security number of an individual under the age of 18 with
507 reported wages exceeding \$1,000 for a single reporting quarter.

508 (2) Notwithstanding Section [35A-4-312](#), if the department records disclose a suspected
509 misuse of personal identifying information by an individual other than the purported owner of
510 the information, or if a parent, guardian, or individual under the age of 18 is enrolling or has
511 enrolled in the child identity protection plan, the department may:

512 (a) inform the purported owner of the information or, if the purported owner is a minor,
513 the minor's parent or guardian, of the suspected misuse; and

514 (b) provide information of the suspected misuse to an appropriate law enforcement
515 agency responsible for investigating an identity fraud violation.

516 Section 8. Section **41-1a-1314** is amended to read:

517 **41-1a-1314. Unauthorized control for extended time.**

518 (1) Except as provided in Subsection (3), it is a class A misdemeanor for a person to
519 exercise unauthorized control over a motor vehicle that is not his own, without the consent of
520 the owner or lawful custodian, and with the intent to temporarily deprive the owner or lawful
521 custodian of possession of the motor vehicle.

522 (2) The consent of the owner or legal custodian of a motor vehicle to its control by the
523 actor is not in any case presumed or implied because of the owner's or legal custodian's consent

524 on a previous occasion to the control of the motor vehicle by the same or a different person.

525 (3) Violation of this section is a third degree felony if:

526 (a) the person does not return the motor vehicle to the owner or lawful custodian within
527 24 hours after the exercise of unlawful control; or

528 (b) regardless of the mental state or conduct of the person committing the offense:

529 (i) the motor vehicle is damaged in an amount of \$500 or more;

530 (ii) the motor vehicle is used to commit a felony; or

531 (iii) the motor vehicle is damaged in any amount to facilitate entry into it or its

532 operation.

533 (4) It is not a defense to Subsection (3)(a) that someone other than the person, or an
534 agent of the person, returned the motor vehicle within 24 hours.

535 (5) A violation of this section is a lesser included offense of theft under Section

536 [76-6-404](#), when the theft is of an operable motor vehicle under Subsection [~~76-6-412(1)(a)(ii)~~]

537 [76-6-404\(3\)\(a\)\(ii\)](#).

538 Section 9. Section **58-9-607** is amended to read:

539 **58-9-607. Authorization to cremate -- Penalties for removal of items from human**
540 **remains.**

541 (1) Except as otherwise provided in this section and Section [58-9-619](#), a funeral service
542 establishment may not cremate human remains until it has received:

543 (a) a cremation authorization form signed by an authorizing agent;

544 (b) a completed and executed burial transit permit or similar document, as provided by
545 state law, indicating that human remains are to be cremated; and

546 (c) any other documentation required by the state, county, or municipality.

547 (2) (a) The cremation authorization form shall contain, at a minimum, the following
548 information:

549 (i) the identity of the human remains and the time and date of death, including a signed
550 declaration of visual identification of the deceased or refusal to visually identify the deceased;

551 (ii) the name of the funeral director and funeral service establishment that obtained the
552 cremation authorization;

553 (iii) notification as to whether the death occurred from a disease declared by the
554 department of health to be infectious, contagious, communicable, or dangerous to the public

555 health;

556 (iv) the name of the authorizing agent and the relationship between the authorizing
557 agent and the decedent;

558 (v) a representation that the authorizing agent has the right to authorize the cremation
559 of the decedent and that the authorizing agent is not aware of any living person with a superior
560 or equal priority right to that of the authorizing agent, except that if there is another living
561 person with a superior or equal priority right, the form shall contain a representation that the
562 authorizing agent has:

563 (A) made reasonable efforts to contact that person;

564 (B) been unable to do so; and

565 (C) no reason to believe that the person would object to the cremation of the decedent;

566 (vi) authorization for the funeral service establishment to cremate the human remains;

567 (vii) a representation that the human remains do not contain a pacemaker or other
568 material or implant that may be potentially hazardous or cause damage to the cremation
569 chamber or the person performing the cremation;

570 (viii) the name of the person authorized to receive the cremated remains from the
571 funeral service establishment;

572 (ix) the manner in which the final disposition of the cremated remains is to take place,
573 if known;

574 (x) a listing of each item of value to be delivered to the funeral service establishment
575 along with the human remains, and instructions as to how each item should be handled;

576 (xi) the signature of the authorizing agent, attesting to the accuracy of all
577 representations contained on the authorization form;

578 (xii) if the cremation authorization form is being executed on a preneed basis, the form
579 shall contain the disclosure required for preneed programs under this chapter; and

580 (xiii) except for a preneed cremation authorization, the signature of the funeral director
581 of the funeral service establishment that obtained the cremation authorization.

582 (b) (i) The individual described in Subsection (2)(a)(xiii) shall execute the funeral
583 authorization form as a witness and is not responsible for any of the representations made by
584 the authorizing agent.

585 (ii) The funeral director or the funeral service establishment shall warrant to the

586 crematory that the human remains delivered to the funeral service establishment have been
587 positively identified as the decedent listed on the cremation authorization form by the
588 authorizing agent or a designated representative of the authorizing agent.

589 (iii) The authorizing agent or the agent's designee may make the identification referred
590 to in Subsection (2)(b)(ii) in person or by photograph.

591 (3) (a) Except as provided in Section 58-9-619, a funeral service establishment may not
592 accept unidentified human remains for cremation.

593 (b) If a funeral service establishment takes custody of a cremation container subsequent
594 to the human remains being placed within the container, it can rely on the identification made
595 before the remains were placed in the container.

596 (c) The funeral service establishment shall place appropriate identification on the
597 exterior of the cremation container based on the prior identification.

598 (4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos
599 from human remains:

600 (i) with purpose to deprive another over control of the property is guilty of an offense
601 and subject to the punishments provided in Section [76-6-412] 76-6-404;

602 (ii) with purpose to exercise unauthorized control and with intent to temporarily
603 deprive another of control over the property is guilty of an offense and subject to the
604 punishments provided in Section 76-6-404.5; and

605 (iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without
606 specific written permission of the individual who has the right to control those remains is guilty
607 of a class B misdemeanor.

608 (b) The fact that residue or any unavoidable dental gold or dental silver or other
609 precious metals remain in a cremation chamber or other equipment or a container used in a
610 prior cremation is not a violation of Subsection (4)(a).

611 Section 10. Section 58-9-613 is amended to read:

612 **58-9-613. Authorization for alkaline hydrolysis -- Penalties for removal of items**
613 **from human remains.**

614 (1) Except as otherwise provided in this section, a funeral service establishment may
615 not perform alkaline hydrolysis on human remains until the funeral service establishment has
616 received:

- 617 (a) an alkaline hydrolysis authorization form signed by an authorizing agent;
- 618 (b) a completed and executed burial transit permit or similar document, as provided by
619 state law, indicating that disposition of the human remains is to be by alkaline hydrolysis; and
- 620 (c) any other documentation required by the state, county, or municipality.
- 621 (2) (a) The alkaline hydrolysis authorization form shall contain, at a minimum, the
622 following information:
- 623 (i) the identity of the human remains and the time and date of death, including a signed
624 declaration of visual identification of the deceased or refusal to visually identify the deceased;
- 625 (ii) the name of the funeral director and funeral service establishment that obtained the
626 alkaline hydrolysis authorization;
- 627 (iii) notification as to whether the death occurred from a disease declared by the
628 Department of Health to be infectious, contagious, communicable, or dangerous to the public
629 health;
- 630 (iv) the name of the authorizing agent and the relationship between the authorizing
631 agent and the decedent;
- 632 (v) a representation that the authorizing agent has the right to authorize the disposition
633 of the decedent by alkaline hydrolysis and that the authorizing agent is not aware of any living
634 person with a superior or equal priority right to that of the authorizing agent, except that if
635 there is another living person with a superior or equal priority right, the alkaline hydrolysis
636 authorization form shall contain a representation that the authorizing agent has:
- 637 (A) made reasonable efforts to contact that person;
- 638 (B) been unable to do so; and
- 639 (C) no reason to believe that the person would object to the disposition of the decedent
640 by alkaline hydrolysis;
- 641 (vi) authorization for the funeral service establishment to use alkaline hydrolysis for
642 the disposition of the human remains;
- 643 (vii) the name of the person authorized to receive the human remains from the funeral
644 service establishment;
- 645 (viii) the manner in which the final disposition of the human remains is to take place, if
646 known;
- 647 (ix) a listing of each item of value to be delivered to the funeral service establishment

648 along with the human remains, and instructions as to how each item should be handled;

649 (x) the signature of the authorizing agent, attesting to the accuracy of all

650 representations contained on the alkaline hydrolysis authorization form;

651 (xi) if the alkaline hydrolysis authorization form is being executed on a preneed basis,

652 the disclosure required for preneed programs under this chapter; and

653 (xii) except for a preneed alkaline hydrolysis authorization, the signature of the funeral

654 director of the funeral service establishment that obtained the alkaline hydrolysis authorization.

655 (b) (i) The person referred to in Subsection (2)(a)(xii) shall execute the alkaline

656 hydrolysis authorization form as a witness and is not responsible for any of the representations

657 made by the authorizing agent.

658 (ii) The funeral director or the funeral service establishment shall warrant that the

659 human remains delivered to the funeral service establishment have been positively identified by

660 the authorizing agent or a designated representative of the authorizing agent as the decedent

661 listed on the alkaline hydrolysis authorization form.

662 (iii) The authorizing agent or the agent's designee may make the identification referred

663 to in Subsection (2)(b)(ii) in person or by photograph.

664 (3) (a) A funeral service establishment may not accept unidentified human remains for
665 alkaline hydrolysis.

666 (b) If a funeral service establishment takes custody of an alkaline hydrolysis container

667 subsequent to the human remains being placed within the container, the funeral service

668 establishment can rely on the identification made before the remains were placed in the

669 container.

670 (c) The funeral service establishment shall place appropriate identification on the

671 exterior of the alkaline hydrolysis container based on the prior identification.

672 (4) (a) A person who removes or possesses dental gold or silver, jewelry, or mementos
673 from human remains:

674 (i) with purpose to deprive another over control of the property is guilty of an offense
675 and subject to the punishments provided in Section [~~76-6-412~~] [76-6-404](#);

676 (ii) with purpose to exercise unauthorized control and with intent to temporarily
677 deprive another of control over the property is guilty of an offense and subject to the

678 punishments provided in Section [76-6-404.5](#); and

679 (iii) under circumstances not amounting to Subsection (4)(a)(i) or (ii) and without
680 specific written permission of the individual who has the right to control those remains is guilty
681 of a class B misdemeanor.

682 (b) The fact that residue or any unavoidable dental gold or dental silver or other
683 precious metals remain in alkaline hydrolysis equipment or a container used in a prior alkaline
684 hydrolysis process is not a violation of Subsection (4)(a).

685 Section 11. Section **58-55-503** is amended to read:

686 **58-55-503. Penalty for unlawful conduct -- Citations.**

687 (1) (a) (i) A person who violates Subsection [58-55-308\(2\)](#), Subsection [58-55-501\(1\)](#),
688 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26),
689 (27), or (28), or Subsection [58-55-504\(2\)](#), or who fails to comply with a citation issued under
690 this section after it is final, is guilty of a class A misdemeanor.

691 (ii) As used in this section in reference to Subsection [58-55-504\(2\)](#), "person" means an
692 individual and does not include a sole proprietorship, joint venture, corporation, limited
693 liability company, association, or organization of any type.

694 (b) A person who violates the provisions of Subsection [58-55-501\(8\)](#) may not be
695 awarded and may not accept a contract for the performance of the work.

696 (2) A person who violates the provisions of Subsection [58-55-501\(13\)](#) is guilty of an
697 infraction unless the violator did so with the intent to deprive the person to whom money is to
698 be paid of the money received, in which case the violator is guilty of theft~~[as classified in~~
699 ~~Section [76-6-412](#)]~~ under Section [76-6-404](#).

700 (3) Grounds for immediate suspension of a licensee's license by the division and the
701 commission include:

702 (a) the issuance of a citation for violation of Subsection [58-55-308\(2\)](#), Section
703 [58-55-501](#), or Subsection [58-55-504\(2\)](#); and

704 (b) the failure by a licensee to make application to, report to, or notify the division with
705 respect to any matter for which application, notification, or reporting is required under this
706 chapter or rules adopted under this chapter, including:

707 (i) applying to the division for a new license to engage in a new specialty classification
708 or to do business under a new form of organization or business structure;

709 (ii) filing a current financial statement with the division; and

710 (iii) notifying the division concerning loss of insurance coverage or change in qualifier.

711 (4) (a) (i) If upon inspection or investigation, the division concludes that a person has
712 violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
713 (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), (28), Subsection
714 58-55-502(4)(a) or (11), Subsection 58-55-504(2), or any rule or order issued with respect to
715 these subsections, and that disciplinary action is appropriate, the director or the director's
716 designee from within the division shall promptly issue a citation to the person according to this
717 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person
718 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,
719 Administrative Procedures Act.

720 (ii) A person who is in violation of the provisions of Subsection 58-55-308(2),
721 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24),
722 (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a
723 stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be
724 assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered
725 to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3),
726 (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection
727 58-55-504(2).

728 (iii) Except for a cease and desist order, the licensure sanctions cited in Section
729 58-55-401 may not be assessed through a citation.

730 (b) (i) A citation shall be in writing and describe with particularity the nature of the
731 violation, including a reference to the provision of the chapter, rule, or order alleged to have
732 been violated.

733 (ii) A citation shall clearly state that the recipient must notify the division in writing
734 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
735 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

736 (iii) A citation shall clearly explain the consequences of failure to timely contest the
737 citation or to make payment of any fines assessed by the citation within the time specified in
738 the citation.

739 (c) A citation issued under this section, or a copy of a citation, may be served upon a
740 person upon whom a summons may be served:

- 741 (i) in accordance with the Utah Rules of Civil Procedure;
- 742 (ii) personally or upon the person's agent by a division investigator or by a person
743 specially designated by the director; or
- 744 (iii) by mail.
- 745 (d) (i) If within 20 calendar days after the day on which a citation is served, the person
746 to whom the citation was issued fails to request a hearing to contest the citation, the citation
747 becomes the final order of the division and is not subject to further agency review.
- 748 (ii) The period to contest a citation may be extended by the division for cause.
- 749 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
750 the license of a licensee who fails to comply with a citation after the citation becomes final.
- 751 (f) The failure of an applicant for licensure to comply with a citation after the citation
752 becomes final is a ground for denial of license.
- 753 (g) A citation may not be issued under this section after the expiration of one year
754 following the date on which the violation that is the subject of the citation is reported to the
755 division.
- 756 (h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's
757 designee shall assess a fine in accordance with the following:
- 758 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;
- 759 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;
- 760 and
- 761 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
762 \$2,000 for each day of continued offense.
- 763 (ii) Except as provided in Subsection (5), if a person violates Subsection
764 [58-55-501](#)(16)(e) or (28), the director or the director's designee shall assess a fine in
765 accordance with the following:
- 766 (A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;
- 767 (B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$4,000;
- 768 and
- 769 (C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to
770 \$4,000 for each day of continued offense.
- 771 (i) (i) For purposes of issuing a final order under this section and assessing a fine under

772 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

773 (A) the division previously issued a final order determining that a person committed a
774 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),
775 (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection
776 58-55-504(2); or

777 (B) (I) the division initiated an action for a first or second offense;

778 (II) a final order has not been issued by the division in the action initiated under
779 Subsection (4)(i)(i)(B)(I);

780 (III) the division determines during an investigation that occurred after the initiation of
781 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
782 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),
783 (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection
784 58-55-504(2); and

785 (IV) after determining that the person committed a second or subsequent offense under
786 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
787 Subsection (4)(i)(i)(B)(I).

788 (ii) In issuing a final order for a second or subsequent offense under Subsection
789 (4)(i)(i), the division shall comply with the requirements of this section.

790 (j) In addition to any other licensure sanction or fine imposed under this section, the
791 division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24)
792 two or more times within a 12-month period, unless, with respect to a violation of Subsection
793 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal
794 legal working status of the individual who was the subject of the violation using a status
795 verification system, as defined in Section 13-47-102.

796 (k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24)
797 for each individual is considered a separate violation.

798 (5) If a person violates Section 58-55-501, the division may not treat the violation as a
799 subsequent violation of a previous violation if the violation occurs five years or more after the
800 day on which the person committed the previous violation.

801 (6) If, after an investigation, the division determines that a person has committed
802 multiple of the same type of violation of Section 58-55-501, the division may treat each

803 violation as a separate violation of Section 58-55-501 and apply a penalty under this section to
804 each violation.

805 (7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
806 into the Commerce Service Account created by Section 13-1-2.

807 (b) A penalty that is not paid may be collected by the director by either referring the
808 matter to a collection agency or bringing an action in the district court of the county in which
809 the person against whom the penalty is imposed resides or in the county where the office of the
810 director is located.

811 (c) A county attorney or the attorney general of the state shall provide legal assistance
812 and advice to the director in an action to collect a penalty.

813 (d) In an action brought to collect a penalty, the court shall award reasonable attorney
814 fees and costs to the prevailing party.

815 Section 12. Section 63I-1-226 is amended to read:

816 **63I-1-226. Repeal dates: Titles 26 through 26B.**

817 (1) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July
818 1, 2025.

819 (2) Section 26-1-40 is repealed July 1, 2022.

820 (3) Section 26-1-41 is repealed July 1, 2026.

821 (4) Section 26-1-43 is repealed December 31, 2025.

822 (5) Section 26-7-10 is repealed July 1, 2025.

823 (6) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1,
824 2028.

825 (7) Section 26-7-14 is repealed December 31, 2027.

826 (8) Section 26-8a-603 is repealed July 1, 2027.

827 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
828 1, 2025.

829 (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee,
830 is repealed July 1, 2026.

831 (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed
832 July 1, 2025.

833 (12) Subsection 26-15c-104(3), relating to a limitation on the number of

- 834 microenterprise home kitchen permits that may be issued, is repealed July 1, 2022.
- 835 (13) Subsection [26-18-2.6\(9\)](#), which addresses reimbursement for dental hygienists, is
836 repealed July 1, 2028.
- 837 (14) Section [26-18-27](#) is repealed July 1, 2025.
- 838 (15) Section [26-18-28](#) is repealed June 30, 2027.
- 839 (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1,
840 2027.
- 841 (17) Subsection [26-18-418\(2\)](#), the language that states "and the Behavioral Health
842 Crisis Response Commission created in Section [63C-18-202](#)" is repealed July 1, 2023.
- 843 (18) Section [26-33a-117](#) is repealed December 31, 2023.
- 844 (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.
- 845 (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1,
846 2024.
- 847 (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed
848 July 1, 2024.
- 849 (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.
- 850 (23) Section [26-39-201](#), which creates the Residential Child Care Licensing Advisory
851 Committee, is repealed July 1, 2024.
- 852 (24) Section [26-39-405](#), Drinking water quality in child care centers, is repealed July 1,
853 2027.
- 854 (25) Section [26-40-104](#), which creates the Utah Children's Health Insurance Program
855 Advisory Council, is repealed July 1, 2025.
- 856 (26) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory
857 Committee, is repealed July 1, 2025.
- 858 (27) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
859 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.
- 860 (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1,
861 2026.
- 862 (29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1,
863 2024.
- 864 (30) Section [26-69-406](#) is repealed July 1, 2025.

865 (31) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing
866 Advisory Committee, is repealed July 1, 2024.

867 (32) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is
868 repealed July 1, 2025.

869 Section 13. Section 63M-7-404 is amended to read:

870 **63M-7-404. Purpose -- Duties.**

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

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

874 (i) respond to public comment;

875 (ii) relate sentencing practices and correctional resources;

876 (iii) increase equity in criminal sentencing;

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

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

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

881 (i) increase equity in criminal supervision lengths;

882 (ii) respond to public comment;

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

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

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

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

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

892 (i) treatment and intervention completion determinations based on individualized case
893 action plans;

894 (ii) measured and consistent processes for addressing violations of conditions of
895 supervision;

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

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

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

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

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

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

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

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

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

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

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

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

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

921 (iii) the probationer's criminal history.

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

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

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

926 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that

927 the Board of Pardons and Parole consider:

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

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

930 (iii) the individual's criminal history.

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

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

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

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

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

943 (i) three consecutive days; and

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

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

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

949 (b) positive conduct that exceeds those terms.

950 (8) (a) The commission shall establish guidelines, including sanctions and incentives,
951 to appropriately respond to negative and positive behavior of juveniles who are:

952 (i) nonjudicially adjusted;

953 (ii) placed on diversion;

954 (iii) placed on probation;

955 (iv) placed on community supervision;

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

957 (vi) placed in a secure care facility.

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

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

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

961 (iii) the delinquency history of the juvenile.

962 (c) The guidelines shall include:

963 (i) responses that are swift and certain;

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

965 (iii) responses that target the individual's criminogenic risk and needs; and

966 (iv) incentives for compliance, including earned discharge credits.

967 (9) The commission shall establish and maintain supervision length guidelines in
968 accordance with this section.

969 (10) (a) The commission shall create sentencing guidelines and supervision length
970 guidelines for the following financial and property offenses for which a pecuniary loss to a
971 victim may exceed \$50,000:

972 (i) securities fraud, Sections 61-1-1 and 61-1-21;

973 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
974 adviser representative, Sections 61-1-3 and 61-1-21;

975 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

976 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
977 Assault and Related Offenses;

978 (v) arson, Section 76-6-102;

979 (vi) burglary, Section 76-6-202;

980 (vii) theft~~[, Section 76-6-412]~~ under Title 76, Chapter 6, Part 4, Theft;

981 (viii) forgery, Section 76-6-501;

982 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;

983 (x) ~~[fraudulent insurance act]~~ insurance fraud, Section 76-6-521;

984 (xi) computer crimes, Section 76-6-703;

985 (xii) mortgage fraud, Sections 76-6-1203 and 76-6-1204;

986 (xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

987 (xiv) communications fraud, Section 76-10-1801;

988 (xv) money laundering, Section 76-10-1904; and

989 (xvi) other offenses in the discretion of the commission.

990 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix
991 with proportionate escalating sanctions based on the amount of a victim's loss.

992 (c) On or before August 1, 2022, the commission shall publish for public comment the
993 guidelines described in Subsection (10)(a).

994 (11) (a) Before January 1, 2023, the commission shall study the offenses of sexual
995 exploitation of a minor and aggravated sexual exploitation of a minor under Sections
996 76-5b-201 and 76-5b-201.1.

997 (b) The commission shall update sentencing and release guidelines and juvenile
998 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
999 (11)(a), including the application of aggravating and mitigating factors specific to the offense.

1000 Section 14. Section 73-2-27 is amended to read:

1001 **73-2-27. Criminal penalties.**

1002 (1) This section applies to offenses committed under:

1003 (a) Section 73-1-14;

1004 (b) Section 73-1-15;

1005 (c) Section 73-2-20;

1006 (d) Section 73-3-3;

1007 (e) Section 73-3-26;

1008 (f) Section 73-3-29;

1009 (g) Section 73-5-9;

1010 (h) Section 76-10-201;

1011 (i) Section 76-10-202; and

1012 (j) Section 76-10-203.

1013 (2) Under circumstances not amounting to an offense with a greater penalty under
1014 Subsection [~~76-6-106(2)(b)(ii)~~] 76-6-106(2)(a)(ii) or Section 76-6-404, violation of a provision
1015 listed in Subsection (1) is punishable:

1016 (a) as a felony of the third degree if:

1017 (i) the value of the water diverted or property damaged or taken is \$2,500 or greater;

1018 and

1019 (ii) the person violating the provision has previously been convicted of violating the

1020 same provision;

1021 (b) as a class A misdemeanor if:

1022 (i) the value of the water diverted or property damaged or taken is \$2,500 or greater; or

1023 (ii) the person violating the provision has previously been convicted of violating the

1024 same provision; or

1025 (c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

1026 Section 15. Section **76-3-203.1** is amended to read:

1027 **76-3-203.1. Offenses committed in concert with three or more persons or in**

1028 **relation to a criminal street gang -- Notice -- Enhanced penalties.**

1029 (1) As used in this section:

1030 (a) "Criminal street gang" means the same as that term is defined in Section [76-9-802](#).

1031 (b) "In concert with three or more persons" means:

1032 (i) the defendant was aided or encouraged by at least three other persons in committing

1033 the offense and was aware of this aid or encouragement; and

1034 (ii) each of the other persons:

1035 (A) was physically present; and

1036 (B) participated as a party to any offense listed in Subsection (4), (5), or (6).

1037 (c) "In concert with three or more persons" means, regarding intent:

1038 (i) other persons participating as parties need not have the intent to engage in the same

1039 offense or degree of offense as the defendant; and

1040 (ii) a minor is a party if the minor's actions would cause the minor to be a party if the

1041 minor were an adult.

1042 (2) A person who commits any offense in accordance with this section is subject to an

1043 enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a

1044 reasonable doubt that the person acted:

1045 (a) in concert with three or more persons;

1046 (b) for the benefit of, at the direction of, or in association with any criminal street gang

1047 as defined in Section [76-9-802](#); or

1048 (c) to gain recognition, acceptance, membership, or increased status with a criminal

1049 street gang as defined in Section [76-9-802](#).

1050 (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to

1051 be subscribed upon the information or indictment notice that the defendant is subject to the
1052 enhanced penalties provided under this section.

1053 (4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

1054 (i) for a class B misdemeanor, as a class A misdemeanor; and

1055 (ii) for a class A misdemeanor, as a third degree felony.

1056 (b) The following offenses are subject to Subsection (4)(a):

1057 (i) criminal mischief as [~~defined~~] described in Section [76-6-106](#); [~~and~~]

1058 (ii) property damage or destruction as described in Section [76-6-106.1](#); and

1059 [~~(ii)~~] (iii) defacement by graffiti as [~~defined~~] described in Section [76-6-107](#).

1060 (5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

1061 (i) for a class B misdemeanor, as a class A misdemeanor;

1062 (ii) for a class A misdemeanor, as a third degree felony; and

1063 (iii) for a third degree felony, as a second degree felony.

1064 (b) The following offenses are subject to Subsection (5)(a):

1065 (i) burglary, if committed in a dwelling as defined in Subsection [76-6-202](#)[(2)](3)(b);

1066 (ii) any offense of obstructing government operations under Chapter 8, Part 3,

1067 Obstructing Governmental Operations, except Sections [76-8-302](#), [76-8-303](#), [76-8-307](#),

1068 [76-8-308](#), and [76-8-312](#);

1069 (iii) tampering with a witness or other violation of Section [76-8-508](#);

1070 (iv) retaliation against a witness, victim, informant, or other violation of Section

1071 [76-8-508.3](#);

1072 (v) extortion or bribery to dismiss a criminal proceeding as defined in Section

1073 [76-8-509](#);

1074 (vi) any weapons offense under Chapter 10, Part 5, Weapons; and

1075 (vii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.

1076 (6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

1077 (i) for a class B misdemeanor, as a class A misdemeanor;

1078 (ii) for a class A misdemeanor, as a third degree felony;

1079 (iii) for a third degree felony, as a second degree felony; and

1080 (iv) for a second degree felony, as a first degree felony.

1081 (b) The following offenses are subject to Subsection (6)(a):

- 1082 (i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;
- 1083 (ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;
- 1084 (iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking,
- 1085 and Smuggling;
- 1086 (iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;
- 1087 (v) sexual exploitation of a minor as defined in Section 76-5b-201;
- 1088 (vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
- 1089 (vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and
- 1090 (viii) aggravated exploitation of prostitution under Section 76-10-1306.

1091 (7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the
1092 individual placed on probation for the higher level of offense.

1093 (8) It is not a bar to imposing the enhanced penalties under this section that the persons
1094 with whom the actor is alleged to have acted in concert are not identified, apprehended,
1095 charged, or convicted, or that any of those persons are charged with or convicted of a different
1096 or lesser offense.

1097 Section 16. Section 76-3-203.3 is amended to read:

1098 **76-3-203.3. Penalty for hate crimes -- Civil rights violation.**

1099 As used in this section:

1100 (1) "Primary offense" means those offenses provided in Subsection (4).

1101 (2) (a) A person who commits any primary offense with the intent to intimidate or
1102 terrorize another person or with reason to believe that his action would intimidate or terrorize
1103 that person is subject to Subsection (2)(b).

1104 (b) (i) A class C misdemeanor primary offense is a class B misdemeanor; and

1105 (ii) a class B misdemeanor primary offense is a class A misdemeanor.

1106 (3) "Intimidate or terrorize" means an act which causes the person to fear for his
1107 physical safety or damages the property of that person or another. The act must be
1108 accompanied with the intent to cause or has the effect of causing a person to reasonably fear to
1109 freely exercise or enjoy any right secured by the Constitution or laws of the state or by the
1110 Constitution or laws of the United States.

1111 (4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

1112 (a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106,

- 1113 76-5-107, and 76-5-108;
- 1114 (b) any misdemeanor property destruction offense under Sections 76-6-102 and
- 1115 76-6-104, and Subsection 76-6-106(2)[~~(b)~~](a);
- 1116 (c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;
- 1117 (d) any misdemeanor theft offense under Section 76-6-412;
- 1118 (e) any offense of obstructing government operations under Sections 76-8-301,
- 1119 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;
- 1120 (f) any offense of interfering or intending to interfere with activities of colleges and
- 1121 universities under Title 76, Chapter 8, Part 7, Colleges and Universities;
- 1122 (g) any misdemeanor offense against public order and decency as defined in Title 76,
- 1123 Chapter 9, Part 1, Breaches of the Peace and Related Offenses;
- 1124 (h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic
- 1125 Communication and Telephone Abuse;
- 1126 (i) any cruelty to animals offense under Section 76-9-301;
- 1127 (j) any weapons offense under Section 76-10-506; or
- 1128 (k) a violation of Section 76-9-102, if the violation occurs at an official meeting.
- 1129 (5) This section does not affect or limit any individual's constitutional right to the
- 1130 lawful expression of free speech or other recognized rights secured by the Constitution or laws
- 1131 of the state or by the Constitution or laws of the United States.
- 1132 Section 17. Section 76-3-203.5 is amended to read:
- 1133 **76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.**
- 1134 (1) As used in this section:
- 1135 (a) "Felony" means any violation of a criminal statute of the state, any other state, the
- 1136 United States, or any district, possession, or territory of the United States for which the
- 1137 maximum punishment the offender may be subjected to exceeds one year in prison.
- 1138 (b) "Habitual violent offender" means a person convicted within the state of any violent
- 1139 felony and who on at least two previous occasions has been convicted of a violent felony and
- 1140 committed to either prison in Utah or an equivalent correctional institution of another state or
- 1141 of the United States either at initial sentencing or after revocation of probation.
- 1142 (c) "Violent felony" means:
- 1143 (i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit

- 1144 any of the following offenses punishable as a felony:
- 1145 (A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief,
- 1146 Chapter 6, Part 1, Property Destruction;
- 1147 (B) assault by prisoner, Section 76-5-102.5;
- 1148 (C) disarming a police officer, Section 76-5-102.8;
- 1149 (D) aggravated assault, Section 76-5-103;
- 1150 (E) aggravated assault by prisoner, Section 76-5-103.5;
- 1151 (F) mayhem, Section 76-5-105;
- 1152 (G) stalking, Subsection 76-5-106.5(2);
- 1153 (H) threat of terrorism, Section 76-5-107.3;
- 1154 (I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);
- 1155 (J) commission of domestic violence in the presence of a child, Section 76-5-114;
- 1156 (K) abuse or neglect of a child with a disability, Section 76-5-110;
- 1157 (L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2,
- 1158 76-5-111.3, or 76-5-111.4;
- 1159 (M) endangerment of a child or vulnerable adult, Section 76-5-112.5;
- 1160 (N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;
- 1161 (O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3,
- 1162 Kidnapping, Trafficking, and Smuggling;
- 1163 (P) rape, Section 76-5-402;
- 1164 (Q) rape of a child, Section 76-5-402.1;
- 1165 (R) object rape, Section 76-5-402.2;
- 1166 (S) object rape of a child, Section 76-5-402.3;
- 1167 (T) forcible sodomy, Section 76-5-403;
- 1168 (U) sodomy on a child, Section 76-5-403.1;
- 1169 (V) forcible sexual abuse, Section 76-5-404;
- 1170 (W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
- 1171 Section 76-5-404.3;
- 1172 (X) aggravated sexual assault, Section 76-5-405;
- 1173 (Y) sexual exploitation of a minor, Section 76-5b-201;
- 1174 (Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

- 1175 (AA) sexual exploitation of a vulnerable adult, Section [76-5b-202](#);
- 1176 (BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary
1177 and Criminal Trespass;
- 1178 (CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;
- 1179 (DD) theft by extortion under Section [76-6-406](#) under the circumstances described in
1180 Subsection [~~[76-6-406\(2\)\(a\) or \(b\)](#)] [76-6-406\(1\)\(a\)\(i\) or \(ii\)](#)~~;
- 1181 (EE) tampering with a witness under Subsection [76-8-508\(1\)](#);
- 1182 (FF) retaliation against a witness, victim, or informant under Section [76-8-508.3](#);
- 1183 (GG) tampering with a juror under Subsection [76-8-508.5\(2\)\(c\)](#);
- 1184 (HH) extortion to dismiss a criminal proceeding under Section [76-8-509](#) if by any
1185 threat or by use of force theft by extortion has been committed [~~pursuant to Subsections~~
1186 ~~[76-6-406\(2\)\(a\), \(b\), and \(i\)](#)] under Section [76-6-406](#) under the circumstances described in
1187 Subsection [76-6-406\(1\)\(a\)\(i\), \(ii\), or \(ix\)](#);~~
- 1188 (II) possession, use, or removal of explosive, chemical, or incendiary devices under
1189 Subsections [76-10-306\(3\)](#) through (6);
- 1190 (JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section
1191 [76-10-307](#);
- 1192 (KK) purchase or possession of a dangerous weapon or handgun by a restricted person
1193 under Section [76-10-503](#);
- 1194 (LL) unlawful discharge of a firearm under Section [76-10-508](#);
- 1195 (MM) aggravated exploitation of prostitution under Subsection [76-10-1306\(1\)\(a\)](#);
- 1196 (NN) bus hijacking under Section [76-10-1504](#); and
- 1197 (OO) discharging firearms and hurling missiles under Section [76-10-1505](#); or
- 1198 (ii) any felony violation of a criminal statute of any other state, the United States, or
1199 any district, possession, or territory of the United States which would constitute a violent
1200 felony as defined in this Subsection (1) if committed in this state.
- 1201 (2) If a person is convicted in this state of a violent felony by plea or by verdict and the
1202 trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender
1203 under this section, the penalty for a:
- 1204 (a) third degree felony is as if the conviction were for a first degree felony;
- 1205 (b) second degree felony is as if the conviction were for a first degree felony; or

1206 (c) first degree felony remains the penalty for a first degree penalty except:
1207 (i) the convicted person is not eligible for probation; and
1208 (ii) the Board of Pardons and Parole shall consider that the convicted person is a
1209 habitual violent offender as an aggravating factor in determining the length of incarceration.
1210 (3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall
1211 provide notice in the information or indictment that the defendant is subject to punishment as a
1212 habitual violent offender under this section. Notice shall include the case number, court, and
1213 date of conviction or commitment of any case relied upon by the prosecution.
1214 (b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant
1215 intends to deny that:
1216 (A) the defendant is the person who was convicted or committed;
1217 (B) the defendant was represented by counsel or had waived counsel; or
1218 (C) the defendant's plea was understandingly or voluntarily entered.
1219 (ii) The notice of denial shall be served not later than five days prior to trial and shall
1220 state in detail the defendant's contention regarding the previous conviction and commitment.
1221 (4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to
1222 a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge,
1223 of the:
1224 (i) defendant's previous convictions for violent felonies, except as otherwise provided
1225 in the Utah Rules of Evidence; or
1226 (ii) allegation against the defendant of being a habitual violent offender.
1227 (b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of
1228 being an habitual violent offender by the same jury, if practicable, unless the defendant waives
1229 the jury, in which case the allegation shall be tried immediately to the court.
1230 (c) (i) Before or at the time of sentencing the trier of fact shall determine if this section
1231 applies.
1232 (ii) The trier of fact shall consider any evidence presented at trial and the prosecution
1233 and the defendant shall be afforded an opportunity to present any necessary additional
1234 evidence.
1235 (iii) Before sentencing under this section, the trier of fact shall determine whether this
1236 section is applicable beyond a reasonable doubt.

1237 (d) If any previous conviction and commitment is based upon a plea of guilty or no
1238 contest, there is a rebuttable presumption that the conviction and commitment were regular and
1239 lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the
1240 conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution
1241 to establish by a preponderance of the evidence that the defendant was then represented by
1242 counsel or had lawfully waived the right to have counsel present, and that the defendant's plea
1243 was understandingly and voluntarily entered.

1244 (e) If the trier of fact finds this section applicable, the court shall enter that specific
1245 finding on the record and shall indicate in the order of judgment and commitment that the
1246 defendant has been found by the trier of fact to be a habitual violent offender and is sentenced
1247 under this section.

1248 (5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the
1249 provisions of this section.

1250 (b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in
1251 Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual
1252 Offenses, to determine if the convicted person is a habitual violent offender.

1253 (6) The sentencing enhancement described in this section does not apply if:

1254 (a) the offense for which the person is being sentenced is:

1255 (i) a grievous sexual offense;

1256 (ii) child kidnapping, Section 76-5-301.1;

1257 (iii) aggravated kidnapping, Section 76-5-302; or

1258 (iv) forcible sexual abuse, Section 76-5-404; and

1259 (b) applying the sentencing enhancement provided for in this section would result in a
1260 lower maximum penalty than the penalty provided for under the section that describes the
1261 offense for which the person is being sentenced.

1262 Section 18. Section 76-3-203.15, which is renumbered from Section 76-6-109 is
1263 renumbered and amended to read:

1264 ~~[76-6-109]~~. **76-3-203.15. Offenses committed against timber, mining, or**
1265 **agricultural industries -- Enhanced penalties.**

1266 (1) ~~[A person]~~ An actor who commits any criminal offense with the intent to halt,
1267 impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or

1268 timber, or the management or operations of agricultural or mining industries is subject to an
1269 enhanced penalty for the offense as provided below. [~~However, this section does not apply to~~
1270 ~~action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the~~
1271 ~~Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.~~]

1272 (2) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
1273 be subscribed upon the complaint in misdemeanor cases or the information or indictment in
1274 felony cases notice that the defendant is subject to the enhanced penalties provided under this
1275 section.

1276 (3) If the trier of fact finds beyond a reasonable doubt that the defendant committed
1277 any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful
1278 management, cultivation, or harvesting of trees or timber, or the management or operations of
1279 agricultural or mining industries, the penalties are enhanced as provided in this Subsection (3):

1280 (a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less
1281 than \$1,000, which is in addition to any term of imprisonment the court may impose;

1282 (b) a class B misdemeanor is a Class A misdemeanor, with a fine of not less than
1283 \$2,500, which is in addition to any term of imprisonment the court may impose;

1284 (c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000,
1285 which is in addition to any term of imprisonment the court may impose;

1286 (d) a third degree felony is a second degree felony, with a fine of not less than \$7,500,
1287 which is in addition to any term of imprisonment the court may impose; and

1288 (e) a second degree felony is subject to a fine of not less than \$10,000, which is in
1289 addition to any term of imprisonment the court may impose.

1290 (4) This section does not apply to action protected by the National Labor Relations Act,
1291 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.

1292 Section 19. Section **76-3-203.16**, which is renumbered from Section 76-6-110 is
1293 renumbered and amended to read:

1294 ~~[76-6-110].~~ **76-3-203.16. Offenses committed against animal enterprises --**
1295 **Definitions -- Enhanced penalties.**

1296 (1) As used in this section:

1297 (a) "Animal enterprise" means a commercial or academic enterprise that:

1298 (i) uses animals for food or fiber production;

1299 (ii) is an agricultural operation, including a facility for the production of crops or
1300 livestock, or livestock products;

1301 (iii) operates a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

1302 (iv) any fair or similar event intended to advance agricultural arts and sciences.

1303 (b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated
1304 elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised
1305 or kept for profit.

1306 (c) "Property" includes any buildings, vehicles, animals, data, records, stables,
1307 livestock handling facilities, livestock watering troughs or other watering facilities, and fencing
1308 or other forms of enclosure.

1309 (2) ~~[(a)]~~ A person who commits any criminal offense with the intent to halt, impede,
1310 obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or
1311 cause the loss of any property owned by, used by, or in the possession of a lawful animal
1312 enterprise, is subject to an enhanced penalty under Subsection ~~[(3)]~~ (4).

1313 ~~[(b) Subsection (2)(a) does not apply to action protected by the National Labor~~
1314 ~~Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C.~~
1315 ~~Section 151 et seq.]~~

1316 ~~[(c)]~~ (3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause
1317 to be subscribed upon the information or indictment notice that the defendant is subject to the
1318 enhanced penalties provided under this section.

1319 ~~[(3)]~~ (4) If the trier of fact finds beyond a reasonable doubt that the defendant
1320 committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the
1321 lawful operation of an animal enterprise or to damage, take, or cause the loss of any property
1322 owned by, used by, or in the possession of a lawful animal enterprise, the penalties are
1323 enhanced as provided in this Subsection ~~[(3)]~~ (4):

1324 (a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less
1325 than \$1,000, which is in addition to any term of imprisonment the court may impose;

1326 (b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than
1327 \$2,500, which is in addition to any term of imprisonment the court may impose;

1328 (c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000,
1329 which is in addition to any term of imprisonment the court may impose;

1330 (d) a third degree felony is a second degree felony, with a fine of not less than \$7,500,
1331 which is in addition to any term of imprisonment the court may impose; and

1332 (e) a second degree felony is subject to a fine of not less than \$10,000, which is in
1333 addition to any term of imprisonment the court may impose.

1334 (5) This section does not apply to action protected by the National Labor Relations Act,
1335 29 U.S.C. Sec. 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Sec. 151 et seq.

1336 Section 20. Section **76-3-410**, which is renumbered from Section 76-6-107.1 is
1337 renumbered and amended to read:

1338 ~~[76-6-107.1].~~ **76-3-410. Compensatory service -- Graffiti penalties.**

1339 (1) If an ~~[offender uses]~~ actor uses graffiti and is convicted under Section ~~76-6-106,~~
1340 ~~76-6-106.1, 76-6-107,~~ or ~~76-6-206~~ for the use of graffiti, the court may, as a condition of
1341 probation under Subsection ~~77-18-105(6),~~ order the ~~[offender]~~ actor to clean up graffiti of the
1342 ~~[offender]~~ actor and any other at a time and place within the jurisdiction of the court.

1343 (a) For a first conviction or adjudication, the court may require the ~~[offender]~~ actor to
1344 clean up graffiti for not less than eight hours.

1345 (b) For a second conviction or adjudication, the court may require the ~~[offender]~~ actor
1346 to clean up graffiti for not less than 16 hours.

1347 (c) For a third conviction or adjudication, the court may require the ~~[offender]~~ actor to
1348 clean up graffiti for not less than 24 hours.

1349 (2) The ~~[offender]~~ actor convicted under Section ~~76-6-106, 76-6-106.1, 76-6-206,~~ or
1350 ~~76-6-107~~ shall be responsible for removal costs as determined under Section ~~76-6-107,~~ unless
1351 waived by the court for good cause.

1352 (3) The court may also require the ~~[offender]~~ actor to perform other alternative forms
1353 of restitution or repair to the damaged property in accordance with Subsection ~~77-18-105(6).~~

1354 Section 21. Section **76-6-101** is amended to read:

1355 **76-6-101. Definitions.**

1356 (1) ~~[For purposes of this chapter]~~ As used in this part:

1357 (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of an
1358 abrasive object, a knife, or an engraving device, or a chemical action which uses any caustic
1359 cream, gel, liquid, or solution.

1360 (b) "Fire" means a flame, heat source capable of combustion, or material capable of

1361 combustion that is caused, set, or maintained by a person for any purpose.

1362 (c) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,
 1363 painting, affixing, etching, or inscribing on the property of another regardless of the content or
 1364 the nature of the material used in the commission of the act.

1365 ~~[(b)]~~ (d) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft,
 1366 or watercraft used for lodging or assembling persons or conducting business whether a person
 1367 is actually present or not.

1368 ~~[(c)]~~ (e) "Property" means:

1369 (i) any form of real property or tangible personal property which is capable of being
 1370 damaged or destroyed and includes a habitable structure; and

1371 (ii) the property of another, if anyone other than the actor has a possessory or
 1372 proprietary interest in any portion of the property.

1373 ~~[(d)]~~ (f) "Value" means:

1374 (i) the market value of the property, if totally destroyed, at the time and place of the
 1375 offense, or where cost of replacement exceeds the market value; or

1376 (ii) where the market value cannot be ascertained, the cost of repairing or replacing the
 1377 property within a reasonable time following the offense.

1378 (2) Terms defined in Section 76-1-101.5 apply to this part.

1379 ~~[(2)]~~ (3) If the property damaged has a value that cannot be ascertained by the criteria
 1380 set forth in Subsection ~~[(1)(d)]~~ (1)(f), the property shall be considered to have a value less than
 1381 \$500.

1382 Section 22. Section **76-6-102** is amended to read:

1383 **76-6-102. Arson.**

1384 (1) ~~[A person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-101 apply to
 1385 this section.

1386 (2) An actor commits arson if, under circumstances not amounting to aggravated arson,
 1387 the person by means of fire or explosives unlawfully and intentionally damages:

1388 (a) any property with intention of defrauding an insurer; or

1389 (b) the property of another.

1390 ~~[(2)]~~ (3) (a) A violation of Subsection ~~[(1)]~~ (2)(a) is a second degree felony.

1391 ~~[(3)]~~ (b) A violation of Subsection ~~[(1)]~~ (2)(b) is a second degree felony if:

1392 ~~[(a)]~~ (i) the damage caused is or exceeds \$5,000 in value;

1393 ~~[(b)]~~ (ii) as a proximate result of the fire or explosion, any person not a participant in
1394 the offense suffers serious bodily injury as defined in Section 76-1-101.5;

1395 ~~[(c)]~~~~(i)~~ (iii) (A) the damage caused is or exceeds \$1,500 but is less than \$5,000 in
1396 value; and

1397 ~~[(ii)]~~ (B) at the time of the offense the actor has been previously convicted of a
1398 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
1399 to the commission of the violation of Subsection ~~[(+)]~~ (2)(b).

1400 ~~[(4)]~~ (c) A violation of Subsection ~~[(+)]~~ (2)(b) is a third degree felony if:

1401 ~~[(a)]~~ (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;

1402 ~~[(b)]~~ (ii) as a proximate result of the fire or explosion, any person not a participant in
1403 the offense suffers substantial bodily injury as defined in Section 76-1-101.5;

1404 ~~[(c)]~~ (iii) the fire or explosion endangers human life; or

1405 ~~[(d)]~~~~(i)~~ (iv) (A) the damage caused is or exceeds \$500 but is less than \$1,500 in value;
1406 and

1407 ~~[(ii)]~~ (B) at the time of the offense the actor has been previously convicted of a
1408 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
1409 to the commission of the violation of Subsection ~~[(+)]~~ (2)(b).

1410 ~~[(5)]~~ (d) A violation of Subsection ~~[(+)]~~ (2)(b) is a class A misdemeanor if the damage
1411 caused:

1412 ~~[(a)]~~ (i) is or exceeds \$500 but is less than \$1,500 in value; or

1413 ~~[(b)]~~~~(i)~~ (ii) (A) is less than \$500; and

1414 ~~[(ii)]~~ (B) at the time of the offense the actor has been previously convicted of a
1415 violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior
1416 to the commission of the violation of Subsection ~~[(+)]~~ (2)(b).

1417 ~~[(6)]~~ (e) A violation of Subsection ~~[(+)]~~ (2)(b) is a class B misdemeanor if the damage
1418 caused is less than \$500.

1419 Section 23. Section 76-6-103 is amended to read:

1420 **76-6-103. Aggravated arson.**

1421 (1) ~~[A person is guilty of]~~ Terms defined in Sections 76-1-101.5 and 76-6-101 apply to
1422 this section.

1423 (2) An actor commits aggravated arson if by means of fire or explosives ~~[he]~~ the actor
 1424 intentionally and unlawfully damages:

1425 (a) a habitable structure; or

1426 (b) any structure or vehicle when any person not a participant in the offense is in the
 1427 structure or vehicle.

1428 ~~[(2) Aggravated arson]~~ (3) A violation of Subsection (2) is a first degree felony [of the
 1429 first degree].

1430 Section 24. Section **76-6-104** is amended to read:

1431 **76-6-104. Reckless burning.**

1432 (1) ~~[A person is guilty of]~~ Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to
 1433 this section.

1434 (2) An actor commits reckless burning if the ~~[person]~~ actor:

1435 (a) recklessly starts a fire or causes an explosion which endangers human life;

1436 (b) having started a fire, whether recklessly or not, and knowing that it is spreading and
 1437 will endanger the life or property of another, either fails to take reasonable measures to put out
 1438 or control the fire or fails to give a prompt fire alarm;

1439 (c) builds or maintains a fire without taking reasonable steps to remove all flammable
 1440 materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or

1441 (d) damages the property of another by reckless use of fire or causing an explosion.

1442 ~~[(2)]~~ (3) (a) A violation of Subsection ~~[(+)]~~ (2)(a) or (b) is a class A misdemeanor.

1443 (b) A violation of Subsection ~~[(+)]~~ (2)(c) is a class B misdemeanor.

1444 (c) A violation of Subsection ~~[(+)]~~ (2)(d) is:

1445 (i) a class A misdemeanor if damage to property is or exceeds \$1,500 in value;

1446 (ii) a class B misdemeanor if the damage to property is or exceeds \$500 but is less than
 1447 \$1,500 in value; and

1448 (iii) a class C misdemeanor if the damage to property is or exceeds \$150 but is less
 1449 than \$500 in value.

1450 (d) Any other violation under Subsection ~~[(+)]~~ (2)(d) is an infraction.

1451 Section 25. Section **76-6-104.5** is amended to read:

1452 **76-6-104.5. Abandonment of a fire -- Penalties.**

1453 (1) ~~[A person is guilty of abandoning]~~ Terms defined in Sections [76-1-101.5](#) and

1454 76-6-101 apply to this section.

1455 (2) An actor commits abandonment of a fire if, under circumstances not amounting to
1456 the offense of arson, aggravated arson, or causing a catastrophe [~~under Title 76, Chapter 6, Part~~
1457 ~~1, Property Destruction, the person~~], the actor leaves a fire:

1458 (a) without first completely extinguishing it; and

1459 (b) with the intent to not return to the fire.

1460 [~~(2) A person does not commit a violation of Subsection (1) if the person leaves a fire~~
1461 ~~to report an uncontrolled fire.~~]

1462 (3) A violation of Subsection [(1)] (2):

1463 (a) is a class C misdemeanor if there is no property damage;

1464 (b) is a class B misdemeanor if property damage is less than \$1,000 in value; and

1465 (c) is a class A misdemeanor if property damage is or exceeds \$1,000 in value.

1466 (4) An actor does not commit a violation of Subsection (2) if the actor leaves a fire to
1467 report an uncontrolled fire.

1468 [(4)] (5) If a violation of Subsection [(1)] (2) involves a wildland fire, the [~~violation~~]
1469 actor is also liable for suppression costs under Section 65A-3-4.

1470 [(5)] (6) A fire spreading or reigniting is prima facie evidence that the [~~person~~] actor
1471 did not completely extinguish the fire as required by Subsection [(1)] (2)(a).

1472 Section 26. Section **76-6-105** is amended to read:

1473 **76-6-105. Causing a catastrophe -- Penalties.**

1474 (1) [~~Any person is guilty of~~] Terms defined in Sections 76-1-101.5 and 76-6-101 apply
1475 to this section.

1476 (2) An actor commits causing a catastrophe if the [~~person~~] actor causes widespread
1477 injury or damage to persons or property by:

1478 (a) use of a weapon of mass destruction as defined in Section 76-10-401; or

1479 (b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or
1480 destructive force or substance that is not a weapon of mass destruction.

1481 [~~Causing a catastrophe~~] (3) A violation of Subsection (2) is:

1482 (a) a first degree felony if the [~~person~~] actor causes the catastrophe knowingly and by
1483 the use of a weapon of mass destruction;

1484 (b) a second degree felony if the [~~person~~] actor causes the catastrophe knowingly and

1485 by a means other than a weapon of mass destruction; and

1486 (c) a class A misdemeanor if the ~~[person]~~ actor causes the catastrophe recklessly.

1487 ~~[(3)]~~ (4) In addition to any other penalty authorized by law, a court shall order ~~[any~~

1488 ~~person]~~ an actor convicted of any violation of this section to reimburse any federal, state, or

1489 local unit of government, or any private business, organization, individual, or entity for all

1490 expenses incurred in responding to the violation, unless the court states on the record the

1491 reasons why the reimbursement would be inappropriate.

1492 Section 27. Section **76-6-106** is amended to read:

1493 **76-6-106. Criminal mischief.**

1494 (1) (a) As used in this section, "critical infrastructure" includes:

1495 ~~[(a)]~~ (i) information and communication systems;

1496 ~~[(b)]~~ (ii) financial and banking systems;

1497 ~~[(c)]~~ (iii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed

1498 guideways, or other transportation systems intended for the transportation of persons or

1499 property;

1500 ~~[(d)]~~ (iv) any public utility service, including the power, energy, and water supply

1501 systems;

1502 ~~[(e)]~~ (v) sewage and water treatment systems;

1503 ~~[(f)]~~ (vi) health care facilities as listed in Section [26-21-2](#), and emergency fire, medical,

1504 and law enforcement response systems;

1505 ~~[(g)]~~ (vii) public health facilities and systems;

1506 ~~[(h)]~~ (viii) food distribution systems; and

1507 ~~[(i)]~~ (ix) other government operations and services.

1508 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1509 (2) ~~[A person]~~ An actor commits criminal mischief if the ~~[person]~~ actor:

1510 ~~[(a) under circumstances not amounting to arson, damages or destroys property with~~

1511 ~~the intention of defrauding an insurer;]~~

1512 ~~[(b)]~~ (a) intentionally and unlawfully tampers with the property of another and as a

1513 result:

1514 (i) recklessly endangers:

1515 (A) human life; or

1516 (B) human health or safety; or
 1517 (ii) recklessly causes or threatens a substantial interruption or impairment of any
 1518 critical infrastructure; or
 1519 [~~(c)~~] ~~intentionally damages, defaces, or destroys the property of another; or]~~
 1520 [~~(d)~~] (b) recklessly or willfully shoots or propels a missile or other object at or against a
 1521 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving
 1522 or standing.
 1523 [~~(3)(a)(i)~~] ~~A violation of Subsection (2)(a) is a third degree felony.]~~
 1524 [~~(ii)~~] (3)(a) A violation of Subsection (2)[~~(b)~~](a)(i)(A) is a class A misdemeanor.
 1525 [~~(iii)~~] (b) A violation of Subsection (2)[~~(b)~~](a)(i)(B) is a class B misdemeanor.
 1526 [~~(iv)~~] (c) A violation of Subsection (2)[~~(b)~~](a)(ii) is a second degree felony.
 1527 [~~(b)~~] (d) Any other violation of this section is a:
 1528 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
 1529 loss equal to or in excess of \$5,000 in value;
 1530 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
 1531 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
 1532 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
 1533 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
 1534 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
 1535 loss less than \$500 in value.
 1536 (4) In determining the value of damages under this section, or for computer crimes
 1537 under Section [76-6-703](#), the value of any item, computer, computer network, computer
 1538 property, computer services, software, or data includes the measurable value of the loss of use
 1539 of the items and the measurable cost to replace or restore the items.
 1540 (5) In addition to any other penalty authorized by law, a court shall order [~~any person~~]
 1541 an actor convicted of any violation of this section to reimburse any federal, state, or local unit
 1542 of government, or any private business, organization, individual, or entity for all expenses
 1543 incurred in responding to a violation of Subsection (2)[~~(b)~~](a)(ii), unless the court states on the
 1544 record the reasons why the reimbursement would be inappropriate.
 1545 Section 28. Section **76-6-106.1** is enacted to read:
 1546 **76-6-106.1. Property damage or destruction.**

- 1547 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.
- 1548 (2) An actor commits property damage or destruction if the actor under circumstances
 1549 not amounting to arson or criminal mischief:
- 1550 (a) damages or destroys property with the intention of defrauding an insurer; or
 1551 (b) intentionally damages, defaces, or destroys the property of another.
- 1552 (3) (a) A violation of Subsection (2)(a) is a third degree felony.
 1553 (b) Any other violation of this section is a:
- 1554 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
 1555 loss equal to or in excess of \$5,000 in value;
- 1556 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
 1557 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
- 1558 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
 1559 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
- 1560 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
 1561 loss less than \$500 in value.
- 1562 (4) In determining the value of damages under this section, or for computer crimes
 1563 under Section 76-6-703, the value of any item, computer, computer network, computer
 1564 property, computer services, software, or data includes the measurable value of the loss of use
 1565 of the items and the measurable cost to replace or restore the items.
- 1566 Section 29. Section 76-6-107 is amended to read:
- 1567 **76-6-107. Defacement by graffiti defined -- Penalties -- Removal costs --**
 1568 **Reimbursement liability -- Victim liability.**
- 1569 (1) (a) As used in this section[?], "victim" means the person whose property is defaced
 1570 or damaged by the use of graffiti and who bears the expense for removal of the graffiti.
- 1571 ~~[(a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a~~
 1572 ~~chemical action which uses any caustic cream, gel, liquid, or solution.]~~
- 1573 ~~[(b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching,~~
 1574 ~~affixing, etching, or inscribing on the property of another regardless of the content or the nature~~
 1575 ~~of the material used in the commission of the act.]~~
- 1576 ~~[(c) "Victim" means the person whose property is defaced by graffiti and who bears the~~
 1577 ~~expense for removal of the graffiti.]~~

1578 [~~(2)~~ Except as provided in Section ~~76-6-107~~, graffiti is a:]
1579 (b) Terms defined in Sections ~~76-1-101.5~~ and ~~76-6-101~~ apply to this section.
1580 (2) An actor commits defacement by graffiti if the actor, without permission, defaces or
1581 damages the property of another by graffiti.
1582 (3) A violation of Subsection (2) is a:
1583 (a) second degree felony if the damage caused is in excess of \$5,000;
1584 (b) third degree felony if the damage caused is equal to or in excess of \$1,000 but less
1585 than or equal to \$5,000;
1586 (c) class A misdemeanor if the damage caused is equal to or in excess of \$300 but less
1587 than \$1,000; and
1588 (d) class B misdemeanor if the damage caused is less than \$300.
1589 [~~(3)~~] (4) Damages under Subsection [~~(2)~~] (3) include removal costs, repair costs, or
1590 replacement costs, whichever is less.
1591 [~~(4)~~] (5) The court shall order an individual convicted under Subsection [~~(2)~~] (3) to pay
1592 restitution to the victim in an amount equal to the costs incurred by the victim as a result of the
1593 graffiti.
1594 [~~(5)~~] (6) An additional amount of \$1,000 in restitution shall be added to removal costs
1595 if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered
1596 with in order to remove it, or the entity responsible for the area in which the clean-up is to take
1597 place must provide assistance in order for the removal to take place safely.
1598 [~~(6)~~] (7) An individual who voluntarily, at the individual's own expense, and with the
1599 consent of the property owner, removes graffiti for which the individual is responsible may be
1600 credited for the removal costs against restitution ordered by a court.
1601 [~~(7)~~] (8) Before an authorized government agency may issue a citation or assess a fine
1602 to a victim for the victim's failure to remove graffiti from the victim's property, the agency
1603 shall:
1604 (a) provide written notice to the victim alerting the victim of the graffiti;
1605 (b) allow the victim one week after the day on which the agency provides written
1606 notice of the graffiti to remove the graffiti; and
1607 (c) provide the victim with a list of resources available to assist the victim with
1608 removal of the graffiti.

1609 ~~[(8)]~~ (9) (a) After receiving notification of graffiti under Subsection ~~[(7)]~~ (8)(a), a
 1610 victim who is unable to remove the graffiti due to physical or financial hardship may alert the
 1611 agency that provided notice under Subsection ~~[(7)]~~ (8)(a) of the hardship.

1612 (b) If an authorized government agency finds a victim has demonstrated that the victim
 1613 would experience significant hardship in removing the graffiti, the agency:

1614 (i) may not issue a citation or assess a fee to the victim for failure to remove the
 1615 graffiti; and

1616 (ii) shall provide, or hire an outside entity to provide, the assistance necessary to
 1617 remove the graffiti from the victim's property.

1618 (c) An authorized government agency that provides, or hires an outside agency to
 1619 provide, assistance under Subsection ~~[(8)]~~ (9)(b)(ii), may request reimbursement from a
 1620 restitution order, under Subsection ~~[(4)]~~ (5), against an individual who used graffiti to damage
 1621 the property that the agency removed, or paid another to remove.

1622 Section 30. Section **76-6-107.5** is amended to read:

1623 **76-6-107.5. Defacing by graffiti on public lands.**

1624 (1) (a) As used in this section~~[-]~~, "public lands" means state or federally owned
 1625 property that is held substantially in the property's natural state, including canyons, parks
 1626 owned or managed by the state, national parks, land managed by the Bureau of Land
 1627 Management, and other lands owned or maintained by a government entity for outdoor
 1628 recreational use.

1629 ~~[(a) "Etching" means defacing, damaging, or destroying a hard surface by using a~~
 1630 ~~chemical, an abrasive object, a knife, or an engraving device.]~~

1631 ~~[(b) "Graffiti" means unauthorized printing, spraying, scratching, affixing, etching, or~~
 1632 ~~inscribing on property owned by the state regardless of the content or the nature of the material~~
 1633 ~~used in the commission of the act.]~~

1634 ~~[(c) "Public lands" means state or federally owned property that is held substantially in~~
 1635 ~~its natural state, including canyons, parks owned or managed by the state, national parks, land~~
 1636 ~~managed by the Bureau of Land Management, and other lands owned or maintained by a~~
 1637 ~~government entity for outdoor recreational use.]~~

1638 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1639 (2) An ~~[individual is guilty of]~~ actor commits defacing by graffiti on public lands

1640 [~~vandalism~~] if the [~~individual~~] actor creates, or assists in creating, graffiti on any public lands
1641 or state-owned object permanently located on public lands.

1642 (3) [~~An individual convicted under~~] A violation of Subsection (2) is [~~guilty of~~] a class
1643 B misdemeanor.

1644 (4) If an [~~individual~~] actor is convicted of defacing by graffiti on public lands
1645 [~~vandalism~~], the court shall sentence the [~~individual~~] actor to a term of community service as
1646 follows:

1647 (a) for a first conviction, the court shall sentence the [~~individual~~] actor to 100 hours of
1648 community service, to be completed within 90 days after the day on which the court issues the
1649 order;

1650 (b) for a second conviction, the court shall sentence the [~~individual~~] actor to 200 hours
1651 of community service, to be completed within 180 days after the day on which the court issues
1652 the order; or

1653 (c) for a third or subsequent conviction, the court shall sentence the [~~individual~~] actor
1654 to 300 hours of community service, to be completed within 270 days after the day on which the
1655 court issues the order.

1656 (5) If an [~~individual~~] actor is enrolled in school or maintains full or part-time
1657 employment, the ordered community service may not be scheduled at a time the [~~individual~~]
1658 actor is scheduled to be in school or performing the individual's employment duties.

1659 (6) A sentence of community service described in Subjection (4) shall, to the greatest
1660 extent possible, be for the benefit of public lands.

1661 (7) If an [~~individual~~] actor is convicted of defacing by graffiti on public lands
1662 [~~vandalism~~], the court may impose a fine up to the full amount of the estimated cost to restore
1663 the damaged land, caused by the [~~individual~~] actor, to the land's original state.

1664 (8) An [~~individual~~] actor who voluntarily, at the [~~individual's~~] actor's own expense, and
1665 with the consent of the property owner, removes graffiti for which the [~~individual~~] actor is
1666 responsible shall be credited for costs ordered by the court under Subsection (7).

1667 Section 31. Section **76-6-108** is amended to read:

1668 **76-6-108. Damage to or interruption of a communication device -- Penalty.**

1669 (1) (a) As used in this section:

1670 [~~(a)~~] (i) "Communication device" means any device, including a telephone, cellular

1671 telephone, computer, or radio, which may be used in an attempt to summon police, fire,
1672 medical, or other emergency aid.

1673 ~~[(b)]~~ (ii) "Emergency aid" means aid or assistance, including law enforcement, fire, or
1674 medical services, commonly summoned by persons concerned with imminent or actual:

1675 ~~[(i)]~~ (A) jeopardy to any person's health or safety; or

1676 ~~[(ii)]~~ (B) damage to any person's property.

1677 (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1678 (2) ~~[A person is guilty of]~~ An actor commits damage to or interruption of a
1679 communication device if the actor attempts to prohibit or interrupt, or prohibits or interrupts,
1680 another person's use of a communication device when the other person is attempting to
1681 summon emergency aid or has communicated a desire to summon emergency aid, and in the
1682 process the actor:

1683 (a) uses force, intimidation, or any other form of violence;

1684 (b) destroys, disables, or damages a communication device; or

1685 (c) commits any other act in an attempt to prohibit or interrupt the person's use of a
1686 communication device to summon emergency aid.

1687 (3) ~~[Damage to or interruption of a communication device]~~ A violation of Subsection
1688 (2) is a class B misdemeanor.

1689 Section 32. Section **76-6-111** is amended to read:

1690 **76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria --**

1691 **Seizure and disposition of property.**

1692 (1) (a) As used in this section:

1693 ~~[(a)]~~ (i) "Law enforcement officer" means the same as that term is defined in Section
1694 **53-13-103**.

1695 ~~[(b)]~~ (ii) "Livestock" means a domestic animal or fur bearer raised or kept for profit or
1696 as an asset, including:

1697 ~~[(i)]~~ (A) cattle;

1698 ~~[(ii)]~~ (B) sheep;

1699 ~~[(iii)]~~ (C) goats;

1700 ~~[(iv)]~~ (D) swine;

1701 ~~[(v)]~~ (E) horses;

1702 ~~[(vi)]~~ (F) mules;

1703 ~~[(vii)]~~ (G) poultry;

1704 ~~[(viii)]~~ (H) domesticated elk as defined in Section 4-39-102; and

1705 ~~[(ix)]~~ (I) livestock guardian dogs.

1706 ~~[(e)]~~ (iii) "Livestock guardian dog" means a dog that is being used to live with and

1707 guard livestock, other than itself, from predators.

1708 (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

1709 (2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3,

1710 ~~[a person is guilty of]~~ an actor commits wanton destruction of livestock if ~~[that person]~~ the

1711 actor:

1712 (a) injures, physically alters, releases, or causes the death of livestock; and

1713 (b) does so:

1714 (i) intentionally or knowingly; and

1715 (ii) without the permission of the owner of the livestock.

1716 ~~[(3) For purposes of this section, a livestock guardian dog is presumed to belong to an~~

1717 ~~owner of the livestock with which the livestock guardian dog was living at the time of an~~

1718 ~~alleged violation of Subsection (2).]~~

1719 ~~[(4) Wanton destruction of livestock]~~ (3) A violation of Subsection (2) is [punishable

1720 as] a:

1721 (a) class B misdemeanor if the aggregate value of the livestock is \$250 or less;

1722 (b) class A misdemeanor if the aggregate value of the livestock is more than \$250, but

1723 does not exceed \$750;

1724 (c) third degree felony if the aggregate value of the livestock is more than \$750, but

1725 does not exceed \$5,000; and

1726 (d) second degree felony if the aggregate value of the livestock is more than \$5,000.

1727 (4) For purposes of this section, a livestock guardian dog is presumed to belong to an

1728 owner of the livestock with which the livestock guardian dog was living at the time of an

1729 alleged violation of Subsection (2).

1730 (5) When a court orders ~~[a person]~~ an actor who is convicted of wanton destruction of

1731 livestock to pay restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, the

1732 court shall consider the restitution guidelines in Subsection (6) when setting the amount of

1733 restitution under Section [77-38b-205](#).

1734 (6) The minimum restitution value for cattle and sheep is the sum of the following,
1735 unless the court states on the record why it finds the sum to be inappropriate:

1736 (a) the fair market value of the animal, using as a guide the market information
1737 obtained from the Department of Agriculture and Food created under Section [4-2-102](#); and

1738 (b) 10 years times the average annual value of offspring, for which average annual
1739 value is determined using data obtained from the National Agricultural Statistics Service within
1740 the United States Department of Agriculture, for the most recent 10-year period available.

1741 (7) A material, device, or vehicle used in violation of Subsection (2) is subject to
1742 forfeiture under the procedures and substantive protections established in Title 24, Forfeiture
1743 and Disposition of Property Act.

1744 (8) A peace officer may seize a material, device, or vehicle used in violation of
1745 Subsection (2):

1746 (a) upon notice and service of process issued by a court having jurisdiction over the
1747 property; or

1748 (b) without notice and service of process if:

1749 (i) the seizure is incident to an arrest under:

1750 (A) a search warrant; or

1751 (B) an inspection under an administrative inspection warrant;

1752 (ii) the material, device, or vehicle has been the subject of a prior judgment in favor of
1753 the state in a criminal injunction or forfeiture proceeding under this section; or

1754 (iii) the peace officer has probable cause to believe that the property has been used in
1755 violation of Subsection (2).

1756 (9) (a) A material, device, or vehicle seized under this section is not repleviable but is
1757 in custody of the law enforcement agency making the seizure, subject only to the orders and
1758 decrees of a court or official having jurisdiction.

1759 (b) A peace officer who seizes a material, device, or vehicle under this section may:

1760 (i) place the property under seal;

1761 (ii) remove the property to a place designated by the warrant under which it was seized;

1762 or

1763 (iii) take custody of the property and remove it to an appropriate location for

1764 disposition in accordance with law.

1765 Section 33. Section **76-6-112** is amended to read:

1766 **76-6-112. Agricultural operation interference -- Penalties.**

1767 (1) (a) As used in this section, "agricultural operation" means private property used for
1768 the production of livestock, poultry, livestock products, or poultry products.

1769 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1770 (2) ~~[A person is guilty of]~~ An actor commits agricultural operation interference if the
1771 ~~[person]~~ actor:

1772 (a) without consent from the owner of the agricultural operation, or the owner's agent,
1773 knowingly or intentionally records an image of, or sound from, the agricultural operation by
1774 leaving a recording device on the agricultural operation;

1775 (b) obtains access to an agricultural operation under false pretenses;

1776 (c) (i) applies for employment at an agricultural operation with the intent to record an
1777 image of, or sound from, the agricultural operation;

1778 (ii) knows, at the time that the ~~[person]~~ actor accepts employment at the agricultural
1779 operation, that the owner of the agricultural operation prohibits the employee from recording an
1780 image of, or sound from, the agricultural operation; and

1781 (iii) while employed at, and while present on, the agricultural operation, records an
1782 image of, or sound from, the agricultural operation; or

1783 (d) without consent from the owner of the operation or the owner's agent, knowingly or
1784 intentionally records an image of, or sound from, an agricultural operation while the person is
1785 committing criminal trespass, as described in Section [76-6-206](#), on the agricultural operation.

1786 (3) (a) A ~~[person who commits agricultural operation interference described in]~~
1787 violation of Subsection (2)(a) is ~~[guilty of]~~ a class A misdemeanor.

1788 ~~[(4)]~~ (b) A ~~[person who commits agricultural operation interference described in]~~
1789 violation of Subsection (2)(b), (c), or (d) is ~~[guilty of]~~ a class B misdemeanor.

1790 Section 34. Section **76-6-202** is amended to read:

1791 **76-6-202. Burglary.**

1792 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

1793 ~~[(1)]~~ (2) An actor ~~[is guilty of burglary who]~~ commits burglary if the actor enters or
1794 remains unlawfully in a building or any portion of a building with intent to commit:

- 1795 (a) a felony;
- 1796 (b) theft;
- 1797 (c) an assault on any person;
- 1798 (d) lewdness, [a] in violation of Section 76-9-702;
- 1799 (e) sexual battery, [a] in violation of Section 76-9-702.1;
- 1800 (f) lewdness involving a child, in violation of Section 76-9-702.5; or
- 1801 (g) voyeurism [~~under~~], in violation of Section 76-9-702.7.
- 1802 [~~(2) Burglary~~] (3) (a) Except as provided in Subsection (3)(b), a violation of
- 1803 Subsection (2) is a third degree felony [unless it was committed in a dwelling, in which event it
- 1804 is a second degree felony].
- 1805 (b) A violation of Subsection (2) is a second degree felony if the violation is committed
- 1806 in a dwelling.
- 1807 [~~(3)~~] (4) A violation of this section is a separate offense from any of the offenses listed
- 1808 in Subsections [~~(1)~~](2)(a) through (g), and which may be committed by the actor while in the
- 1809 building.
- 1810 Section 35. Section **76-6-203** is amended to read:
- 1811 **76-6-203. Aggravated burglary.**
- 1812 [~~(1) A person is guilty of~~] (1) Terms defined in Sections 76-1-101.5 and 76-6-201
- 1813 apply to this section.
- 1814 (2) An actor commits aggravated burglary if in attempting, committing, or fleeing from
- 1815 a burglary the actor or another participant in the crime:
- 1816 (a) causes bodily injury to any person who is not a participant in the crime;
- 1817 (b) uses or threatens the immediate use of a dangerous weapon against any person who
- 1818 is not a participant in the crime; or
- 1819 (c) possesses or attempts to use any explosive or dangerous weapon.
- 1820 [~~(2) Aggravated burglary~~] (3) A violation of Subsection (2) is a first degree felony.
- 1821 [~~(3) As used in this section, "dangerous weapon" has the same definition as under~~
- 1822 Section 76-1-101.5.]
- 1823 Section 36. Section **76-6-204** is amended to read:
- 1824 **76-6-204. Burglary of a vehicle -- Charge of other offense.**
- 1825 [~~(1) Any person who~~] (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to

1826 this section.

1827 (2) An actor commits burglary of a vehicle if the actor unlawfully enters any vehicle
1828 with intent to commit a felony or theft [~~is guilty of a burglary of a vehicle~~].

1829 [~~(2) Burglary of a vehicle~~] (3) A violation of Subsection (2) is a class A misdemeanor.

1830 [~~(3)~~] (4) A charge against [any person] an actor for a violation of Subsection [(1) shall]
1831 (2) does not preclude a charge for a commission of any other offense.

1832 Section 37. Section **76-6-204.5** is amended to read:

1833 **76-6-204.5. Burglary of a railroad car -- Charge of other offenses.**

1834 [~~(1) Any person~~] (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this
1835 section.

1836 (2) An actor commits burglary of a railroad car [when the person] if the actor breaks
1837 the lock or seal on any railroad car, with the intent to commit a felony or theft.

1838 [~~(2) Burglary of a railroad car~~] (3) A violation of Subsection (2) is a third degree
1839 felony.

1840 [~~(3)~~] (4) Charging a person for a violation of Subsection [(1)] (2) does not preclude
1841 charging the person for any other offense.

1842 Section 38. Section **76-6-205** is amended to read:

1843 **76-6-205. Manufacture or possession of instrument for burglary or theft.**

1844 [~~Any person who~~] (1) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this
1845 section.

1846 (2) An actor commits manufacture or possession of an instrument for burglary or theft
1847 if the actor manufactures or possesses any instrument, tool, device, article, or other thing
1848 adapted, designed, or commonly used in advancing or facilitating the commission of any
1849 offense under circumstances manifesting an intent to use or knowledge that [some] another
1850 person intends to use the same in the commission of a burglary or theft [is guilty of].

1851 (3) A violation of Subsection (2) is a class B misdemeanor.

1852 Section 39. Section **76-6-206** is amended to read:

1853 **76-6-206. Criminal trespass.**

1854 (1) (a) As used in this section:

1855 [~~(a)~~] (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

1856 (ii) "Graffiti" means the same as that term is defined in Section 76-6-101.

1857 ~~[(b)]~~ (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means
1858 remaining on or over private property when:

1859 ~~[(i)]~~ (A) the private property or any portion of the private property is not open to the
1860 public; and

1861 ~~[(ii)]~~ (B) the person operating the unmanned aircraft is not otherwise authorized to fly
1862 the unmanned aircraft over the private property or any portion of the private property.

1863 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

1864 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass if, under circumstances
1865 not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204, or a violation
1866 of Section 76-10-2402 regarding commercial obstruction:

1867 (a) the ~~[person]~~ actor enters or remains unlawfully on or causes an unmanned aircraft
1868 to enter and remain unlawfully over property and:

1869 (i) intends to cause annoyance or injury to any person or damage to any property,
1870 including the use of graffiti ~~[as defined in Section 76-6-107]~~;

1871 (ii) intends to commit any crime, other than theft or a felony; or

1872 (iii) is reckless as to whether the ~~[person's]~~ actor's or unmanned aircraft's presence will
1873 cause fear for the safety of another;

1874 (b) knowing the ~~[person's]~~ actor's or unmanned aircraft's entry or presence is unlawful,
1875 the ~~[person]~~ actor enters or remains on or causes an unmanned aircraft to enter or remain
1876 unlawfully over property to which notice against entering is given by:

1877 (i) personal communication to the ~~[person]~~ actor by the owner or someone with
1878 apparent authority to act for the owner;

1879 (ii) fencing or other enclosure obviously designed to exclude intruders; or

1880 (iii) posting of signs reasonably likely to come to the attention of intruders; or

1881 (c) the ~~[person]~~ actor enters a condominium unit in violation of Subsection 57-8-7(8).

1882 (3) (a) ~~[A]~~ Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) or
1883 (b) is a class B misdemeanor ~~[unless the violation is committed in a dwelling, in which event~~
1884 ~~the violation is a class A misdemeanor]~~.

1885 (b) If a violation of Subsection (2)(a) or (b) is committed in a dwelling, the violation is
1886 a class A misdemeanor.

1887 ~~[(b)]~~ (c) A violation of Subsection (2)(c) is an infraction.

1888 (4) It is a defense to prosecution under this section that:

1889 (a) the property was at the time open to the public; and

1890 (b) the ~~[actor]~~ defendant complied with all lawful conditions imposed on access to or
1891 remaining on the property.

1892 (5) In addition to an order for restitution under Section [77-38b-205](#), ~~[a person]~~ an actor
1893 who commits a violation of Subsection (2) may also be liable for:

1894 (a) statutory damages in the amount of three times the value of damages resulting from
1895 the violation of Subsection (2) or \$500, whichever is greater; and

1896 (b) reasonable attorney fees not to exceed \$250, and court costs.

1897 (6) Civil damages under Subsection (5) may be collected in a separate action by the
1898 property owner or the owner's assignee.

1899 Section 40. Section **76-6-206.1** is amended to read:

1900 **76-6-206.1. Criminal trespass of abandoned or inactive mines.**

1901 (1) (a) For purposes of this section:

1902 ~~[(a)]~~ (i) "Abandoned or inactive mine" means an underground mine which is no longer
1903 open for access or no longer under excavation and has been clearly marked as closed or
1904 protected from entry.

1905 (ii) "Burglary" means an offense described in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#).

1906 ~~[(b)]~~ (iii) "Enter" means intrusion of the entire body.

1907 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1908 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass of an abandoned or
1909 inactive mine if, under circumstances not amounting to burglary ~~[as defined in Section~~
1910 [76-6-202](#), [76-6-203](#), or [76-6-204](#)], the actor:

1911 (a) ~~[the person]~~ intentionally enters and remains unlawfully in the underground
1912 workings of an abandoned or inactive mine; or

1913 (b) intentionally and without authority removes, destroys, or tampers with any warning
1914 sign, covering, fencing, or other method of protection from entry placed on, around, or over any
1915 mine shaft, mine portal, or other abandoned or inactive mining excavation property.

1916 (3) (a) A violation of Subsection (2)(a) is a class B misdemeanor.

1917 ~~[(4)]~~ (b) A violation of Subsection (2)(b) is a class A misdemeanor.

1918 Section 41. Section **76-6-206.2** is amended to read:

1919 **76-6-206.2. Criminal trespass on state park lands.**

1920 (1) (a) As used in this section:

1921 ~~[(a)]~~ (i) "Authorization" means specific written permission by, or contractual

1922 agreement with, the Division of State Parks.

1923 ~~[(b)]~~ (ii) "Criminal trespass" means the elements of the crime of criminal trespass, as

1924 set forth in Section [76-6-206](#).

1925 ~~[(c)]~~ (iii) "Division" means the Division of State Parks created in Section [79-4-201](#).

1926 ~~[(d)]~~ (iv) "State park lands" means all lands administered by the division.

1927 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1928 (2) ~~[A person is guilty of]~~ An actor commits criminal trespass on state park lands and

1929 is liable for the civil damages prescribed in Subsection (5) if, under circumstances not

1930 amounting to a greater offense, and without authorization, the ~~[person]~~ actor:

1931 (a) constructs improvements or structures on state park lands;

1932 (b) uses or occupies state park lands for more than 30 days after the cancellation or

1933 expiration of authorization;

1934 (c) knowingly or intentionally uses state park lands for commercial gain;

1935 (d) intentionally or knowingly grazes livestock on state park lands, except as provided

1936 in Section [72-3-112](#); or

1937 (e) remains, after being ordered to leave by ~~[someone]~~ a person with actual authority to

1938 act for the division, or by a law enforcement officer.

1939 (3) A violation of Subsection (2) is a class B misdemeanor.

1940 ~~[(3) A person is not guilty of]~~ (4) A person does not commit criminal trespass if that

1941 person enters onto state park lands:

1942 (a) without first paying the required fee; and

1943 (b) for the sole purpose of pursuing recreational activity.

1944 ~~[(4) A violation of Subsection (2) is a class B misdemeanor.]~~

1945 (5) (a) In addition to an order for restitution under Section [77-38b-205](#), ~~[a person]~~ an

1946 actor who commits any act described in Subsection (2) may also be liable for civil damages in

1947 the amount of three times the value of:

1948 ~~[(a)]~~ (i) damages resulting from a violation of Subsection (2);

1949 ~~[(b)]~~ (ii) the water, mineral, vegetation, improvement, or structure on state park lands

1950 that is removed, destroyed, used, or consumed without authorization;

1951 ~~[(e)]~~ (iii) the historical, prehistorical, archaeological, or paleontological resource on
1952 state park lands that is removed, destroyed, used, or consumed without authorization; or

1953 ~~[(d)]~~ (iv) the consideration which would have been charged by the division for
1954 unauthorized use of the land and resources during the period of trespass.

1955 ~~[(6)]~~ (b) Civil damages awarded under Subsection (5)(a):

1956 (i) may be collected in a separate action by the division~~];~~ and

1957 (ii) shall be deposited ~~in~~ into the State ~~[Parks]~~ Park Fees Restricted Account as
1958 established in Section 79-4-402.

1959 Section 42. Section **76-6-206.3** is amended to read:

1960 **76-6-206.3. Criminal trespass on agricultural land or range land.**

1961 (1) (a) As used in this section:

1962 ~~[(a)]~~ (i) "Agricultural or range land" and "land" mean land as defined under
1963 Subsections ~~[(1)(d) and (e)]~~ (1)(a)(iv) and (v).

1964 ~~[(b)]~~ (ii) "Authorization" means specific written permission by, or contractual
1965 agreement with, the owner or manager of the property.

1966 ~~[(c)]~~ (iii) "Criminal trespass" means the elements of the crime of criminal trespass
1967 under Section 76-6-206.

1968 ~~[(d)]~~ (iv) "Land in agricultural use" has the same meaning as in Section 59-2-502.

1969 ~~[(e)]~~ (v) (A) "Range land" means privately owned land that is not fenced or divided
1970 into lots and that is generally unimproved. ~~[This land]~~

1971 (B) "Range land" includes land used for livestock.

1972 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

1973 (2) ~~[A person is guilty of the class B misdemeanor criminal offense of]~~ An actor
1974 commits criminal trespass on agricultural or range land and is liable for the civil damages
1975 under Subsection (5) if, under circumstances not amounting to a greater offense, and without
1976 authorization or a right under state law, the ~~[person]~~ actor enters or remains on agricultural or
1977 range land regarding which notice prohibiting entry is given by:

1978 (a) personal communication to the ~~[person]~~ actor by the owner of the land, an
1979 employee of the owner, or a person with apparent authority to act for the owner;

1980 (b) fencing or other form of enclosure a reasonable person would recognize as intended

1981 to exclude intruders; or

1982 (c) posted signs or markers that would reasonably be expected to be seen by persons in
1983 the area of the borders of the land.

1984 ~~[(3) A person is guilty of the class B misdemeanor criminal offense of cutting,
1985 destroying, or rendering ineffective the fencing of agricultural or range land if the person
1986 willfully cuts, destroys, or renders ineffective any fencing as described under Subsection
1987 (2)(b).]~~

1988 (3) A violation of Subsection (2) is a class B misdemeanor.

1989 (4) In addition to an order for restitution under Section [77-38b-205](#), ~~[a person]~~ an actor
1990 who commits any violation of Subsection (2) ~~[or (3)]~~ may also be liable for:

1991 (a) statutory damages in the amount of three times the value of damages resulting from
1992 the violation of Subsection (2) or \$500, whichever is greater; ~~[and]~~

1993 (b) reasonable attorney fees not to exceed \$250~~[-]~~; and

1994 (c) court costs.

1995 (5) Civil damages under Subsection (4) may be collected in a separate action by the
1996 owner of the agricultural or range land or the owner's assignee.

1997 Section 43. Section **76-6-206.4** is amended to read:

1998 **76-6-206.4. Criminal trespass by long-term guest to a residence.**

1999 (1) (a) As used in this section:

2000 (i) "Burglary" means an offense described in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#).

2001 ~~[(a)]~~ (ii) "Long-term guest" means an individual who is not a tenant but who is given
2002 express or implied permission by the person who is the primary occupant of the residence or
2003 someone with apparent authority to act for the primary occupant to enter a portion of a
2004 residence or temporarily occupy a portion of a residence:

2005 ~~[(+)]~~ (A) for a period of time longer than 48 hours; and

2006 ~~[(+)]~~ (B) without providing the owner or primary occupant of the residence
2007 compensation or entering into an agreement that the individual provide labor in lieu of
2008 providing the owner or primary occupant compensation for occupying the residence.

2009 ~~[(b)]~~ (iii) "Residence" means an improvement to real property used or occupied as a
2010 primary or secondary dwelling.

2011 ~~[(c)]~~ (iv) "Tenant" means a person who has the right to occupy a residence under a

2012 rental agreement or lease, or has a tenancy by operation of law.

2013 ~~[(2) A long-term guest is guilty of criminal trespass of a residence if, under~~
2014 ~~circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or~~
2015 ~~76-6-204, the long-term guest]~~

2016 (b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

2017 (2) An actor commits criminal trespass of a residence if the actor:

2018 (a) is a long-term guest; and

2019 (b) in circumstances not amounting to burglary, remains in a residence after the
2020 [long-term guest] actor receives notice against remaining in the residence by personal
2021 communication to the [long-term guest] actor by the person who is the primary occupant of the
2022 residence or someone with apparent authority to act for the primary occupant.

2023 (3) A violation of Subsection (2) is a class B misdemeanor.

2024 (4) Before a law enforcement officer escorts an [individual] actor from a residence for
2025 a violation of [this section] Subsection (2), the law enforcement officer shall provide the
2026 [individual] actor a reasonable time for the [individual] actor to collect the [individual's] actor's
2027 personal belongings.

2028 Section 44. Section 76-6-206.5 is enacted to read:

2029 **76-6-206.5. Cutting, destroying, or rendering ineffective fencing of agricultural or**
2030 **range land.**

2031 (1) Terms defined in Sections 76-1-101.5, 76-6-201, and 76-6-206.3 apply to this
2032 section.

2033 (2) An actor commits cutting, destroying, or rendering ineffective the fencing of
2034 agricultural or range land if the person willfully cuts, destroys, or renders ineffective any
2035 fencing or other form of enclosure a reasonable person would recognize as intended to exclude
2036 intruders.

2037 (3) A violation of Subsection (2) is a class B misdemeanor.

2038 (4) In addition to an order for restitution under Section 77-38b-205, an actor who
2039 commits a violation of Subsection (2) may also be liable for:

2040 (a) statutory damages in the amount of \$500;

2041 (b) reasonable attorney fees not to exceed \$250; and

2042 (c) court costs.

2043 (5) Civil damages under Subsection (4) may be collected in a separate action by the
 2044 owner of the agricultural or range land or the owner's assignee.

2045 Section 45. Section **76-6-301** is amended to read:

2046 **76-6-301. Robbery.**

2047 ~~[(1) A person]~~ (1) (a) As used in this section, an act is considered to be "in the course
 2048 of committing a theft or unauthorized possession of property" if the act occurs:

2049 (i) in the course of an attempt to commit theft or unauthorized possession of property;

2050 (ii) in the commission of theft or unauthorized possession of property; or

2051 (iii) in the immediate flight after the attempt or commission.

2052 (b) Terms defined in Section 76-1-101.5 apply to this section.

2053 (2) An actor commits robbery if the actor:

2054 (a) ~~[the person]~~ unlawfully and intentionally takes or attempts to take personal property
 2055 in the possession of ~~[another]~~ an individual from ~~[his]~~ the individual's person, or immediate
 2056 presence, against ~~[his]~~ the individual's will, by means of force or fear, and with a purpose or
 2057 intent to deprive the ~~[person]~~ individual permanently or temporarily of the personal property;
 2058 or

2059 (b) ~~[the person]~~ intentionally or knowingly uses force or fear of immediate force
 2060 against ~~[another]~~ an individual in the course of committing a theft or ~~[wrongful appropriation]~~
 2061 unauthorized possession of property.

2062 ~~[(2) An act is considered to be "in the course of committing a theft or wrongful~~
 2063 ~~appropriation" if it occurs:]~~

2064 ~~[(a) in the course of an attempt to commit theft or wrongful appropriation;]~~

2065 ~~[(b) in the commission of theft or wrongful appropriation; or]~~

2066 ~~[(c) in the immediate flight after the attempt or commission.]~~

2067 ~~[(3) Robbery is a felony of the]~~ (3) A violation of Subsection (2) is a second degree
 2068 felony.

2069 Section 46. Section **76-6-302** is amended to read:

2070 **76-6-302. Aggravated robbery.**

2071 ~~[(1) A person]~~ (1) (a) As used in this section, an act is considered to be "in the course
 2072 of committing a robbery" if the act occurs in an attempt to commit, during the commission of,
 2073 or in the immediate flight after the attempt or commission of a robbery.

2074 (b) Terms defined in Section 76-1-101.5 apply to this section.

2075 (2) An actor commits aggravated robbery if in the course of committing a robbery, [he]

2076 the actor:

2077 (a) uses or threatens to use a dangerous weapon [as defined in Section 76-1-101.5];

2078 (b) causes serious bodily injury [upon another] to another individual; or

2079 (c) takes or attempts to take an operable motor vehicle.

2080 ~~[(2) Aggravated robbery is a first degree felony.]~~

2081 ~~[(3) For the purposes of this part, an act shall be considered to be "in the course of~~
2082 ~~committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the~~
2083 ~~immediate flight after the attempt or commission of a robbery.]~~

2084 (3) A violation of Subsection (2) is a first degree felony.

2085 Section 47. Section ~~76-6-403~~ is amended to read:

2086 **76-6-403. Theft -- Evidence to support accusation.**

2087 Conduct denominated theft in this part constitutes a single offense embracing the
2088 separate offenses such as those heretofore known as larceny, larceny by trick, larceny by
2089 bailees, embezzlement, false pretense, extortion, blackmail, receiving stolen property. An
2090 accusation of theft may be supported by evidence that it was committed in any manner
2091 specified in [~~Sections 76-6-404 through 76-6-410~~] this part, subject to the power of the court to
2092 ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the
2093 defense would be prejudiced by lack of fair notice or by surprise.

2094 Section 48. Section ~~76-6-404~~ is amended to read:

2095 **76-6-404. Theft -- Elements.**

2096 (1) Terms defined in Section 76-1-101.5 apply to this section.

2097 (2) [A person] An actor commits theft if [he] the actor obtains or exercises
2098 unauthorized control over [the] another person's property [of another] with a purpose to deprive
2099 [him thereof] the person of the person's property.

2100 (3) A violation of Subsection (2) is:

2101 (a) a second degree felony if the:

2102 (i) value of the property is or exceeds \$5,000;

2103 (ii) property stolen is a firearm or an operable motor vehicle; or

2104 (iii) property is stolen from the person of another;

- 2105 (b) a third degree felony if:
- 2106 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 2107 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);
- 2108 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 2109 convicted of any of the following offenses, if each prior offense was committed within 10 years
- 2110 before the date of the current conviction or the date of the offense upon which the current
- 2111 conviction is based and at least one of those convictions is for a class A misdemeanor:
- 2112 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 2113 (B) any offense under Part 5, Fraud; or
- 2114 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
- 2115 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;
- 2116 (B) the theft occurs on a property where the offender has committed any theft within
- 2117 the past five years; and
- 2118 (C) the offender has received written notice from the merchant prohibiting the offender
- 2119 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
- 2120 (v) the actor has been previously convicted of a felony violation of any of the offenses
- 2121 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
- 2122 within 10 years before the date of the current conviction or the date of the offense upon which
- 2123 the current conviction is based;
- 2124 (c) a class A misdemeanor if:
- 2125 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 2126 (ii) (A) the value of property is less than \$500;
- 2127 (B) the theft occurs on a property where the offender has committed any theft within
- 2128 the past five years; and
- 2129 (C) the offender has received written notice from the merchant prohibiting the offender
- 2130 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
- 2131 (iii) the actor has been twice before convicted of any of the offenses listed in
- 2132 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
- 2133 years before the date of the current conviction or the date of the offense upon which the current
- 2134 conviction is based; or
- 2135 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the

2136 theft is not an offense under Subsection (3)(c).

2137 Section 49. Section ~~76-6-404.5~~ is amended to read:

2138 **76-6-404.5. Unauthorized possession of property.**

2139 ~~[(1) A person]~~ (1) Terms defined in Section 76-1-101.5 apply to this section.

2140 (2) An actor commits ~~[wrongful appropriation]~~ unauthorized possession of property if

2141 ~~[he] the actor~~ obtains or exercises unauthorized control over ~~[the] another person's~~ property ~~[of~~

2142 ~~another,]~~ without the consent of the property's owner or legal custodian, and with the intent to

2143 temporarily appropriate, possess, or use the property or to temporarily deprive the property's

2144 owner or legal custodian of possession of the property.

2145 ~~[(2) The consent of the owner or legal custodian of the property to its control by the~~

2146 ~~actor is not presumed or implied because of the owner's or legal custodian's consent on a~~

2147 ~~previous occasion to the control of the property by any person.]~~

2148 ~~[(3) Wrongful appropriation is punishable one degree lower than theft, as provided in~~

2149 ~~Section 76-6-412, so that a violation which would have been:]~~

2150 ~~[(a) a second degree felony under Section 76-6-412 if it had been theft is a third degree~~

2151 ~~felony if it is wrongful appropriation;]~~

2152 ~~[(b) a third degree felony under Section 76-6-412 if it had been theft is a class A~~

2153 ~~misdemeanor if it is wrongful appropriation;]~~

2154 ~~[(c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B~~

2155 ~~misdemeanor if it is wrongful appropriation; and]~~

2156 ~~[(d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C~~

2157 ~~misdemeanor if it is wrongful appropriation.]~~

2158 (3) A violation of Subsection (2) is:

2159 (a) a third degree felony if:

2160 (i) the value of the property is or exceeds \$5,000;

2161 (ii) the property is a firearm or an operable motor vehicle; or

2162 (iii) the property is taken from the person of another;

2163 (b) a class A misdemeanor if:

2164 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2165 (ii) the property is a catalytic converter as defined under Section 76-6-1402;

2166 (iii) the value of the property is or exceeds \$500 and the actor has been twice before

2167 convicted of any of the following offenses, if each prior offense was committed within 10 years
2168 before the date of the current conviction or the date of the offense upon which the current
2169 conviction is based and at least one of those convictions is for a class A misdemeanor:

2170 (A) any theft, any robbery, or any burglary with intent to commit theft;
2171 (B) any offense under Part 5, Fraud; or
2172 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
2173 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;
2174 (B) the unauthorized possession of property occurs on a property where the offender
2175 has committed any theft within the past five years; and
2176 (C) the offender has received written notice from the merchant prohibiting the offender
2177 from entering the property pursuant to Subsection 78B-3-108(4); or
2178 (v) the actor has been previously convicted of a felony violation of any of the offenses
2179 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2180 within 10 years before the date of the current conviction or the date of the offense upon which
2181 the current conviction is based;

2182 (c) a class B misdemeanor if:
2183 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
2184 (ii) (A) the value of property is less than \$500;
2185 (B) the unauthorized possession of property occurs on a property where the offender
2186 has committed any theft within the past five years; and
2187 (C) the offender has received written notice from the merchant prohibiting the offender
2188 from entering the property pursuant to Subsection 78B-3-108(4); or
2189 (iii) the actor has been twice before convicted of any of the offenses listed in
2190 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
2191 years before the date of the current conviction or the date of the offense upon which the current
2192 conviction is based; or

2193 (d) a class C misdemeanor if the value of the property is less than \$500 and the
2194 unauthorized possession of property is not an offense under Subsection (3)(c).

2195 (4) [~~Wrongful appropriation~~] Unauthorized possession of property is a lesser included
2196 offense of the offense of theft under Section 76-6-404.

2197 (5) The consent of the owner or legal custodian of the property to the property's control

2198 by the actor is not presumed or implied because of the owner's or legal custodian's consent on a
2199 previous occasion to the control of the property by any person.

2200 Section 50. Section **76-6-404.7** is amended to read:

2201 **76-6-404.7. Theft of motor vehicle fuel.**

2202 (1) (a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
2203 matter, or substance that is used in an internal combustion engine for the generation of power.

2204 (b) Terms defined in Section 76-1-101.5 apply to this section.

2205 (2) [~~A person is guilty of~~] An actor commits theft of motor vehicle fuel [who] if the
2206 actor:

2207 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
2208 retail sale when motor fuel has been dispensed into:

2209 (i) the fuel tank of the motor vehicle; or

2210 (ii) any other container that is then removed from the premises by means of the motor
2211 vehicle; and

2212 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
2213 operator of the premises of the motor vehicle fuel without making full payment for the fuel.

2214 (3) A violation of Subsection (2) is:

2215 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;

2216 (b) a third degree felony if:

2217 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000; or

2218 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been twice

2219 before convicted of any of the following offenses, if each prior offense was committed within

2220 10 years before the date of the current conviction or the date of the offense upon which the

2221 current conviction is based and at least one of those convictions is for a class A misdemeanor:

2222 (A) any theft, any robbery, or any burglary with intent to commit theft;

2223 (B) any offense under Part 5, Fraud; or

2224 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

2225 (iii) (A) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;

2226 (B) the theft occurs on a property where the offender has committed any theft within

2227 the past five years; and

2228 (C) the offender has received written notice from the merchant prohibiting the offender

2229 from entering the property pursuant to Subsection 78B-3-108(4); or

2230 (iv) the actor has been previously convicted of a felony violation of any of the offenses
 2231 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
 2232 within 10 years before the date of the current conviction or the date of the offense upon which
 2233 the current conviction is based;

2234 (c) a class A misdemeanor if:

2235 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;

2236 (ii) (A) the value of the motor vehicle fuel is less than \$500;

2237 (B) the theft occurs on a property where the offender has committed any theft within
 2238 the past five years; and

2239 (C) the offender has received written notice from the merchant prohibiting the offender
 2240 from entering the property pursuant to Subsection 78B-3-108(4); or

2241 (iii) the actor has been twice before convicted of any of the offenses listed in

2242 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10

2243 years before the date of the current conviction or the date of the offense upon which the current
 2244 conviction is based; or

2245 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and
 2246 the theft is not an offense under Subsection (3)(c).

2247 ~~[(3)]~~ (4) (a) In addition to the penalties ~~[for theft under Section 76-6-412]~~ described in
 2248 Subsection (3), the sentencing court may order the suspension of the driver license of ~~[a~~
 2249 person] an actor convicted of theft of motor vehicle fuel.

2250 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
 2251 provided in Section 53-3-220.

2252 Section 51. Section **76-6-405** is amended to read:

2253 **76-6-405. Theft by deception.**

2254 (1) (a) As used in this section, "puffing" means an exaggerated commendation of wares
 2255 or worth in a communication addressed to an individual, group, or the public.

2256 (b) Terms defined in Section 76-1-101.5 apply to this section.

2257 (2) (a) ~~[A person]~~ An actor commits theft by deception if the ~~[person]~~ actor obtains or
 2258 exercises control over property of another person:

2259 (i) by deception; and

2260 (ii) with a purpose to deprive the other person of property.
2261 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in
2262 Subsection (2)(a)(ii) may occur at separate times.

2263 (3) A violation of Subsection (2) is:
2264 (a) a second degree felony if the:
2265 (i) value of the property is or exceeds \$5,000; or
2266 (ii) property stolen is a firearm or an operable motor vehicle;
2267 (b) a third degree felony if:
2268 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
2269 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);
2270 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2271 convicted of any of the following offenses, if each prior offense was committed within 10 years
2272 before the date of the current conviction or the date of the offense upon which the current
2273 conviction is based and at least one of those convictions is for a class A misdemeanor:
2274 (A) any theft, any robbery, or any burglary with intent to commit theft;
2275 (B) any offense under Part 5, Fraud; or
2276 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
2277 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;
2278 (B) the theft occurs on a property where the offender has committed any theft within
2279 the past five years; and
2280 (C) the offender has received written notice from the merchant prohibiting the offender
2281 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
2282 (v) the actor has been previously convicted of a felony violation of any of the offenses
2283 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2284 within 10 years before the date of the current conviction or the date of the offense upon which
2285 the current conviction is based;
2286 (c) a class A misdemeanor if:
2287 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
2288 (ii) (A) the value of property is less than \$500;
2289 (B) the theft occurs on a property where the offender has committed any theft within
2290 the past five years; and

2291 (C) the offender has received written notice from the merchant prohibiting the offender
 2292 from entering the property pursuant to Subsection 78B-3-108(4); or

2293 (iii) the actor has been twice before convicted of any of the offenses listed in
 2294 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
 2295 years before the date of the current conviction or the date of the offense upon which the current
 2296 conviction is based; or

2297 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 2298 theft is not an offense under Subsection (3)(c).

2299 ~~[(3)]~~ (4) Theft by deception does not occur when there is only:

2300 (a) falsity as to matters having no pecuniary significance; or

2301 (b) puffing by statements unlikely to deceive an ordinary person in the group
 2302 addressed.

2303 Section 52. Section **76-6-406** is amended to read:

2304 **76-6-406. Theft by extortion.**

2305 ~~[(1) An actor is guilty of theft if the actor obtains or exercises control over the property~~
 2306 ~~of another person by extortion and with a purpose to deprive the person of the person's~~
 2307 ~~property.]~~

2308 ~~[(2)]~~ (1) (a) As used in this section, extortion occurs when an actor threatens to:

2309 ~~[(a)]~~ (i) cause physical harm in the future to the person threatened ~~[or]~~₂ to any other
 2310 person₂ or to property at any time;

2311 ~~[(b)]~~ (ii) subject the person threatened or any other person to physical confinement or
 2312 restraint;

2313 ~~[(c)]~~ (iii) engage in other conduct constituting a crime;

2314 ~~[(d)]~~ (iv) accuse any person of a crime or expose any person to hatred, contempt, or
 2315 ridicule;

2316 ~~[(e)]~~ (v) reveal any information sought to be concealed by the person threatened;

2317 ~~[(f)]~~ (vi) testify ~~[or]~~₂ provide information₂ or withhold testimony or information with
 2318 respect to a person's legal claim or defense;

2319 ~~[(g)]~~ (vii) take action as an official against anyone or anything, or withhold official
 2320 action, or cause such action or withholding;

2321 ~~[(h)]~~ (viii) bring about or continue a strike, boycott, or other similar collective action to

2322 obtain property that is not demanded or received for the benefit of the group that the actor
2323 purports to represent; or

2324 [(†)] (ix) do any other act which would not in itself substantially benefit the actor but
2325 which would harm substantially any other person with respect to that person's health, safety,
2326 business, calling, career, financial condition, reputation, or personal relationships.

2327 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2328 (2) An actor commits theft by extortion if the actor obtains or exercises control over
2329 the property of another person by extortion and with a purpose to deprive the person of the
2330 person's property.

2331 (3) A violation of Subsection (2) is:

2332 (a) a second degree felony if the:

2333 (i) value of the property is or exceeds \$5,000;

2334 (ii) property stolen is a firearm or an operable motor vehicle; or

2335 (iii) property is stolen from the person of another;

2336 (b) a third degree felony if:

2337 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2338 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2339 (iii) the value of the property is or exceeds \$500 and the actor has been twice before

2340 convicted of any of the following offenses, if each prior offense was committed within 10 years

2341 before the date of the current conviction or the date of the offense upon which the current

2342 conviction is based and at least one of those convictions is for a class A misdemeanor:

2343 (A) any theft, any robbery, or any burglary with intent to commit theft;

2344 (B) any offense under Part 5, Fraud; or

2345 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

2346 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;

2347 (B) the theft occurs on a property where the offender has committed any theft within

2348 the past five years; and

2349 (C) the offender has received written notice from the merchant prohibiting the offender

2350 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or

2351 (v) the actor has been previously convicted of a felony violation of any of the offenses

2352 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed

2353 within 10 years before the date of the current conviction or the date of the offense upon which
 2354 the current conviction is based;

2355 (c) a class A misdemeanor if:

2356 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

2357 (ii) (A) the value of property is less than \$500;

2358 (B) the theft occurs on a property where the offender has committed any theft within
 2359 the past five years; and

2360 (C) the offender has received written notice from the merchant prohibiting the offender
 2361 from entering the property pursuant to Subsection 78B-3-108(4); or

2362 (iii) the actor has been twice before convicted of any of the offenses listed in
 2363 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
 2364 years before the date of the current conviction or the date of the offense upon which the current
 2365 conviction is based; or

2366 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 2367 theft is not an offense under Subsection (3)(c).

2368 ~~[(3)]~~ (4) (a) A person who is adversely impacted by the conduct prohibited in
 2369 Subsection ~~[(1)]~~ (2) may bring a civil action for equitable relief and damages.

2370 (b) In accordance with Section 78B-2-305, a person who brings an action under
 2371 Subsection ~~[(3)]~~ (4)(a) shall commence the action within three years after the day on which the
 2372 cause of action arises.

2373 Section 53. Section 76-6-407 is amended to read:

2374 **76-6-407. Theft of lost, mislaid, or mistakenly delivered property.**

2375 ~~[A person commits theft when:]~~

2376 (1) Terms defined in Section 76-1-101.5 apply to this section.

2377 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the
 2378 actor:

2379 ~~[(1) He]~~ (a) obtains another person's property ~~[of another which he]~~ and knows the
 2380 property to have been lost or mislaid, or to have been delivered under a mistake as to the
 2381 identity of the recipient or as to the nature or amount of the property, without taking reasonable
 2382 measures to return ~~[it]~~ the property to the owner; and

2383 ~~[(2) He]~~ (b) has the purpose to deprive the owner of the property when ~~[he]~~ the actor

2384 obtains the property or at any time [~~prior to~~] before taking the measures [~~designated in~~
2385 ~~paragraph (1)~~] described in Subsection (2)(a).

2386 (3) A violation of Subsection (2) is:

2387 (a) a second degree felony if the:

2388 (i) value of the property is or exceeds \$5,000;

2389 (ii) property stolen is a firearm or an operable motor vehicle; or

2390 (iii) property is stolen from the person of another;

2391 (b) a third degree felony if:

2392 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2393 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2394 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2395 convicted of any of the following offenses, if each prior offense was committed within 10 years
2396 before the date of the current conviction or the date of the offense upon which the current
2397 conviction is based and at least one of those convictions is for a class A misdemeanor:

2398 (A) any theft, any robbery, or any burglary with intent to commit theft;

2399 (B) any offense under Part 5, Fraud; or

2400 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

2401 (iv) (A) the value of property is or exceeds \$500 but is less than \$1,500;

2402 (B) the theft occurs on a property where the offender has committed any theft within
2403 the past five years; and

2404 (C) the offender has received written notice from the merchant prohibiting the offender
2405 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or

2406 (v) the actor has been previously convicted of a felony violation of any of the offenses
2407 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2408 within 10 years before the date of the current conviction or the date of the offense upon which
2409 the current conviction is based;

2410 (c) a class A misdemeanor if:

2411 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

2412 (ii) (A) the value of property is less than \$500;

2413 (B) the theft occurs on a property where the offender has committed any theft within
2414 the past five years; and

2415 (C) the offender has received written notice from the merchant prohibiting the offender
 2416 from entering the property pursuant to Subsection 78B-3-108(4); or

2417 (iii) the actor has been twice before convicted of any of the offenses listed in
 2418 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
 2419 years before the date of the current conviction or the date of the offense upon which the current
 2420 conviction is based; or

2421 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 2422 theft is not an offense under Subsection (3)(c).

2423 Section 54. Section **76-6-408** is amended to read:

2424 **76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers,**
 2425 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

2426 (1) (a) As used in this section:

2427 ~~[(a)]~~ (i) "Catalytic converter purchaser" means the same as that term is defined in
 2428 Section 13-32a-102.

2429 ~~[(b)]~~ (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

2430 ~~[(c)]~~ (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

2431 ~~[(d)]~~ (iv) "Receives" means acquiring possession, control, title, or lending on the
 2432 security of the property.

2433 ~~[(e)]~~ (v) "Scrap metal processor" means the same as that term is defined in Section
 2434 76-6-1402.

2435 ~~[(f)]~~ (vi) "Secondhand actor" means:

2436 ~~[(i)]~~ (A) a pawnbroker;

2437 ~~[(ii)]~~ (B) a person who has or operates a business dealing in or collecting used or
 2438 secondhand merchandise or personal property; or

2439 ~~[(iii)]~~ (C) an agent, employee, or representative of a pawnbroker or person who buys,
 2440 receives, or obtains property.

2441 (b) Terms defined in Section 76-1-101.5 apply to this section.

2442 (2) ~~[A person]~~ An actor commits theft by receiving stolen property if the [person] actor
 2443 receives, retains, or disposes of the property of another knowing that the property is stolen, or
 2444 believing that the property is probably stolen, or who conceals, sells, withholds, or aids in
 2445 concealing, selling, or withholding the property from the owner, knowing or believing the

2446 property to be stolen, intending to deprive the owner of the property.

2447 (3) A violation of Subsection (2) is:

2448 (a) a second degree felony if:

2449 (i) the value of the property is or exceeds \$5,000; or

2450 (ii) the property is a firearm or an operable motor vehicle;

2451 (b) a third degree felony if:

2452 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2453 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2454 (iii) the value of the property is or exceeds \$500 and the actor has been twice before

2455 convicted of any of the following offenses, if each prior offense was committed within 10 years

2456 before the date of the current conviction or the date of the offense upon which the current

2457 conviction is based and at least one of those convictions is for a class A misdemeanor:

2458 (A) any theft, any robbery, or any burglary with intent to commit theft;

2459 (B) any offense under Part 5, Fraud; or

2460 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

2461 (iv) the actor has been previously convicted of a felony violation of any of the offenses

2462 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed

2463 within 10 years before the date of the current conviction or the date of the offense upon which

2464 the current conviction is based;

2465 (c) a class A misdemeanor if:

2466 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or

2467 (ii) the actor has been twice before convicted of any of the offenses listed in

2468 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10

2469 years before the date of the current conviction or the date of the offense upon which the current

2470 conviction is based; or

2471 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is

2472 not an offense under Subsection (3)(c).

2473 ~~[(3)]~~ (4) Except as provided in Subsection ~~[(4)]~~ (5), the knowledge or belief required

2474 under Subsection (2) is presumed in the case of an actor who:

2475 (a) is found in possession or control of other property stolen on a separate occasion; or

2476 (b) has received other stolen property within the year preceding the receiving offense

2477 charged.

2478 ~~[(4)]~~ (5) (a) The knowledge or belief required under Subsection (2) may only be
 2479 presumed of a secondhand actor if the secondhand actor does not substantially comply with the
 2480 material requirements of Section [13-32a-104](#).

2481 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
 2482 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer
 2483 does not substantially comply with the requirements of Section [13-32a-104.5](#).

2484 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
 2485 catalytic converter purchaser if the catalytic converter purchaser does not substantially comply
 2486 with the material requirements of Section [13-32a-104.7](#).

2487 ~~[(5)]~~ (6) Unless acting as a catalytic converter purchaser, Subsection ~~[(4)]~~ (5)(c) does
 2488 not apply to a scrap metal processor.

2489 ~~[(6)]~~ (7) This section does not preclude the admission of evidence in accordance with
 2490 the Utah Rules of Evidence.

2491 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
 2492 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney
 2493 fees.

2494 Section 55. Section **76-6-409** is amended to read:

2495 **76-6-409. Theft of service.**

2496 ~~[(1) A person]~~ (1) (a) As used in this section, "service" includes:

2497 (i) labor, professional service, a public utility or transportation service, restaurant,
 2498 hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of
 2499 equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission
 2500 to entertainment, an exhibition, a sporting event, or other event for which a charge is made;

2501 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
 2502 obtained by threat, force, or a form of deception not described in Section [76-6-409.3](#); and

2503 (iii) telephone service, only if the service is obtained by threat, force, or a form of
 2504 deception not described in Section [76-6-409.6](#), [76-6-409.7](#), [76-6-409.8](#), or [76-6-409.9](#).

2505 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2506 (2) An actor commits theft ~~[if he]~~ of service if:

2507 (a) the actor, by deception, threat, force, or another means designed to avoid due

2508 payment, obtains [services which he] a service that the actor knows [are] is available only for
2509 compensation [by deception, threat, force, or any other means designed to avoid the due
2510 payment for them.]; or

2511 ~~[(2) A person commits theft if, having control over the disposition of services of~~
2512 ~~another, to which he knows he is not entitled, he diverts the services to his own benefit or to~~
2513 ~~the benefit of another who he knows is not entitled to them.]~~

2514 ~~[(3) In this section "services" includes, but is not limited to, labor, professional service,~~
2515 ~~public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house,~~
2516 ~~and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary~~
2517 ~~use, telephone or telegraph service, steam, admission to entertainment, exhibitions, sporting~~
2518 ~~events, or other events for which a charge is made.]~~

2519 ~~[(4) Under this section "services" includes gas, electricity, water, sewer, or cable~~
2520 ~~television services, only if the services are obtained by threat, force, or a form of deception not~~
2521 ~~described in Section [76-6-409.3](#).]~~

2522 ~~[(5) Under this section "services" includes telephone services only if the services are~~
2523 ~~obtained by threat, force, or a form of deception not described in Sections [76-6-409.5](#) through~~
2524 ~~[76-6-409.9](#).]~~

2525 (b) the actor:

2526 (i) has control over the disposition of another person's service; and

2527 (ii) (A) diverts the other person's service to the benefit of the actor, knowing that the
2528 actor is not entitled to the service; or

2529 (B) diverts the other person's service to the benefit of a third person, knowing that the
2530 third person is not entitled to the service.

2531 (3) A violation of Subsection (2) is:

2532 (a) a second degree felony if the value of the service is or exceeds \$5,000;

2533 (b) a third degree felony if:

2534 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;

2535 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
2536 convicted of any of the following offenses, if each prior offense was committed within 10 years
2537 before the date of the current conviction or the date of the offense upon which the current
2538 conviction is based and at least one of those convictions is for a class A misdemeanor:

- 2539 (A) any theft, any robbery, or any burglary with intent to commit theft;
 2540 (B) any offense under Part 5, Fraud; or
 2541 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
 2542 (iii) (A) the value of the service is or exceeds \$500 but is less than \$1,500;
 2543 (B) the theft occurs on a property where the offender has committed any theft within
 2544 the past five years; and
 2545 (C) the offender has received written notice from the merchant prohibiting the offender
 2546 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
 2547 (iv) the actor has been previously convicted of a felony violation of any of the offenses
 2548 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
 2549 within 10 years before the date of the current conviction or the date of the offense upon which
 2550 the current conviction is based;
 2551 (c) a class A misdemeanor if:
 2552 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
 2553 (ii) (A) the value of the service is less than \$500;
 2554 (B) the theft occurs on a property where the offender has committed any theft within
 2555 the past five years; and
 2556 (C) the offender has received written notice from the merchant prohibiting the offender
 2557 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or
 2558 (iii) the actor has been twice before convicted of any of the offenses listed in
 2559 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
 2560 years before the date of the current conviction or the date of the offense upon which the current
 2561 conviction is based; or
 2562 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is
 2563 not an offense under Subsection (3)(c).
 2564 Section 56. Section **76-6-409.1** is amended to read:
 2565 **76-6-409.1. Unlawful device for theft of service -- Seizure and destruction -- Civil**
 2566 **actions for damages.**
 2567 [~~(1) A person may not knowingly;~~]
 2568 (1) Terms defined in Section [76-1-101.5](#) apply to this section.
 2569 (2) An actor commits unlawful device for theft of service if the actor:

2570 (a) ~~[make or possess any]~~ makes or possesses an instrument, apparatus, equipment, or
2571 device for the use of, or for the purpose of, committing or attempting to commit theft under
2572 Section 76-6-409 or 76-6-409.3; or

2573 (b) ~~[sell, offer to sell, advertise, give, transport, or otherwise transfer]~~ sells, offers to
2574 sell, advertises, gives, transports, or otherwise transfers to another ~~[any information,]~~ person:

2575 (i) an instrument, apparatus, equipment, or device]; or

2576 (ii) any information, plan, or instruction for obtaining, making, or assembling ~~[the~~
2577 ~~same]~~ an instrument, apparatus, equipment, or device, with intent that ~~[it]~~ the instrument,
2578 apparatus, equipment, or device be used, or caused to be used, to commit or attempt to commit
2579 theft under Section 76-6-409 or 76-6-409.3.

2580 ~~[(2) (a) Any information, instrument, apparatus, equipment, or device, or information,~~
2581 ~~plan, or instruction referred to in Subsection (1) may be seized pursuant to a court order, lawful~~
2582 ~~search and seizure, lawful arrest, or other lawful process.]~~

2583 ~~[(b) Upon the conviction of any person for a violation of any provision of this section,~~
2584 ~~any information, instrument, apparatus, equipment, device, plan, or instruction shall be~~
2585 ~~destroyed as contraband by the sheriff of the county in which the person was convicted.]~~

2586 ~~[(3) A person who violates any provision]~~ (3) (a) A violation of Subsection ~~[(1) or]~~ (2)
2587 is ~~[guilty of]~~ a class A misdemeanor.

2588 (b) Any instrument, apparatus, equipment, device, information, plan, or instruction
2589 referred to in Subsection (2) may be seized pursuant to a court order, lawful search and seizure,
2590 lawful arrest, or other lawful process.

2591 (c) Upon the conviction of an actor for a violation of this section, the sheriff of the
2592 county in which the actor was convicted shall destroy as contraband any instrument, apparatus,
2593 equipment, device, information, plan, or instruction.

2594 (4) ~~[Criminal prosecutions]~~ A criminal prosecution under this section ~~[do]~~ does not
2595 affect any person's right of civil action for redress for damages suffered as a result of ~~[any]~~ a
2596 violation of this section.

2597 Section 57. Section **76-6-409.3** is amended to read:

2598 **76-6-409.3. Theft of utility or cable television service -- Restitution -- Civil action**
2599 **for damages.**

2600 (1) (a) As used in this section:

2601 ~~[(a)]~~ (i) "Cable television service" means ~~[any]~~ an audio, video, or data service
 2602 provided for payment by a cable television company over ~~[its]~~ the cable television company's
 2603 cable system facilities ~~[for payment]~~, but does not include the use of a satellite dish or antenna.

2604 (ii) "Occupant" includes a person, including the owner, who occupies the whole or part
 2605 of a building, whether alone or with others.

2606 ~~[(b)]~~ (iii) "Owner" includes ~~[any part-owner]~~ a partial owner, joint owner, tenant in
 2607 common, joint tenant, or tenant by the entirety of the whole or a part of ~~[any]~~ a building and the
 2608 property on which ~~[it]~~ the building is located.

2609 ~~[(c)]~~ (iv) "Person" means ~~[any]~~ an individual, firm, partnership, corporation, company,
 2610 association, or other legal entity.

2611 ~~[(d)]~~ (v) "Tenant ~~[or occupant]~~" includes ~~[any]~~ a person, including the owner, who
 2612 occupies the whole or part of any building, whether alone or with others.

2613 ~~[(e)]~~ (vi) "Utility" means any public utility, ~~[municipally-owned]~~ municipally owned
 2614 utility, or cooperative utility ~~[which]~~ that provides electricity, gas, water, or sewer, or any
 2615 combination of ~~[them]~~ electricity, gas, water, or sewer, for sale to consumers.

2616 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2617 (2) ~~[A person is guilty of]~~ An actor commits theft of a utility or cable television service
 2618 if ~~[the person commits any prohibited acts which make]~~, with intent to avoid due payment to
 2619 the utility or cable television company, the actor makes gas, electricity, water, sewer, or cable
 2620 television available to a tenant or occupant, including ~~[himself, with intent to avoid due~~
 2621 ~~payment to the utility or cable television company. Any person aiding and abetting in these~~
 2622 ~~prohibited acts is a party to the offense under Section [76-2-202](#). Prohibited acts include:]~~ to the
 2623 actor, by committing any of the following acts:

2624 (a) connecting ~~[any]~~ a tube, pipe, wire, cable, or other instrument with any meter,
 2625 device, or other instrument used for conducting gas, electricity, water, sewer, or cable
 2626 television in a manner as permits the use of the gas, electricity, water, sewer, or cable television
 2627 without ~~[its]~~ the gas, electricity, water, sewer, or cable television passing through a meter or
 2628 other instrument recording the usage for billing;

2629 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
 2630 other instrument used for measuring quantities of gas, electricity, water, or sewer service, or
 2631 making or maintaining any modification or alteration to any device installed with the

2632 authorization of a cable television company for the purpose of intercepting or receiving any
2633 program or other service carried by the company [~~which the person~~] that the actor is not
2634 authorized by the company to receive;

2635 (c) reconnecting a gas, electricity, water, sewer, or cable television [~~connections~~]
2636 connection or otherwise restoring service when one or more of those utilities or cable service
2637 [~~have~~] has been lawfully disconnected or turned off by the provider of the utility or cable
2638 service;

2639 (d) intentionally breaking, defacing, or causing to be broken or defaced [~~any~~] a seal,
2640 locking device, or other part of a metering device for recording usage of gas, electricity, water,
2641 or sewer service, or a security system for the recording device, or a cable television control
2642 device;

2643 (e) removing a metering device designed to measure quantities of gas, electricity,
2644 water, or sewer service;

2645 (f) transferring from one location to another location a metering device for measuring
2646 quantities of public utility services of gas, electricity, water, or sewer service;

2647 (g) changing the indicated consumption, jamming the measuring device, bypassing the
2648 meter or measuring device with a jumper so that it does not indicate use or registers use
2649 incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from
2650 the utility without [~~their~~] the gas, electricity, water, or sewer service passing through a metering
2651 device for measuring quantities of consumption for billing purposes;

2652 (h) using a metering device belonging to the utility that has not been assigned to the
2653 location and installed by the utility;

2654 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
2655 utility service diversion, meter tampering, meter thefts, and unauthorized cable television
2656 service;

2657 (j) assisting or instructing [~~any~~] a person in obtaining or attempting to obtain any cable
2658 television service without payment of all lawful compensation to the company providing the
2659 service;

2660 (k) making or maintaining a connection or connections, whether physical, electrical,
2661 mechanical, acoustical, or by other means, with [~~any cables, wires, components, or other~~
2662 ~~devices~~] a cable, wire, component, or other device used for the distribution of cable television

2663 services without authority from the cable television company; or

2664 (l) possessing without authority any device or printed circuit board designed in whole
2665 or in part to receive any cable television programming or ~~[services]~~ service offered for sale
2666 over a cable television system, unless the device or printed circuit board includes the use of a
2667 satellite dish or antenna, with the intent that the device or printed circuit be used for the
2668 reception of the cable television company's services without payment. ~~[For purposes of this~~
2669 ~~subsection, device or printed circuit board does not include the use of a satellite dish or~~
2670 ~~antenna.]~~

2671 (3) (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

2672 (i) a second degree felony if:

2673 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000; or

2674 (B) if the actor previously has been convicted of a violation of this section;

2675 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or
2676 exceeds \$1,500 but is not more than \$5,000;

2677 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is
2678 or exceeds \$500 but is not more than \$1,500; or

2679 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is
2680 less than \$500.

2681 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
2682 is:

2683 (i) a second degree felony if the value of the service is or exceeds \$5,000;

2684 (ii) a third degree felony if:

2685 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;

2686 (B) the value of the service is or exceeds \$500 and the actor has been twice before
2687 convicted of any of the following offenses, if each prior offense was committed within 10 years
2688 before the date of the current conviction or the date of the offense upon which the current
2689 conviction is based and at least one of those convictions is for a class A misdemeanor:

2690 (I) any theft, any robbery, or any burglary with intent to commit theft;

2691 (II) any offense under Part 5, Fraud; or

2692 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or

2693 (C) the actor has been previously convicted of a felony violation of any of the offenses

2694 listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if the prior offense was
2695 committed within 10 years before the date of the current conviction or the date of the offense
2696 upon which the current conviction is based;

2697 (iii) a class A misdemeanor if:

2698 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or

2699 (B) the actor has been twice before convicted of any of the offenses listed in
2700 Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if each prior offense was committed
2701 within 10 years before the date of the current conviction or the date of the offense upon which
2702 the current conviction is based; or

2703 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
2704 not an offense under Subsection (3)(b)(iii).

2705 (c) (i) An actor who violates this section shall make restitution to the utility or cable
2706 television company for the value of the gas, electricity, water, sewer, or cable television service
2707 consumed in violation of this section plus all reasonable expenses and costs incurred on
2708 account of the violation of this section.

2709 (ii) Reasonable expenses and costs include expenses and costs for investigation,
2710 disconnection, reconnection, service calls, employee time, and equipment use.

2711 ~~[(3)]~~ (4) (a) The presence on property in the possession of [a person of any device] an
2712 actor of a device or alteration [which] that permits the diversion or use of utility or cable
2713 service to avoid the registration of the use by or on a meter installed by the utility or to
2714 otherwise avoid the recording of use of the service for payment or otherwise avoid payment
2715 gives rise to an inference that the [person] actor in possession of the property installed the
2716 device or caused the alteration if:

2717 ~~[(a)]~~ (i) the presence of the device or alteration can be attributed only to a deliberate act
2718 in furtherance of an intent to avoid payment for utility or cable television service; and

2719 ~~[(b)]~~ (ii) the [person] actor charged has received the direct benefit of the reduction of
2720 the cost of the utility or cable television service.

2721 ~~[(4) A person who violates this section is guilty of the offense of theft of utility or~~
2722 ~~cable television service.]~~

2723 ~~[(a) In the case of theft of utility services, if the value of the gas, electricity, water, or~~
2724 ~~sewer service:]~~

2725 ~~[(i) is less than \$500, the offense is a class B misdemeanor;]~~

2726 ~~[(ii) is or exceeds \$500 but is not more than \$1,500, the offense is a class A~~
 2727 ~~misdemeanor;]~~

2728 ~~[(iii) is or exceeds \$1,500 but is not more than \$5,000, the offense is a third degree~~
 2729 ~~felony; and]~~

2730 ~~[(iv) is or exceeds \$5,000 or if the offender has previously been convicted of a~~
 2731 ~~violation of this section, the offense is a second degree felony.]~~

2732 ~~[(b) In the case of theft of cable television services, the penalties are prescribed in~~
 2733 ~~Section [76-6-412](#).]~~

2734 ~~[(5) A person who violates this section shall make restitution to the utility or cable~~
 2735 ~~television company for the value of the gas, electricity, water, sewer, or cable television service~~
 2736 ~~consumed in violation of this section plus all reasonable expenses and costs incurred on~~
 2737 ~~account of the violation of this section. Reasonable expenses and costs include expenses and~~
 2738 ~~costs for investigation, disconnection, reconnection, service calls, employee time, and~~
 2739 ~~equipment use.]~~

2740 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
 2741 [76-2-202](#).

2742 ~~[(6)]~~ (5) (a) Criminal prosecution under this section does not affect the right of a utility
 2743 or cable television company to bring a civil action for redress for damages suffered as a result
 2744 of the commission of any of the acts prohibited by this section.

2745 ~~[(7)]~~ (b) This section does not abridge or alter any other right, action, or remedy
 2746 otherwise available to a utility or cable television company.

2747 Section 58. Section **76-6-409.5** is amended to read:

2748 **76-6-409.5. Definitions.**

2749 As used in this section and Sections [76-6-409.6](#) ~~[through]~~, [76-6-409.7](#), [76-6-409.8](#),
 2750 [76-6-409.9](#), and [76-6-409.10](#):

2751 (1) "Access device" means any telecommunication device including the telephone
 2752 calling card number, electronic serial number, account number, mobile identification number,
 2753 or personal identification number that can be used to obtain telephone service.

2754 (2) "Clone cellular telephone" or "counterfeit cellular telephone" means a cellular
 2755 telephone whose electronic serial number has been altered from the electronic serial number

2756 that was programmed in the telephone by the manufacturer by someone other than the
2757 manufacturer.

2758 (3) "Cloning paraphernalia" means materials that, when possessed in combination, are
2759 capable of the creation of a cloned cellular telephone. These materials include scanners to
2760 intercept the electronic serial number and mobile identification number, cellular telephones,
2761 cables, EPROM chips, EPROM burners, software for programming the cloned telephone with
2762 a false electronic serial number and mobile identification number combination, a computer
2763 containing such software, and lists of electronic serial number and mobile identification
2764 number combinations.

2765 (4) "Electronic serial number" means the unique number that:

2766 (a) was programmed into a cellular telephone by its manufacturer;

2767 (b) is transmitted by the cellular telephone; and

2768 (c) is used by cellular telephone providers to validate radio transmissions to the system
2769 as having been made by an authorized device.

2770 (5) "EPROM" or "Erasable programmable read-only memory" means an integrated
2771 circuit memory that can be programmed from an external source and erased, for
2772 reprogramming, by exposure to ultraviolet light.

2773 (6) "Intercept" means to electronically capture, record, reveal, or otherwise access, the
2774 signals emitted or received during the operation of a cellular telephone without the consent of
2775 the sender or receiver, by means of any instrument, device or equipment.

2776 (7) "Manufacture of an unlawful telecommunication device" means to produce or
2777 assemble an unlawful telecommunication device, or to modify, alter, program, or reprogram a
2778 telecommunication device to be capable of acquiring or facilitating the acquisition of
2779 telecommunication service without the consent of the telecommunication service provider.

2780 (8) "Mobile identification number" means the cellular telephone number assigned to
2781 the cellular telephone by the cellular telephone carrier.

2782 (9) "Possess" means to have physical possession or otherwise to exercise control over
2783 tangible property.

2784 (10) "Sell" means to offer to, agree to offer to, or to sell, exchange, give, or dispose of
2785 an unlawful telecommunications device to another.

2786 (11) "Telecommunication device" means:

2787 (a) any type of instrument, device, machine, or equipment which is capable of
2788 transmitting or receiving telephonic, electronic, or radio communications; or

2789 (b) any part of an instrument, device, machine, or equipment, or other computer circuit,
2790 computer chip, electronic mechanism, or other component, which is capable of facilitating the
2791 transmission or reception of telephonic or electronic communications within the radio spectrum
2792 allocated to cellular radio telephony.

2793 (12) "Telecommunication service" includes any service provided for a charge or
2794 compensation to facilitate the origination, transmission, emission, or reception of signs,
2795 signals, writings, images, and sounds or intelligence of any nature by telephone, including
2796 cellular telephones, wire, radio, television optical or other electromagnetic system.

2797 (13) "Telecommunication service provider" means any person or entity providing
2798 telecommunication service including a cellular telephone or paging company or other person or
2799 entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or
2800 other equipment or telecommunication service.

2801 (14) "Unlawful telecommunication device" means any telecommunication device that
2802 is capable of, or has been altered, modified, programmed, or reprogrammed, alone or in
2803 conjunction with another access device, so as to be capable of, acquiring or facilitating the
2804 acquisition of a telecommunication service without the consent of the telecommunication
2805 service provider. Unlawful devices include tumbler phones, counterfeit phones, tumbler
2806 microchips, counterfeit microchips, and other instruments capable of disguising their identity
2807 or location or of gaining access to a communications system operated by a telecommunication
2808 service provider.

2809 Section 59. Section **76-6-409.6** is amended to read:

2810 **76-6-409.6. Use of telecommunication device to avoid lawful charge for service.**

2811 ~~[(1) Any person who uses]~~ (1) Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#)
2812 apply to this section.

2813 (2) An actor commits use of a telecommunication device to avoid lawful charge for
2814 service if the actor uses a telecommunication device;

2815 (a) with the intent to avoid the payment of ~~[any]~~ a lawful charge for telecommunication
2816 service; or

2817 (b) with the knowledge that ~~[it]~~ the use of the telecommunication device was to avoid

2818 the payment of ~~[any]~~ a lawful charge for telecommunication service ~~[is guilty of].~~

2819 (3) (a) A violation of Subsection (2) is:

2820 ~~[(a)]~~ (i) a class B misdemeanor, if the value of the telecommunication service is less
2821 than \$300 or cannot be ascertained;

2822 ~~[(b)]~~ (ii) a class A misdemeanor, if the value of the telecommunication service charge
2823 is or exceeds \$300 but is not more than \$1,000;

2824 ~~[(c)]~~ (iii) a third degree felony, if the value of the telecommunication service is or
2825 exceeds \$1,000 but is not more than \$5,000; or

2826 ~~[(d)]~~ (iv) a second degree felony, if:

2827 ~~[(i)]~~ (A) the value of the telecommunication service is or exceeds \$5,000; ~~[or]~~

2828 ~~[(ii)]~~ (B) the cloned cellular telephone was used to facilitate the commission of a
2829 felony~~[-]; or~~

2830 ~~[(2) Any person who has been convicted previously of an offense under this section is~~
2831 ~~guilty of a second degree felony upon a second conviction and any subsequent conviction.]~~

2832 (C) the actor previously has been convicted of a violation of this section.

2833 (b) An actor who violates this section is subject to the restitution and civil action
2834 provisions described in Section [76-6-409.10](#).

2835 Section 60. Section ~~76-6-409.7~~ is amended to read:

2836 **76-6-409.7. Possession of unlawful telecommunication device.**

2837 ~~[(1) Any person who]~~ (1) Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply
2838 to this section.

2839 (2) An actor commits possession of unlawful telecommunication device if the actor
2840 knowingly possesses an unlawful telecommunication device ~~[is guilty of a class B~~
2841 misdemeanor].

2842 ~~[(2) Any person who]~~ (3) (a) Except as provided in Subsection (3)(b) or (3)(c), a
2843 violation of Subsection (2) is a class B misdemeanor.

2844 (b) Except as provided in Subsection (3)(c), a violation of Subsection (2) is a third
2845 degree felony if the actor knowingly possesses five or more unlawful telecommunication
2846 devices in the same criminal episode ~~[is guilty of a third degree felony].~~

2847 ~~[(3) Any person is guilty of a]~~ (c) A violation of Subsection (2) is a second degree
2848 felony ~~[who]~~ if the actor:

2849 ~~[(a)]~~ (i) knowingly and unlawfully possesses an instrument capable of intercepting
2850 electronic serial number and mobile identification number combinations under circumstances
2851 evidencing an intent to clone; or

2852 ~~[(b)]~~ (ii) knowingly and unlawfully possesses cloning paraphernalia under
2853 circumstances evidencing an intent to clone.

2854 (d) An actor who violates this section is subject to the restitution and civil action
2855 provisions described in Section [76-6-409.10](#).

2856 Section 61. Section **76-6-409.8** is amended to read:

2857 **76-6-409.8. Sale of an unlawful telecommunication device.**

2858 ~~[(1) Any person is guilty of a third degree felony who]~~ (1) Terms defined in Sections
2859 [76-1-101.5](#) and [76-6-409.5](#) apply to this section.

2860 (2) An actor commits sale of unlawful telecommunication device if the actor
2861 intentionally sells an unlawful telecommunication device or material, including hardware, data,
2862 computer software, or other information or equipment, knowing that the purchaser or a third
2863 person intends to use such material in the manufacture of an unlawful telecommunication
2864 device.

2865 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
2866 degree felony.

2867 ~~[(2) If]~~ (b) A violation of Subsection (2) is a second degree felony if the offense [under
2868 this section] involves the intentional sale of five or more unlawful telecommunication devices
2869 within a six-month period[; the person committing the offense is guilty of a second degree
2870 felony].

2871 (c) An actor who violates this section is subject to the restitution and civil action
2872 provisions described in Section [76-6-409.10](#).

2873 Section 62. Section **76-6-409.9** is amended to read:

2874 **76-6-409.9. Manufacture of an unlawful telecommunication device.**

2875 ~~[(1) Any person who]~~ (1) Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply
2876 to this section.

2877 (2) An actor commits manufacture of unlawful telecommunication device if the actor
2878 intentionally manufactures an unlawful telecommunication device [is guilty of a third degree
2879 felony].

2880 ~~[(2) If the offense under this section]~~ (3) (a) Except as provided in Subsection (3)(b), a
2881 violation of Subsection (2) is third degree felony.

2882 (b) A violation of Subsection (2) is a second degree felony if the offense involves the
2883 intentional manufacture of five or more unlawful telecommunication devices within a
2884 six-month period~~[, the person committing the offense is guilty of a second degree felony].~~

2885 (c) An actor who violates this section is subject to the restitution and civil action
2886 provisions described in Section [76-6-409.10](#).

2887 Section 63. Section **76-6-409.10** is amended to read:

2888 **76-6-409.10. Payment of restitution -- Civil action -- Other remedies retained.**

2889 ~~[(1) A person]~~ (1) Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply to this
2890 section.

2891 (2) (a) (i) An actor who violates [~~Sections [76-6-409.5](#) through~~ Section [76-6-409.6](#),
2892 [76-6-409.7](#), [76-6-409.8](#), or [76-6-409.9](#) shall make restitution to the telecommunication service
2893 provider for the value of the telecommunication service consumed in [~~violation of this section]~~
2894 the violation plus all reasonable expenses and costs incurred on account of the violation [~~of this~~
2895 section].

2896 (ii) Reasonable expenses and costs include expenses and costs for investigation,
2897 service calls, employee time, and equipment use.

2898 ~~[(2) Criminal]~~ (b) A criminal prosecution under [~~this section]~~ Section [76-6-409.6](#),
2899 [76-6-409.7](#), [76-6-409.8](#), or [76-6-409.9](#) does not affect the right of a telecommunication service
2900 provider to bring a civil action for redress for damages suffered as a result of the commission
2901 of any of the acts prohibited by [~~this section]~~ Section [76-6-409.6](#), [76-6-409.7](#), [76-6-409.8](#), or
2902 [76-6-409.9](#).

2903 (3) This section does not abridge or alter any other right, action, or remedy otherwise
2904 available to a telecommunication service provider.

2905 Section 64. Section **76-6-410** is amended to read:

2906 **76-6-410. Theft by custodian of property pursuant to repair or rental agreement.**

2907 ~~[A person is guilty of theft if:]~~

2908 (1) [Having] Terms defined in Section [76-1-101.5](#) apply to this section.

2909 (2) An actor commits theft by custodian of property pursuant to repair or rental
2910 agreement if:

2911 (a) (i) the actor has custody of property pursuant to an agreement between [himself] the
2912 actor or another person and the property's owner [thereof whereby];

2913 (ii) the actor or another person is to perform for compensation a specific service for the
2914 property's owner involving the maintenance, repair, or use of [such] the owner's property[; he];
2915 and

2916 (iii) the actor intentionally uses or operates [it] the owner's property, without the
2917 consent of the owner, for [his] the actor's own purposes in a manner constituting a gross
2918 deviation from the agreed purpose; or

2919 ~~[(2) Having]~~ (b) (i) the actor has custody of any property pursuant to a rental or lease
2920 agreement [where it] in which the property is to be returned in a specified manner or at a
2921 specified time[;]; and

2922 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
2923 return so as to render such failure a gross deviation from the agreement.

2924 (3) A violation of Subsection (2) is:

2925 (a) a second degree felony if the:

2926 (i) value of the property is or exceeds \$5,000; or

2927 (ii) property stolen is a firearm or an operable motor vehicle;

2928 (b) a third degree felony if:

2929 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

2930 (ii) the property is a catalytic converter as defined under Section [76-6-1402](#);

2931 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
2932 convicted of any of the following offenses, if each prior offense was committed within 10 years
2933 before the date of the current conviction or the date of the offense upon which the current
2934 conviction is based and at least one of those convictions is for a class A misdemeanor:

2935 (A) any theft, any robbery, or any burglary with intent to commit theft;

2936 (B) any offense under Part 5, Fraud; or

2937 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or

2938 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2939 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
2940 within 10 years before the date of the current conviction or the date of the offense upon which
2941 the current conviction is based;

2942 (c) a class A misdemeanor if:
 2943 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 2944 (ii) the actor has been twice before convicted of any of the offenses listed in
 2945 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
 2946 years before the date of the current conviction or the date of the offense upon which the current
 2947 conviction is based; or

2948 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 2949 theft is not an offense under Subsection (3)(c).

2950 Section 65. Section ~~76-6-410.5~~ is amended to read:

2951 **76-6-410.5. Theft of a rental vehicle.**

2952 (1) (a) As used in this section:

2953 ~~[(a)]~~ (i) "Motor vehicle" means a self-propelled vehicle that is intended primarily for
 2954 use and operation on the highways.

2955 ~~[(b)]~~ (ii) "Rental agreement" means ~~[any]~~ a written agreement stating the terms and
 2956 conditions governing the use of a motor vehicle provided by a rental company.

2957 ~~[(c)]~~ (iii) "Rental company" means ~~[any]~~ a person or organization in the business of
 2958 providing motor vehicles to the public.

2959 ~~[(d)]~~ (iv) "Renter" means ~~[any]~~ a person or organization obtaining the use of a motor
 2960 vehicle from a rental company under the terms of a rental agreement.

2961 (b) Terms defined in Section ~~76-1-101.5~~ apply to this section.

2962 (2) ~~[A renter is guilty of]~~ An actor commits theft of a rental vehicle if~~;~~ the actor:

2963 (a) is a renter; and

2964 (b) without notice to and permission of the rental company, ~~the renter~~ knowingly fails
 2965 without good cause to return the vehicle within 72 hours after the time established for the
 2966 return in the rental agreement.

2967 (3) A violation of Subsection (2) is a second degree felony.

2968 ~~[(3) If the]~~ (4) If a motor vehicle is not rented on a periodic tenancy basis, the rental
 2969 company shall include the following information, legibly written, as part of the terms of the
 2970 rental agreement:

2971 (a) the date and time the motor vehicle is required to be returned; and

2972 (b) the maximum penalties under state law if the motor vehicle is not returned within

2973 72 hours from the date and time stated in compliance with Subsection [~~(3)~~] (4)(a).

2974 Section 66. Section **76-6-412.1** is enacted to read:

2975 **76-6-412.1. Civil remedy for animal theft.**

2976 In addition to a criminal penalty under this chapter, an actor who commits theft of a
 2977 stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny,
 2978 swine, poultry, a fur-bearing animal raised for commercial purposes, or a livestock guardian
 2979 dog, is civilly liable for three times the amount of actual damages, if any sustained by the
 2980 plaintiff, and for costs of suit and reasonable attorney fees.

2981 Section 67. Section **76-6-413** is amended to read:

2982 **76-6-413. Release of a fur-bearing animal -- Finding.**

2983 [~~(1) In any case not amounting to a felony of the second degree, any person who]~~

2984 (1) Terms defined in Section 76-1-101.5 apply to this section.

2985 (2) An actor commits release of a fur-bearing animal if the actor intentionally and
 2986 without permission of the owner releases [any] a fur-bearing animal raised for commercial
 2987 purposes [is guilty of a felony of the third degree].

2988 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
 2989 degree felony.

2990 (b) A violation of Subsection (2) is a second degree felony if the value of the property
 2991 is or exceeds \$5,000.

2992 [~~(2)~~] (4) The Legislature finds that the release of a fur-bearing [animals] animal raised
 2993 for commercial purposes subjects the [animals] animal to unnecessary suffering through
 2994 deprivation of food and shelter and compromises [their] the animal's genetic integrity, thereby
 2995 permanently depriving the owner of substantial value.

2996 (5) An actor who violates Subsection (2) is civilly liable for three times the amount of
 2997 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney
 2998 fees.

2999 Section 68. Section **76-6-501** is amended to read:

3000 **76-6-501. Definitions -- Forgery.**

3001 (1) (a) As used in this [part] section:

3002 [~~(a)~~] (i) "Authentication feature" means any hologram, watermark, certification,
 3003 symbol, code, image, sequence of numbers or letters, or other feature that either individually or

3004 in combination with another feature is used by the issuing authority on an identification
3005 document, document-making implement, or means of identification to determine if the
3006 document is counterfeit, altered, or otherwise falsified.

3007 ~~(b)~~ (ii) "Document-making implement" means any implement, impression, template,
3008 computer file, computer disc, electronic device, computer hardware or software, or scanning
3009 printing, or laminating equipment that is specifically configured or primarily used for making
3010 an identification document, a false identification document, or another document-making
3011 implement.

3012 ~~(c)~~ (iii) "False authentication feature" means an authentication feature that:

3013 ~~(i)~~ (A) is genuine in origin but that, without the authorization of the issuing authority,
3014 has been tampered with or altered for purposes of deceit;

3015 ~~(ii)~~ (B) is genuine, but has been distributed, or is intended for distribution, without
3016 the authorization of the issuing authority and not in connection with a lawfully made
3017 identification document, document-making implement, or means of identification to which the
3018 authentication feature is intended to be affixed or embedded by the issuing authority; or

3019 ~~(iii)~~ (C) appears to be genuine, but is not.

3020 ~~(d)~~ (iv) "False identification document" means a document of a type intended or
3021 commonly accepted for the purposes of identification of individuals, and that:

3022 ~~(i)~~ (A) is not issued by or under the authority of a governmental entity or was issued
3023 under the authority of a governmental entity but was subsequently altered for purposes of
3024 deceit; and

3025 ~~(ii)~~ (B) appears to be issued by or under the authority of a governmental entity.

3026 ~~(e)~~ (v) "Governmental entity" means the United States government, a state, a political
3027 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
3028 international governmental organization, or a quasi-governmental organization.

3029 ~~(f)~~ (vi) "Identification document" means a document made or issued by or under the
3030 authority of a governmental entity, which, when completed with information concerning a
3031 particular individual, is of a type intended or commonly accepted for the purpose of
3032 identification of individuals.

3033 ~~(g)~~ (vii) "Issuing authority" means:

3034 ~~(i)~~ (A) any governmental entity that is authorized to issue identification documents,

3035 means of identification, or authentication features; or

3036 ~~[(i)]~~ (B) a business organization or financial institution or its agent that issues a
3037 financial transaction card as defined in Section 76-6-506.

3038 ~~[(h)]~~ (viii) "Means of identification" means any name or number that may be used,
3039 alone or in conjunction with any other information, to identify a specific individual, including:

3040 ~~[(i)]~~ (A) name, social security number, date of birth, government issued driver license
3041 or identification number, alien registration number, government passport number, or employer
3042 or taxpayer identification number;

3043 ~~[(i)]~~ (B) unique biometric data, such as fingerprint, voice print, retina or iris image, or
3044 other unique physical representation; or

3045 ~~[(ii)]~~ (C) unique electronic identification number, address, or routing code.

3046 ~~[(j)]~~ (ix) "Personal identification card" means an identification document issued by a
3047 governmental entity solely for the purpose of identification of an individual.

3048 ~~[(j)]~~ (x) "Produce" includes altering, authenticating, or assembling.

3049 ~~[(k)]~~ (xi) "State" includes any state of the United States, the District of Columbia, the
3050 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
3051 United States.

3052 ~~[(l)]~~ (xii) "Traffic" means to:

3053 ~~[(i)]~~ (A) transport, transfer, or otherwise dispose of an item to another, as consideration
3054 for anything of value; or

3055 ~~[(i)]~~ (B) make or obtain control of with intent to transport, transfer, or otherwise
3056 dispose of an item to another.

3057 ~~[(m)]~~ (xiii) "Writing" includes printing, electronic storage or transmission, or any other
3058 method of recording valuable information including forms such as:

3059 ~~[(i)]~~ (A) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and
3060 any other symbols of value, right, privilege, or identification;

3061 ~~[(i)]~~ (B) a security, revenue stamp, or any other instrument or writing issued by a
3062 government or any agency; or

3063 ~~[(ii)]~~ (C) a check, an issue of stocks, bonds, or any other instrument or writing
3064 representing an interest in or claim against property, or a pecuniary interest in or claim against
3065 any person or enterprise.

3066 (b) Terms defined in Section 76-1-101.5 apply to this section.

3067 (2) ~~[A person is guilty of]~~ An actor commits forgery if, with purpose to defraud
3068 anyone, or with knowledge that the ~~[person]~~ actor is facilitating a fraud to be perpetrated by
3069 anyone, the ~~[person]~~ actor:

3070 (a) alters any writing of another person without ~~[his]~~ the person's authority or utters the
3071 altered writing; or

3072 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
3073 writing so that the writing or the making, completion, execution, authentication, issuance,
3074 transference, publication, or utterance:

3075 (i) purports to be the act of another person, whether the person is existent or
3076 nonexistent;

3077 (ii) purports to be an act on behalf of another party with the authority of that other
3078 party; or

3079 (iii) purports to have been executed at a time or place or in a numbered sequence other
3080 than was in fact the case, or to be a copy of an original when an original did not exist.

3081 (3) A violation of Subsection (2) is a third degree felony.

3082 ~~[(3)]~~ (4) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor
3083 signs his own name to the writing if the actor does not have authority to make, complete,
3084 execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for
3085 whom the actor purports to act.

3086 ~~[(4) A person is guilty of producing or transferring any false identification document~~
3087 ~~who:]~~

3088 ~~[(a) knowingly and without lawful authority produces, attempts, or conspires to~~
3089 ~~produce an identification document, authentication feature, or a false identification document~~
3090 ~~that is or appears to be issued by or under the authority of an issuing authority;]~~

3091 ~~[(b) transfers, or possesses with intent to transfer, an identification document,~~
3092 ~~authentication feature, or a false identification document knowing that the document or feature~~
3093 ~~was stolen or produced without lawful authority;]~~

3094 ~~[(c) produces, transfers, or possesses a document-making implement or authentication~~
3095 ~~feature with the intent that the document-making implement or the authentication feature be~~
3096 ~~used in the production of a false identification document or another document-making~~

3097 ~~implement or authentication feature; or]~~

3098 ~~[(d) traffics in false or actual authentication features for use in false identification~~

3099 ~~documents, document-making implements, or means of identification.]~~

3100 ~~[(5) A person who violates:]~~

3101 ~~[(a) Subsection (2) is guilty of a third degree felony; and]~~

3102 ~~[(b) Subsection (4) is guilty of a second degree felony.]~~

3103 ~~[(6)]~~ (5) This ~~[part]~~ section may not be construed to impose criminal or civil liability
3104 on any law enforcement officer acting within the scope of a criminal investigation.

3105 ~~[(7)]~~ (6) The forfeiture of property under this ~~[part]~~ section, including any seizure and
3106 disposition of the property and any related judicial or administrative proceeding, shall be
3107 conducted in accordance with Title 24, Forfeiture and Disposition of Property Act.

3108 ~~[(8)]~~ (7) The court shall order, in addition to the penalty prescribed for any person
3109 convicted of a violation of this section, the forfeiture and destruction or other disposition of all
3110 illicit authentication features, identification documents, false transaction cards,
3111 document-making implements, or means of identification.

3112 Section 69. Section **76-6-501.5** is enacted to read:

3113 **76-6-501.5. Producing or transferring false identification.**

3114 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-501](#) apply to this section.

3115 (2) An actor commits producing or transferring a false identification document if the
3116 actor:

3117 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
3118 an identification document, authentication feature, or a false identification document that is or
3119 appears to be issued by or under the authority of an issuing authority;

3120 (b) transfers, or possesses with intent to transfer, an identification document,
3121 authentication feature, or a false identification document knowing that the document or feature
3122 was stolen or produced without lawful authority;

3123 (c) produces, transfers, or possesses a document-making implement or authentication
3124 feature with the intent that the document-making implement or the authentication feature be
3125 used in the production of a false identification document or another document-making
3126 implement or authentication feature; or

3127 (d) traffics in false or actual authentication features for use in false identification

3128 documents, document-making implements, or means of identification.

3129 (3) A violation of Subsection (2) is a second degree felony.

3130 (4) This section may not be construed to impose criminal or civil liability on any law
3131 enforcement officer acting within the scope of a criminal investigation.

3132 (5) The forfeiture of property under this section, including any seizure and disposition
3133 of the property and any related judicial or administrative proceeding, shall be conducted in
3134 accordance with Title 24, Forfeiture and Disposition of Property Act.

3135 (6) The court shall order, in addition to the penalty prescribed for a person convicted of
3136 a violation of this section, the forfeiture and destruction or other disposition of all illicit
3137 authentication features, identification documents, false transaction cards, document-making
3138 implements, or means of identification.

3139 Section 70. Section **76-6-502** is amended to read:

3140 **76-6-502. Possession of forged writing or device for a forgery writing.**

3141 (1) (a) As used in this section[, "device"]:

3142 (i) "Device" means any equipment, mechanism, material, or program.

3143 (ii) "Writing" means the same as that term is defined in Section [76-6-501](#).

3144 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3145 (2) An [~~individual~~] actor who, with intent to defraud, knowingly possesses a writing[;
3146 ~~as defined in Section [76-6-501](#);~~] that is a forgery under Section [76-6-501](#) or [76-6-501.5](#), or who
3147 with intent to defraud knowingly possesses a device for making a writing[~~, as defined in~~
3148 ~~Section [76-6-501](#);~~] that is a forgery under Section [76-6-501](#) or [76-6-501.5](#), [~~is guilty of a third~~
3149 ~~degree felony~~] commits possession of a forged writing or device for making a forgery writing.

3150 (3) A violation of Subsection (2) is a third degree felony.

3151 (4) This section may not be construed to impose criminal or civil liability on any law
3152 enforcement officer acting within the scope of a criminal investigation.

3153 (5) The forfeiture of property under this section, including any seizure and disposition
3154 of the property and any related judicial or administrative proceeding, shall be conducted in
3155 accordance with Title 24, Forfeiture and Disposition of Property Act.

3156 Section 71. Section **76-6-503.5** is amended to read:

3157 **76-6-503.5. Wrongful liens.**

3158 [~~(1) "Lien"~~] (1) (a) As used in this section, "lien" means:

3159 ~~[(a)]~~ (i) an instrument or document filed pursuant to Section [70A-9a-516](#);

3160 ~~[(b)]~~ (ii) a nonconsensual common law document as defined in Section [38-9-102](#);

3161 ~~[(c)]~~ (iii) a wrongful lien as defined in Section [38-9-102](#); or

3162 ~~[(d)]~~ (iv) any instrument or document that creates or purports to create a lien or

3163 encumbrance on an owner's interest in real or personal property or a claim on another's assets.

3164 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3165 (2) ~~[A person is guilty of]~~ An actor commits the crime of wrongful lien if [that person]

3166 the actor knowingly makes, utters, records, or files a lien:

3167 (a) having no objectively reasonable basis to believe ~~[he]~~ that the actor has a present

3168 and lawful property interest in the property or a claim on the assets; or

3169 (b) if the ~~[person]~~ actor files the lien in violation of a civil wrongful lien injunction

3170 pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.

3171 ~~[(3) A violation of this section]~~ (3) (a) Except as provided in Subsection (3)(b), a

3172 violation of Subsection (2) is a third degree felony [unless the person].

3173 (b) If an actor has been previously convicted of an offense under this section~~[, in which~~

3174 ~~case the violation]~~ or Section [76-6-503.6](#), a violation of Subsection (2) is a second degree

3175 felony.

3176 ~~[(4)(a) Any person who with intent to deceive or injure anyone falsifies, destroys,~~

3177 ~~removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other~~

3178 ~~writing for which the law provides public recording is guilty of fraudulent handling of~~

3179 ~~recordable writings.]~~

3180 ~~[(b) A violation of Subsection (4)(a) is a third degree felony unless the person has been~~

3181 ~~previously convicted of an offense under this section, in which case the violation is a second~~

3182 ~~degree felony.]~~

3183 ~~[(5)]~~ (4) This section does not prohibit prosecution for any act in violation of Section

3184 [76-8-414](#) or for any offense greater than an offense under this section.

3185 (5) This section may not be construed to impose criminal or civil liability on any law

3186 enforcement officer acting within the scope of a criminal investigation.

3187 (6) The forfeiture of property under this section, including any seizure and disposition

3188 of the property and any related judicial or administrative proceeding, shall be conducted in

3189 accordance with Title 24, Forfeiture and Disposition of Property Act.

3190 Section 72. Section **76-6-503.6** is enacted to read:

3191 **76-6-503.6. Fraudulent handling of recordable writings.**

3192 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-503.5](#) apply to this section.

3193 (2) An actor commits fraudulent handling of recordable writings if the actor:

3194 (a) has intent to deceive or injure; and

3195 (b) falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security
3196 instrument, lien, or other writing for which the law provides public recording.

3197 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
3198 degree felony.

3199 (b) If an actor has been previously convicted of an offense under this section or
3200 [76-6-503.5](#), a violation of Subsection (2) is a second degree felony.

3201 (4) This section does not prohibit prosecution for any act in violation of Section
3202 [76-8-414](#) or for any offense greater than an offense under this section.

3203 (5) This section may not be construed to impose criminal or civil liability on any law
3204 enforcement officer acting within the scope of a criminal investigation.

3205 (6) The forfeiture of property under this section, including any seizure and disposition
3206 of the property and any related judicial or administrative proceeding, shall be conducted in
3207 accordance with Title 24, Forfeiture and Disposition of Property Act.

3208 Section 73. Section **76-6-503.7** is amended to read:

3209 **76-6-503.7. Records filed with intent to harass or defraud.**

3210 ~~[(1) No person shall cause a record to be communicated to the filing office, as defined~~
3211 ~~in Section [70A-9a-513.5](#), for filing if:]~~

3212 ~~[(a) the person is not authorized to file the record under Section [70A-9a-509](#),~~
3213 ~~[70A-9a-708](#), or [70A-9a-807](#);~~]

3214 (1) (a) As used in this section, "filing office" means the same as that term is defined in
3215 Section [70A-9a-513.5](#).

3216 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3217 (2) An actor commits filing a record with intent to harass or defraud if:

3218 (a) the actor causes a record to be communicated to the filing office for filing;

3219 (b) the actor is not authorized to file the record under Section [70A-9a-509](#),

3220 [70A-9a-708](#), or [70A-9a-807](#);

3221 ~~[(b)]~~ (c) the record is not related to an existing or anticipated transaction that is or will
 3222 be governed by Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and

3223 ~~[(c)]~~ (d) the record is filed knowingly or intentionally to:

3224 (i) harass the person identified as the debtor in the record; or

3225 (ii) defraud the person identified as the debtor in the record.

3226 ~~[(2)(a) A person who violates]~~ (3) (a) A violation of Subsections ~~[(1)]~~ (2)(a), (b), (c),
 3227 and ~~[(c)]~~ (d)(i) is ~~[guilty of]~~ a class B misdemeanor for a first offense and a class A
 3228 misdemeanor for a second or subsequent offense.

3229 (b) ~~[A person who violates]~~ A violation of Subsections ~~[(1)]~~ (2)(a), (b), (c), and ~~[(c)]~~
 3230 (d)(ii) is ~~[guilty of]~~ a third degree felony.

3231 (4) This section may not be construed to impose criminal or civil liability on any law
 3232 enforcement officer acting within the scope of a criminal investigation.

3233 (5) The forfeiture of property under this section, including any seizure and disposition
 3234 of the property and any related judicial or administrative proceeding, shall be conducted in
 3235 accordance with Title 24, Forfeiture and Disposition of Property Act.

3236 Section 74. Section **76-6-504** is amended to read:

3237 **76-6-504. Tampering with records.**

3238 (1) (a) As used in this section, "writing" means the same as that term is defined in
 3239 Section [76-6-501](#).

3240 ~~[(1) Any person who,]~~ (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3241 (2) An actor commits tampering with records if the actor:

3242 (a) having no privilege to do so, knowingly falsifies, destroys, removes, or conceals
 3243 any writing, other than the writings enumerated in Section [76-6-503.5](#) for which the law
 3244 provides public recording or any record, public or private~~;~~; and

3245 (b) executes an action described in Subsection (1)(a) with intent to:

3246 (i) deceive or injure any person; or ~~[to]~~

3247 (ii) conceal any wrongdoing ~~[is guilty of tampering with records].~~

3248 ~~[(2) Tampering with records]~~ (3) A violation of Subsection (2) is a class B
 3249 misdemeanor.

3250 (4) This section may not be construed to impose criminal or civil liability on any law
 3251 enforcement officer acting within the scope of a criminal investigation.

3252 (5) The forfeiture of property under this section, including any seizure and disposition
 3253 of the property and any related judicial or administrative proceeding, shall be conducted in
 3254 accordance with Title 24, Forfeiture and Disposition of Property Act.

3255 Section 75. Section **76-6-505** is amended to read:

3256 **76-6-505. Issuing a bad check or draft -- Presumption.**

3257 ~~[(1)(a) Any person who]~~ (1) Terms defined in Section 76-1-101.5 apply to this
 3258 section.

3259 (2) (a) (i) An actor commits issuing a bad check or draft if:

3260 (A) the actor issues or passes a check or draft for the payment of money, for the
 3261 purpose of obtaining from any person, firm, partnership, or corporation, any money, property,
 3262 or other thing of value or paying for any services, wages, salary, labor, or rent~~[-, knowing it];~~

3263 (B) the actor knows the check or draft will not be paid by the drawee; and

3264 (C) payment is refused by the drawee~~[-, is guilty of issuing a bad check or draft].~~

3265 ~~[(b)]~~ (ii) For purposes of this Subsection [(1), a person] (2)(a), an actor who issues a
 3266 check or draft for which payment is refused by the drawee is presumed to know the check or
 3267 draft would not be paid if ~~[he]~~ the actor had no account with the drawee at the time of issue.

3268 ~~[(2) Any person who]~~ (b) An actor commits issuing a bad check or draft if:

3269 (i) the actor issues or passes a check or draft for:

3270 (A) the payment of money, for the purpose of obtaining from any person, firm,
 3271 partnership, or corporation, any money, property, or other thing of value; or

3272 (B) paying for any services, wages, salary, labor, or rent~~[-];~~

3273 (ii) payment of [which] the check or draft is legally refused by the drawee~~[-, is guilty of~~
 3274 issuing a bad check or draft if he]; and

3275 (iii) the actor fails to make good and actual payment to the payee in the amount of the
 3276 refused check or draft within 14 days of ~~[his]~~ the actor receiving actual notice of the check or
 3277 draft's nonpayment.

3278 (3) ~~[An offense of issuing a bad check or draft shall be]~~ A violation of Subsection
 3279 (2)(a) or (b) is punished as follows:

3280 (a) ~~[If]~~ if the check or draft or series of checks or drafts made or drawn in this state
 3281 within a period not exceeding six months amounts to a sum that is less than \$500, the offense
 3282 is a class B misdemeanor~~[-];~~

3283 (b) [H] if the check or draft or checks or drafts made or drawn in this state within a
3284 period not exceeding six months amounts to a sum that is or exceeds \$500 but is less than
3285 \$1,500, the offense is a class A misdemeanor[-];

3286 (c) [H] if the check or draft or checks or drafts made or drawn in this state within a
3287 period not exceeding six months amounts to a sum that is or exceeds \$1,500 but is less than
3288 \$5,000, the offense is a third degree felony [~~of the third degree.~~]; or

3289 (d) [H] if the check or draft or checks or drafts made or drawn in this state within a
3290 period not exceeding six months amounts to a sum that is or exceeds \$5,000, the offense is a
3291 second degree felony.

3292 (4) This section may not be construed to impose criminal or civil liability on any law
3293 enforcement officer acting within the scope of a criminal investigation.

3294 (5) The forfeiture of property under this section, including any seizure and disposition
3295 of the property and any related judicial or administrative proceeding, shall be conducted in
3296 accordance with Title 24, Forfeiture and Disposition of Property Act.

3297 Section 76. Section **76-6-506** is amended to read:

3298 **76-6-506. Financial transaction card offenses -- Definitions.**

3299 As used in [this part] Sections 76-6-506.2, 76-6-506.3, 76-6-506.6, 76-6-506.8, and
3300 76-6-506.9:

3301 (1) "Authorized credit card merchant" means a person who is authorized by an issuer to
3302 furnish money, goods, services, or anything else of value upon presentation of a financial
3303 transaction card by a card holder and to present valid credit card sales drafts to the issuer for
3304 payment.

3305 (2) "Automated banking device" means any machine which, when properly activated
3306 by a financial transaction card or a personal identification code, may be used for any of the
3307 purposes for which a financial transaction card may be used.

3308 (3) "Card holder" means any person or organization named on the face of a financial
3309 transaction card to whom or for whose benefit a financial transaction card is issued.

3310 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic
3311 record of a sale of money, goods, services, or anything else of value made or purported to be
3312 made to or at the request of a card holder with a financial transaction card, financial transaction
3313 card credit number, or personal identification code, whether the record of the sale or purported

3314 sale is evidenced by a sales draft, voucher, or other similar document in writing or
3315 electronically recorded and transmitted.

3316 (5) "Financial transaction card" means:

3317 (a) any credit card, credit plate, bank services card, banking card, check guarantee card,
3318 debit card, telephone credit card, or any other card, issued by an issuer for the use of the card
3319 holder in obtaining money, goods, services, or anything else of value on credit, or in certifying
3320 or guaranteeing to a person or business the availability to the card holder of the funds on
3321 deposit that are equal to or greater than the amount necessary to honor a draft or check payable
3322 to the order of the person or business; or

3323 (b) any instrument or device used in providing the card holder access to a demand or
3324 time deposit account for the purpose of making deposits of money or checks in the account, or
3325 withdrawing funds from the account in the form of money, money orders, travelers' checks, or
3326 other form representing value, or transferring funds from any demand or time deposit account
3327 to any credit card account in full or partial satisfaction of any outstanding balance existing in
3328 the credit card account.

3329 (6) "Issuer" means a business organization or financial institution or its agent that
3330 issues a financial transaction card.

3331 (7) "Personal identification code" means any numerical or alphabetical code assigned
3332 to a card holder by the issuer to permit the authorized electronic use of the holder's financial
3333 transaction card.

3334 Section 77. Section **76-6-506.2** is amended to read:

3335 **76-6-506.2. Unlawful use of financial transaction card.**

3336 [~~It is unlawful for any person to:~~]

3337 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#) apply to this section.

3338 (2) An actor commits unlawful use of financial transaction card if the actor:

3339 ~~[(1)]~~ (a) knowingly [~~use a false, fictitious, altered, counterfeit,~~] uses a revoked, expired,
3340 stolen, or fraudulently obtained financial transaction card to obtain or attempt to obtain credit,
3341 goods, property, or services;

3342 ~~[(2)]~~ (b) knowingly, with the intent to defraud, [~~use~~] uses a financial transaction card,
3343 credit number, personal identification code, or any other information contained on the card or
3344 in the account from which the card is issued, to obtain or attempt to obtain credit, goods, or

3345 services;

3346 ~~[(3)]~~ (c) knowingly, with the intent to defraud, ~~[use]~~ uses a financial transaction card to
3347 willfully exceed an authorized credit line by \$500 or more, or by 50% or more of the line of
3348 credit, whichever is greater; or

3349 ~~[(4) (a) knowingly, with the intent to defraud, make application for a financial~~
3350 ~~transaction card to an issuer and make or cause to be made a false statement or report of the~~
3351 ~~person's name, occupation, financial condition, assets, or personal identifying information; or]~~

3352 ~~[(b) willfully and substantially undervalue or understate any indebtedness for the~~
3353 ~~purposes of influencing the issuer to issue the financial transaction card; or]~~

3354 ~~[(5)]~~ (d) knowingly, with the intent to defraud, ~~[present or cause]~~ presents or causes to
3355 be presented to the issuer or an authorized credit card merchant, for payment or collection, any
3356 credit card sales draft, if:

3357 ~~[(a)]~~ (i) the draft is counterfeit or fictitious;

3358 ~~[(b)]~~ (ii) the purported sales evidenced by any credit card sales draft did not take place;

3359 ~~[(c)]~~ (iii) the purported sale was not authorized by the card holder; or

3360 ~~[(d)]~~ (iv) the items or services purported to be sold as evidenced by the credit card sales
3361 drafts are not delivered or rendered to the card holder or person intended to receive them.

3362 (3) (a) A violation of Subsection (2) is:

3363 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
3364 sought to be obtained is less than \$500;

3365 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
3366 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3367 (iii) a third degree felony if the value of the property, money, or thing obtained or
3368 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3369 (iv) a second degree felony if the value of the property, money, or thing obtained or
3370 attempted to be obtained is or exceeds \$5,000.

3371 (b) Multiple violations of Subsection (2)(a) may be aggregated into a single offense,
3372 and the degree of the offense is determined by the total value of all property, money, or things
3373 obtained or attempted to be obtained through the multiple violations.

3374 (4) The court shall make appropriate findings in any prosecution under this section that
3375 the card holder did not commit the crime.

3376 (5) This section may not be construed to impose criminal or civil liability on any law
3377 enforcement officer acting within the scope of a criminal investigation.

3378 (6) The forfeiture of property under this section, including any seizure and disposition
3379 of the property and any related judicial or administrative proceeding, shall be conducted in
3380 accordance with Title 24, Forfeiture and Disposition of Property Act.

3381 Section 78. Section **76-6-506.3** is amended to read:

3382 **76-6-506.3. Unlawful acquisition, possession, or transfer of financial transaction**
3383 **card.**

3384 ~~[(1) Under circumstances that do not constitute a violation of Subsection (2), an~~
3385 ~~individual is guilty of a third degree felony who:]~~

3386 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#) apply to this section.

3387 (2) An actor commits unlawful acquisition, possession, or transfer of a financial
3388 transaction card if the actor:

3389 (a) under circumstances that do not constitute a violation of Subsection (2)(b):

3390 ~~[(a)]~~ (i) acquires a financial transaction card from another without the consent of the
3391 card holder or the issuer;

3392 ~~[(b)]~~ (ii) receives a financial transaction card with intent to use the financial transaction
3393 card in violation of Section [76-6-506.2](#);

3394 ~~[(c)]~~ (iii) sells or transfers a financial transaction card to a person with knowledge that
3395 the financial transaction card will be used in violation of Section [76-6-506.2](#);

3396 ~~[(d)]~~ (i) (A) acquires a financial transaction card that the individual knows was
3397 lost, mislaid, stolen, or delivered under a mistake as to the identity or address of the card
3398 holder; and

3399 ~~[(i)]~~ (A) (B) (I) retains possession with intent to use the financial transaction card in
3400 violation of Section [76-6-506.2](#); or

3401 ~~[(B)]~~ (II) sells or transfers the financial transaction card to a person with knowledge
3402 that the financial transaction card will be used in violation of Section [76-6-506.2](#); or

3403 ~~[(c)]~~ (v) possesses, sells, or transfers any information necessary for the use of a
3404 financial transaction card, including the credit number of the card, the expiration date of the
3405 card, or the personal identification code related to the card:

3406 ~~[(i)]~~ (A) (I) without the consent of the card holder or the issuer; or

3407 ~~[(B)]~~ (II) with knowledge that the information has been acquired without consent of the
 3408 card holder or the issuer; and

3409 ~~[(ii)]~~ (B) with intent to use the information in violation of Section [76-6-506.2](#)~~[-]; or~~

3410 ~~[(2) An individual is guilty of a second degree felony who]~~

3411 (b) possesses, sells, or transfers any information necessary for the use of 100 or more
 3412 financial transaction cards, including the credit number of a card, the expiration date of a card,
 3413 or the personal identification code related to a card:

3414 ~~[(a)]~~ (i) with intent to use the information in violation of Section [76-6-506.2](#); or

3415 ~~[(b)]~~ (ii) with knowledge that the information will be used by another in violation of
 3416 Section [76-6-506.2](#).

3417 (3) (a) A violation of Subsection (2)(a) is a third degree felony.

3418 (b) A violation of Subsection (2)(b) is a second degree felony.

3419 (4) This section may not be construed to impose criminal or civil liability on any law
 3420 enforcement officer acting within the scope of a criminal investigation.

3421 (5) The forfeiture of property under this section, including any seizure and disposition
 3422 of the property and any related judicial or administrative proceeding, shall be conducted in
 3423 accordance with Title 24, Forfeiture and Disposition of Property Act.

3424 Section 79. Section **76-6-506.6** is amended to read:

3425 **76-6-506.6. Unauthorized factoring of credit card sales drafts.**

3426 ~~[It is unlawful for any person,]~~ (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#)
 3427 apply to this section.

3428 (2) An actor commits an unauthorized factoring of credit card sales draft if the actor
 3429 acts:

3430 (a) knowingly, with intent to defraud~~[-acting];~~

3431 (b) without the express authorization of the issuer~~[-]; and~~

3432 (c) to employ, solicit, or otherwise cause an authorized credit card merchant, or for the
 3433 authorized credit card merchant himself or herself, to present any credit card sales draft to the
 3434 issuer;

3435 (i) for payment pertaining to any sale or purported sale of goods or services ~~[which~~
 3436 was]; and

3437 (ii) the sale or purported sale was not made by the authorized credit card merchant in

3438 the ordinary course of business.

3439 (3) (a) A violation of Subsection (2) is:

3440 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
3441 sought to be obtained is less than \$500;

3442 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
3443 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3444 (iii) a third degree felony if the value of the property, money, or thing obtained or
3445 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3446 (iv) a second degree felony if the value of the property, money, or thing obtained or
3447 attempted to be obtained is or exceeds \$5,000.

3448 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
3449 the degree of the offense is determined by the total value of all property, money, or things
3450 obtained or attempted to be obtained through the multiple violations.

3451 (4) The court shall make appropriate findings in any prosecution under this section that
3452 the card holder did not commit the crime.

3453 (5) This section may not be construed to impose criminal or civil liability on any law
3454 enforcement officer acting within the scope of a criminal investigation.

3455 (6) The forfeiture of property under this section, including any seizure and disposition
3456 of the property and any related judicial or administrative proceeding, shall be conducted in
3457 accordance with Title 24, Forfeiture and Disposition of Property Act.

3458 Section 80. Section **76-6-506.7** is amended to read:

3459 **76-6-506.7. Obtaining encoded information on a financial transaction card with**
3460 **the intent to defraud the issuer, holder, or merchant.**

3461 (1) (a) As used in this section:

3462 (i) "Card holder" means the same as that term is defined in Section [76-6-506](#).

3463 [(a)] (ii) "Financial transaction card" or "card" means any credit card, credit plate, bank
3464 services card, banking card, check guarantee card, debit card, telephone credit card, or any
3465 other card, issued by an issuer for the use of the card holder in:

3466 [(i)] (A) obtaining money, goods, services, or anything else of value on credit; or

3467 [(ii)] (B) certifying or guaranteeing to a merchant the availability to the card holder of
3468 the funds on deposit that are equal to or greater than the amount necessary to honor a draft or

3469 check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any
3470 other thing of value from the merchant.

3471 ~~[(b)(i)]~~ (iii) (A) "Merchant" means an owner or operator of any retail mercantile
3472 establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or
3473 independent contractor of the owner or operator.

3474 ~~[(ii)]~~ (B) "Merchant" also means a person:

3475 ~~[(A)]~~ (I) who receives from a card holder, or a third person the merchant believes to be
3476 the card holder, a financial transaction card or information from a financial transaction card, or
3477 what the merchant believes to be a financial transaction card or information from a card; and

3478 ~~[(B)]~~ (II) who accepts the financial transaction card or information from a card under
3479 Subsection (1)(a)(ii)~~(B)~~ as the instrument for obtaining, purchasing, or receiving goods,
3480 services, money, or any other thing of value from the merchant.

3481 ~~[(c)]~~ (iv) "Reencoder" means an electronic device that places encoded information
3482 from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe
3483 of a different financial transaction card.

3484 ~~[(d)]~~ (v) "Scanning device" means a scanner, reader, or any other electronic device
3485 used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information
3486 encoded on the magnetic strip or stripe of a financial transaction card.

3487 ~~[(2) (a) A person is guilty of a third degree felony who uses:]~~

3488 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3489 (2) An actor commits obtaining encoded information on a financial transaction card
3490 with the intent to defraud the issuer, holder, or merchant if the actor uses:

3491 ~~[(i)]~~ (a) a scanning device to access, read, obtain, memorize, or store, temporarily or
3492 permanently, information encoded on the magnetic strip or stripe of a financial transaction
3493 card;

3494 (i) without the permission of the card holder; and

3495 (ii) with intent to defraud the card holder, the issuer, or a merchant; or

3496 ~~[(ii)]~~ (b) a reencoder to place information encoded on the magnetic strip or stripe of a
3497 financial transaction card onto the magnetic strip or stripe of a different card;

3498 (i) without the permission of the authorized user of the card from which the
3499 information is being reencoded; and

3500 (ii) with the intent to defraud the card holder, the issuer, or a merchant.

3501 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
3502 degree felony.

3503 (b) ~~[Any person]~~ An actor who has been convicted previously of an offense under
3504 Subsection (2)~~(a)~~ is guilty of a second degree felony upon a second conviction and any
3505 subsequent conviction for the offense.

3506 (4) This section may not be construed to impose criminal or civil liability on any law
3507 enforcement officer acting within the scope of a criminal investigation.

3508 (5) The forfeiture of property under this section, including any seizure and disposition
3509 of the property and any related judicial or administrative proceeding, shall be conducted in
3510 accordance with Title 24, Forfeiture and Disposition of Property Act.

3511 Section 81. Section **76-6-506.8** is enacted to read:

3512 **76-6-506.8. False application for financial transaction card.**

3513 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#) apply to this section.

3514 (2) An actor commits false application for a card if the actor:

3515 (a) knowingly, with the intent to defraud:

3516 (i) makes application for a financial transaction card to an issuer; and

3517 (ii) makes or causes to be made a false statement or report of the actor's name,

3518 occupation, financial condition, assets, or personal identifying information; or

3519 (b) willfully and substantially undervalues or understates any indebtedness for the

3520 purposes of influencing the issuer to issue the financial transaction card.

3521 (3) A violation of Subsection (2) is:

3522 (a) a class B misdemeanor if the value of the property, money, or thing obtained or
3523 sought to be obtained is less than \$500;

3524 (b) a class A misdemeanor if the value of the property, money, or thing obtained or
3525 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3526 (c) a third degree felony if the value of the property, money, or thing obtained or
3527 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3528 (d) a second degree felony if the value of the property, money, or thing obtained or
3529 attempted to be obtained is or exceeds \$5,000.

3530 (4) The court shall make appropriate findings in any prosecution under this section that

3531 the card holder did not commit the crime.

3532 (5) This section may not be construed to impose criminal or civil liability on any law
3533 enforcement officer acting within the scope of a criminal investigation.

3534 (6) The forfeiture of property under this section, including any seizure and disposition
3535 of the property and any related judicial or administrative proceeding, shall be conducted in
3536 accordance with Title 24, Forfeiture and Disposition of Property Act.

3537 Section 82. Section **76-6-506.9** is enacted to read:

3538 **76-6-506.9. Use of fraudulent financial transaction card.**

3539 (1) Terms defined in Sections 76-1-101.5 and 76-6-506 apply to this section.

3540 (2) An actor commits fraudulent use of a financial transaction card if the actor
3541 knowingly uses a false, fictitious, altered, or counterfeit financial transaction card to obtain or
3542 attempt to obtain credit, goods, property, or services.

3543 (3) (a) A violation of Subsection (2) is:

3544 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
3545 sought to be obtained is less than \$500;

3546 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
3547 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3548 (iii) a third degree felony if the value of the property, money, or thing obtained or
3549 attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3550 (iv) a second degree felony if the value of the property, money, or thing obtained or
3551 attempted to be obtained is or exceeds \$5,000.

3552 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
3553 the degree of the offense is determined by the total value of all property, money, or things
3554 obtained or attempted to be obtained through the multiple violations.

3555 (3) The court shall make appropriate findings in any prosecution under this section that
3556 the card holder did not commit the crime.

3557 (4) This section may not be construed to impose criminal or civil liability on any law
3558 enforcement officer acting within the scope of a criminal investigation.

3559 (5) The forfeiture of property under this section, including any seizure and disposition
3560 of the property and any related judicial or administrative proceeding, shall be conducted in
3561 accordance with Title 24, Forfeiture and Disposition of Property Act.

3562 Section 83. Section ~~76-6-507~~ is amended to read:

3563 **76-6-507. Deceptive business practices.**

3564 [~~(1) A person is guilty of a class B misdemeanor if, in the course of business, he:]~~

3565 (1) (a) As used in this section:

3566 (i) "Adulterated" means varying from the standard of composition or quality
3567 prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by
3568 established commercial usage.

3569 (ii) "Mislabeled" means varying from the standard of truth or disclosure in labeling
3570 prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by
3571 established commercial usage.

3572 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3573 (2) An actor commits deceptive business practices if the actor, in the course of
3574 business:

3575 (a) uses or possesses for use a false weight or measure, or any other device for falsely
3576 determining or recording any quality or quantity;

3577 (b) takes or attempts to take more than the represented quantity of any commodity or
3578 service when as buyer ~~[he]~~ the actor furnishes the weight or measure; or

3579 (c) sells, offers, or exposes for sale adulterated or mislabeled commodities.

3580 [~~(2)(a) "Adulterated" means varying from the standard of composition or quality~~
3581 ~~prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by~~
3582 ~~established commercial usage.]~~

3583 [~~(b) "Mislabeled" means varying from the standard of truth or disclosure in labeling~~
3584 ~~prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by~~
3585 ~~established commercial usage.]~~

3586 (3) A violation of Subsection (2) is a class B misdemeanor.

3587 [~~(3)~~] (4) It is an affirmative defense to prosecution under this section that the
3588 defendant's conduct was not knowing or reckless.

3589 (5) This section may not be construed to impose criminal or civil liability on any law
3590 enforcement officer acting within the scope of a criminal investigation.

3591 (6) The forfeiture of property under this section, including any seizure and disposition
3592 of the property and any related judicial or administrative proceeding, shall be conducted in

3593 accordance with Title 24, Forfeiture and Disposition of Property Act.

3594 Section 84. Section **76-6-508** is amended to read:

3595 **76-6-508. Bribery of or receiving bribe by person in the business of selection,**
3596 **appraisal, or criticism of goods or services.**

3597 ~~[(1) A person is guilty of a class A misdemeanor when,]~~ (1) Terms defined in Section
3598 76-1-101.5 apply to this section.

3599 (2) An actor commits bribery or receiving a bribe if the actor:

3600 (a) without the consent of the employer or principal, and contrary to the interests of the
3601 employer or principal:

3602 ~~[(a) he]~~ (i) confers, offers, or agrees to confer upon the employee, agent, or fiduciary
3603 of an employer or principal any benefit with the purpose of influencing the conduct of the
3604 employee, agent, or fiduciary in relating to his employer's or principal's affairs; or

3605 ~~[(b) he,]~~ (ii) as an employee, agent, or fiduciary of an employer or principal, solicits,
3606 accepts, or agrees to accept any benefit from another upon an agreement or understanding that
3607 such benefit will influence [his] the actor's conduct in relation to [his] the actor's employer's or
3608 principal's affairs[; provided that this section does not apply to inducements made or accepted
3609 solely for the purpose of causing a change in employment by an employee, agent, or fiduciary.];
3610 or

3611 ~~[(2) A person is guilty of violation of this section if he]~~ (b) (i) holds [himself] the
3612 actor's self out to the public as being engaged in the business of making disinterested selection,
3613 appraisal, or criticism of goods or services; and

3614 ~~[he]~~ (ii) solicits, accepts, or agrees to accept any benefit to influence [his] the actor's
3615 selection, appraisal, or criticism.

3616 (3) A violation of Subsection (2) is a class A misdemeanor.

3617 (4) This section does not apply to inducements made or accepted solely for the purpose
3618 of causing a change in employment by an employee, agent, or fiduciary.

3619 (5) This section may not be construed to impose criminal or civil liability on any law
3620 enforcement officer acting within the scope of a criminal investigation.

3621 (6) The forfeiture of property under this section, including any seizure and disposition
3622 of the property and any related judicial or administrative proceeding, shall be conducted in
3623 accordance with Title 24, Forfeiture and Disposition of Property Act.

3624 Section 85. Section **76-6-509** is amended to read:

3625 **76-6-509. Bribery of a labor official.**

3626 [~~(1) Any person who~~] (1) Terms defined in Section 76-1-101.5 apply to this section.

3627 (2) An actor commits bribery of a labor official if the actor:

3628 (a) offers, confers, or agrees to confer upon a labor official any benefit [with]; and

3629 (b) has intent to influence [him] the labor official in respect to any of [his] the labor
3630 official's acts, decisions, or duties as a labor official [is guilty of bribery of a labor official].

3631 [~~(2) Bribery of a labor official~~] (3) A violation of Subsection (2) is a third degree
3632 felony [of the third degree].

3633 (4) This section may not be construed to impose criminal or civil liability on any law
3634 enforcement officer acting within the scope of a criminal investigation.

3635 (5) The forfeiture of property under this section, including any seizure and disposition
3636 of the property and any related judicial or administrative proceeding, shall be conducted in
3637 accordance with Title 24, Forfeiture and Disposition of Property Act.

3638 Section 86. Section **76-6-510** is amended to read:

3639 **76-6-510. Receiving a bribe by a labor official.**

3640 [~~(1) Any labor official who~~] (1) Terms defined in Section 76-1-101.5 apply to this
3641 section.

3642 (2) A labor official commits receiving a bribe by a labor official if the labor official
3643 solicits, accepts, or agrees to accept any benefit from another person upon an agreement or
3644 understanding that the benefit will influence [him] the labor official in any of [his] the labor
3645 official's acts, decisions, or duties as a labor official [is guilty of bribe receiving by a labor
3646 official].

3647 [~~(2) Bribe receiving by a labor official~~] (3) A violation of Subsection (2) is a third
3648 degree felony [of the third degree].

3649 (4) This section may not be construed to impose criminal or civil liability on any law
3650 enforcement officer acting within the scope of a criminal investigation.

3651 (5) The forfeiture of property under this section, including any seizure and disposition
3652 of the property and any related judicial or administrative proceeding, shall be conducted in
3653 accordance with Title 24, Forfeiture and Disposition of Property Act.

3654 Section 87. Section **76-6-511** is amended to read:

3655 **76-6-511. Defrauding of creditors.**

3656 [~~A person is guilty of a class A misdemeanor if~~] (1) Terms defined in Section
 3657 76-1-101.5 apply to this section.

3658 (2) An actor commits defrauding of creditors if the actor:

3659 [~~(1)~~] (a) destroys, removes, conceals, encumbers, transfers, or otherwise deals with
 3660 property subject to a security interest with a purpose to hinder enforcement of that interest; or

3661 [~~(2)~~] (b) knowing that proceedings have been or are about to be instituted for the
 3662 appointment of a person entitled to administer property for the benefit of creditors~~[-he]~~:

3663 [~~(a)~~] (i) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any
 3664 property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct
 3665 the operation of any law relating to administration of property for the benefit of creditors; or

3666 [~~(b)~~] (ii) presents to any creditor or to an assignee for the benefit of creditors, orally or
 3667 in writing, any statement relating to the debtor's estate, knowing that a material part of such
 3668 statement is false.

3669 (3) A violation of Subsection (2) is a class A misdemeanor.

3670 (4) This section may not be construed to impose criminal or civil liability on any law
 3671 enforcement officer acting within the scope of a criminal investigation.

3672 (5) The forfeiture of property under this section, including any seizure and disposition
 3673 of the property and any related judicial or administrative proceeding, shall be conducted in
 3674 accordance with Title 24, Forfeiture and Disposition of Property Act.

3675 Section 88. Section **76-6-512** is amended to read:

3676 **76-6-512. Acceptance of deposit by insolvent financial institution.**

3677 [~~A person is guilty of a felony of the third degree~~] (1) (a) As used in this section,
 3678 "financial institution" means the same as that term is defined in Section 7-1-103.

3679 (b) Terms defined in Section 76-1-101.5 apply to this section.

3680 (2) An actor commits acceptance of a deposit by an insolvent financial institution if:

3681 [~~(1)~~] (a) as an officer, manager, or other person participating in the direction of a
 3682 financial institution, as defined in Section 7-1-103, [~~he~~] the actor receives or permits receipt of
 3683 a deposit or other investment knowing that the institution is or is about to become unable, from
 3684 any cause, to pay its obligations in the ordinary course of business; and

3685 [~~(2)~~] (b) the actor knows that the person making the payment to the institution is

3686 unaware of such present or prospective inability.

3687 (3) A violation of Subsection (2) is a third degree felony.

3688 (4) This section may not be construed to impose criminal or civil liability on any law
 3689 enforcement officer acting within the scope of a criminal investigation.

3690 (5) The forfeiture of property under this section, including any seizure and disposition
 3691 of the property and any related judicial or administrative proceeding, shall be conducted in
 3692 accordance with Title 24, Forfeiture and Disposition of Property Act.

3693 Section 89. Section **76-6-513** is amended to read:

3694 **76-6-513. Unlawful dealing of property by a fiduciary.**

3695 (1) (a) As used in this section:

3696 ~~[(a)]~~ (i) "Fiduciary" means the same as that term is defined in Section [22-1-1](#).

3697 ~~[(b)]~~ (ii) "Financial institution" means "depository institution" and "trust company" as
 3698 defined in Section [7-1-103](#).

3699 ~~[(c)]~~ (iii) "Governmental entity" is as defined in Section [63G-7-102](#).

3700 ~~[(d)]~~ (iv) "Person" does not include a financial institution whose fiduciary functions are
 3701 supervised by the Department of Financial Institutions or a federal regulatory agency.

3702 ~~[(e)]~~ (v) "Property" means the same as that term is defined in Section [76-6-401](#).

3703 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3704 (2) ~~[A person is guilty of]~~ An actor commits unlawfully dealing with property by a
 3705 fiduciary if the ~~[person]~~ actor:

3706 (a) deals with property:

3707 (i) that has been entrusted to [him] the actor as a fiduciary, or property of a
 3708 governmental entity, public money, or of a financial institution[;]; and

3709 (ii) in a manner which:

3710 (A) the [person] actor knows is a violation of the [person's] actor's duty; and [which]

3711 (B) involves substantial risk of loss or detriment to the property owner or to a person
 3712 for whose benefit the property was entrusted[. A violation of this Subsection (2) is punishable
 3713 under Section [76-6-412](#).]; or

3714 ~~[(3) (a) A person acting as a fiduciary is guilty of a violation of this subsection if;~~
 3715 ~~without permission of the owner of the property or some other person with authority to give~~
 3716 ~~permission, the person pledges as collateral for a personal loan, or as collateral for the benefit~~

3717 of some party, other than the owner or the person for whose benefit the property was entrusted,
3718 the property that has been entrusted to the fiduciary.]

3719 [~~(b) An offense under Subsection (3)(a) is punishable as:~~]

3720 (b) acting as a fiduciary pledges:

3721 (i) as collateral for a personal loan, or as collateral for the benefit of some party, other
3722 than the owner or the person for whose benefit the property was entrusted, the property that has
3723 been entrusted to the fiduciary; and

3724 (ii) without permission of the owner of the property or some other authorized person.

3725 (3) (a) A violation of Subsection (2)(a) is:

3726 (i) a second degree felony if the:

3727 (A) value of the property is or exceeds \$5,000; or

3728 (B) property is stolen from the person of another;

3729 (ii) a third degree felony if:

3730 (A) the value of the property is or exceeds \$1,500 but is less than \$5,000;

3731 (B) the value of the property is or exceeds \$500 and the actor has been twice before

3732 convicted of any of the following offenses, if each prior offense was committed within 10 years

3733 before the date of the current conviction or the date of the offense upon which the current

3734 conviction is based and at least one of those convictions is for a class A misdemeanor:

3735 (I) any theft, any robbery, or any burglary with intent to commit theft;

3736 (II) any offense under Part 5, Fraud; or

3737 (III) any attempt to commit any offense under Subsection (3)(a)(ii)(C)(I) or (II);

3738 (C) the value of property is or exceeds \$500 but is less than \$1,500; or

3739 (D) the actor has been previously convicted of a felony violation of any of the offenses

3740 listed in Subsections (3)(a)(ii)(C)(I) through (3)(a)(ii)(C)(III), if the prior offense was

3741 committed within 10 years before the date of the current conviction or the date of the offense

3742 upon which the current conviction is based;

3743 (iii) a class A misdemeanor if:

3744 (A) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or

3745 (B) the actor has been twice before convicted of any of the offenses listed in

3746 Subsections (3)(a)(ii)(C)(I) through (3)(a)(ii)(C)(III), if each prior offense was committed

3747 within 10 years before the date of the current conviction or the date of the offense upon which

3748 the current conviction is based; or

3749 (iv) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 3750 theft is not an offense under Subsection (3)(a)(iii)(B).

3751 (b) A violation of Subsection (2)(b) is:

3752 (i) a [~~felony of the~~] second degree felony if the value of the property wrongfully
 3753 pledged is or exceeds \$5,000;

3754 (ii) a [~~felony of the~~] third degree felony if the value of the property wrongfully pledged
 3755 is or exceeds \$1,500 but is less than \$5,000;

3756 (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less
 3757 than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent
 3758 to commit theft, or unlawful dealing with property by a fiduciary; or

3759 (iv) a class B misdemeanor if the value of the property is less than \$500.

3760 (4) This section may not be construed to impose criminal or civil liability on any law
 3761 enforcement officer acting within the scope of a criminal investigation.

3762 (5) The forfeiture of property under this section, including any seizure and disposition
 3763 of the property and any related judicial or administrative proceeding, shall be conducted in
 3764 accordance with Title 24, Forfeiture and Disposition of Property Act.

3765 Section 90. Section **76-6-514** is amended to read:

3766 **76-6-514. Unlawful influence of a contest.**

3767 [~~A person is guilty of a felony of the third degree if:~~]

3768 (1) Terms defined in Section [76-1-101.5](#) apply to this section.

3769 (2) An actor commits unlawful influence of a contest if the actor:

3770 [~~(1) With~~] (a) with a purpose to influence any participant or prospective participant
 3771 not to give [~~his~~] the participant's or prospective participant's best efforts in a publicly exhibited
 3772 contest, [~~he~~] confers or offers or agrees to confer any benefit upon or threatens any injury to a
 3773 participant or prospective participant; [~~or~~]

3774 [~~(2) With~~] (b) with a purpose to influence an official in a publicly exhibited contest to
 3775 perform [~~his~~] the official's duties improperly, [~~he~~] confers or offers or agrees to confer any
 3776 benefit upon or threatens any injury to such official; [~~or~~]

3777 [~~(3) With~~] (c) with a purpose to influence the outcome of a publicly exhibited contest,
 3778 [~~he~~] tampers with any person, animal, or thing contrary to the rules and usages purporting to

3779 govern the contest; or

3780 ~~[(4) He]~~ (d) knowingly solicits, accepts, or agrees to accept any benefit, the giving of
3781 which would be criminal under Subsection ~~[(1) or]~~ (2)(a) or (b).

3782 (3) A violation of Subsection (2) is a third degree felony.

3783 (4) This section may not be construed to impose criminal or civil liability on any law
3784 enforcement officer acting within the scope of a criminal investigation.

3785 (5) The forfeiture of property under this section, including any seizure and disposition
3786 of the property and any related judicial or administrative proceeding, shall be conducted in
3787 accordance with Title 24, Forfeiture and Disposition of Property Act.

3788 Section 91. Section **76-6-515** is amended to read:

3789 **76-6-515. Using or making slugs.**

3790 ~~[(1) A person is guilty of a class B misdemeanor if:]~~

3791 ~~[(a) With a purpose to defraud the supplier of property or a service offered or sold by~~
3792 ~~means of a coin machine, he inserts, deposits, or uses a slug in that machine; or]~~

3793 ~~[(b) He makes, possesses, or disposes of a slug with the purpose of enabling a person~~
3794 ~~to use it fraudulently in a coin machine.]~~

3795 ~~[(2)]~~ (1) (a) As used in this section:

3796 ~~[(a)]~~ (i) "Coin machine" means any mechanical or electronic device or receptacle
3797 designed to receive a coin or bill of a certain denomination, or a token made for the purpose,
3798 and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in
3799 providing or permit the acquisition of property or a public or private service.

3800 ~~[(b)]~~ (ii) "Slug" means any object which, by virtue of its size, shape, or other quality, is
3801 capable of being inserted, deposited, or otherwise used in a coin machine as an improper
3802 substitute for a genuine coin, bill, or token.

3803 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

3804 (2) An actor commits using or making slugs if the actor:

3805 (a) with a purpose to defraud the supplier of property or a service offered or sold by
3806 means of a coin machine, inserts, deposits, or uses a slug in that machine; or

3807 (b) makes, possesses, or disposes of a slug with the purpose of enabling a person to use
3808 it fraudulently in a coin machine.

3809 (3) A violation of Subsection (2) is a class B misdemeanor.

3810 (4) This section may not be construed to impose criminal or civil liability on any law
3811 enforcement officer acting within the scope of a criminal investigation.

3812 (5) The forfeiture of property under this section, including any seizure and disposition
3813 of the property and any related judicial or administrative proceeding, shall be conducted in
3814 accordance with Title 24, Forfeiture and Disposition of Property Act.

3815 Section 92. Section **76-6-516** is amended to read:

3816 **76-6-516. Fraudulent conveyance of marital real estate.**

3817 ~~[Any married man who]~~ (1) Terms defined in Section [76-1-101.5](#) apply to this section.

3818 (2) An actor commits fraudulent conveyance of marital real estate if the actor:

3819 (a) is married;

3820 (b) falsely represents [himself] the actor as unmarried; and ~~[under such representation]~~

3821 (c) knowingly conveys or mortgages real estate [situate] situated in this state, without
3822 the assent or concurrence of ~~[his wife]~~ the actor's spouse when such consent or concurrence is
3823 necessary to relinquish ~~[her]~~ the spouse's inchoate statutory interest ~~[therein, is guilty of a~~
3824 ~~felony of the third degree]~~.

3825 (3) A violation of Subsection (2) is a third degree felony.

3826 (4) This section may not be construed to impose criminal or civil liability on any law
3827 enforcement officer acting within the scope of a criminal investigation.

3828 (5) The forfeiture of property under this section, including any seizure and disposition
3829 of the property and any related judicial or administrative proceeding, shall be conducted in
3830 accordance with Title 24, Forfeiture and Disposition of Property Act.

3831 Section 93. Section **76-6-517** is amended to read:

3832 **76-6-517. Making a false credit report.**

3833 ~~[(1) Any person who]~~ (1) Terms defined in Section [76-1-101.5](#) apply to this section.

3834 (2) An actor commits making a false credit report if the actor knowingly makes a
3835 materially false or misleading written statement to obtain property or credit for himself or
3836 another ~~[is guilty of making a false credit report]~~.

3837 ~~[(2) Making a false credit report]~~ (3) A violation of Subsection (2) is a class A
3838 misdemeanor.

3839 (4) This section may not be construed to impose criminal or civil liability on any law
3840 enforcement officer acting within the scope of a criminal investigation.

3841 (5) The forfeiture of property under this section, including any seizure and disposition
3842 of the property and any related judicial or administrative proceeding, shall be conducted in
3843 accordance with Title 24, Forfeiture and Disposition of Property Act.

3844 Section 94. Section **76-6-518** is amended to read:

3845 **76-6-518. Criminal simulation.**

3846 ~~[(1) A person is guilty of]~~ (1) Terms defined in Section 76-1-101.5 apply to this
3847 section.

3848 (2) An actor commits criminal simulation if, with intent to defraud another, the actor:

3849 (a) ~~[he]~~ makes or alters an object in whole or in part so that it appears to have value
3850 because of age, antiquity, rarity, source, or authorship that it does not have;

3851 (b) ~~[he]~~ sells, passes, or otherwise utters an object so made or altered;

3852 (c) ~~[he]~~ possesses an object so made or altered with intent to sell, pass, or otherwise
3853 utter it; or

3854 (d) ~~[he]~~ authenticates or certifies an object so made or altered as genuine or as different
3855 from what it is.

3856 ~~[(2) Criminal simulation]~~ (3) A violation of Subsection (2) is punishable as follows:

3857 (a) ~~[H]~~ if the value defrauded or intended to be defrauded is less than \$500, the offense
3858 is a class B misdemeanor~~[-];~~;

3859 (b) ~~[H]~~ if the value defrauded or intended to be defrauded is or exceeds \$500 but is less
3860 than \$1,500, the offense is a class A misdemeanor~~[-];~~;

3861 (c) ~~[H]~~ if the value defrauded or intended to be defrauded is or exceeds \$1,500 but is
3862 less than \$5,000, the offense is a third degree felony ~~[of the third degree.]; or~~

3863 (d) ~~[H]~~ if the value defrauded or intended to be defrauded is or exceeds \$5,000, the
3864 offense is a second degree felony ~~[of the second degree].~~

3865 (4) This section may not be construed to impose criminal or civil liability on any law
3866 enforcement officer acting within the scope of a criminal investigation.

3867 (5) The forfeiture of property under this section, including any seizure and disposition
3868 of the property and any related judicial or administrative proceeding, shall be conducted in
3869 accordance with Title 24, Forfeiture and Disposition of Property Act.

3870 Section 95. Section **76-6-520** is amended to read:

3871 **76-6-520. Criminal usury.**

3872 ~~[(1) A person is guilty of criminal usury when he]~~ (1) Terms defined in Section
3873 76-1-101.5 apply to this section.

3874 (2) An actor commits criminal usury if the actor knowingly engages in, or directly or
3875 indirectly provides financing for, the business of making loans at a higher rate of interest or
3876 consideration therefor than is authorized by law.

3877 ~~[(2) Criminal usury]~~ (3) A violation of Subsection (2) is a third degree felony ~~[of the~~
3878 ~~third degree]~~.

3879 (4) This section may not be construed to impose criminal or civil liability on any law
3880 enforcement officer acting within the scope of a criminal investigation.

3881 (5) The forfeiture of property under this section, including any seizure and disposition
3882 of the property and any related judicial or administrative proceeding, shall be conducted in
3883 accordance with Title 24, Forfeiture and Disposition of Property Act.

3884 Section 96. Section **76-6-521** is amended to read:

3885 **76-6-521. Insurance fraud.**

3886 ~~[(1) A person]~~ (1) (a) As used in this section, "runner" means the same as that term is
3887 defined in Section 31A-31-102.

3888 (b) Terms defined in Section 76-1-101.5 apply to this section.

3889 (2) An actor commits a fraudulent insurance act if ~~[that person]~~ the actor with intent to
3890 deceive or defraud:

3891 (a) presents or causes to be presented any oral or written statement or representation
3892 knowing that the statement or representation contains false or fraudulent information
3893 concerning any fact material to an application for the issuance or renewal of an insurance
3894 policy, certificate, or contract, as part of or in support of:

3895 (i) obtaining an insurance policy the insurer would otherwise not issue on the basis of
3896 underwriting criteria applicable to the person;

3897 (ii) a scheme or artifice to avoid paying the premium that an insurer charges on the
3898 basis of underwriting criteria applicable to the person; or

3899 (iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

3900 (b) presents, or causes to be presented, any oral or written statement or representation:

3901 (i) (A) as part of or in support of a claim for payment or other benefit pursuant to an
3902 insurance policy, certificate, or contract; or

3903 (B) in connection with any civil claim asserted for recovery of damages for personal or
 3904 bodily injuries or property damage; and

3905 (ii) knowing that the statement or representation contains false, incomplete, or
 3906 fraudulent information concerning any fact or thing material to the claim;

3907 (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

3908 (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees
 3909 for professional services, or anything of value by means of false or fraudulent pretenses,
 3910 representations, promises, or material omissions;

3911 (e) knowingly employs, uses, or acts as a runner~~[, as defined in Section 31A-31-102,]~~
 3912 for the purpose of committing a fraudulent insurance act;

3913 (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent
 3914 insurance act;

3915 (g) knowingly supplies false or fraudulent material information in any document or
 3916 statement required by the Department of Insurance; or

3917 (h) knowingly fails to forward a premium to an insurer in violation of Section
 3918 31A-23a-411.1.

3919 ~~[(2)]~~ (3) (a) A violation of Subsection ~~[(+)]~~ (2)(a)(i) is a class A misdemeanor.

3920 (b) A violation of Subsections ~~[(+)]~~ (2)(a)(ii) or ~~[(+)]~~ (2)(b) through ~~[(+)]~~ (2)(h) is
 3921 ~~[punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for~~
 3922 ~~property of like value.];~~

3923 (i) a class B misdemeanor when the value of the property, money, or thing obtained or
 3924 sought to be obtained is less than \$500;

3925 (ii) a class A misdemeanor when the value of the property, money, or thing obtained or
 3926 sought to be obtained is or exceeds \$500 but is less than \$1,500;

3927 (iii) a third degree felony when the value of the property, money, or thing obtained or
 3928 sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or

3929 (iv) a second degree felony when the value of the property, money, or thing obtained or
 3930 sought to be obtained is or exceeds \$5,000.

3931 (c) A violation of Subsection ~~[(+)]~~ (2)(a)(iii) is:

3932 (i) ~~[is]~~ a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be
 3933 determined; ~~[or]~~

3934 ~~[(ii) if the value of the loss is \$1,500 or more, is punishable as in the manner prescribed~~
3935 ~~by Section 76-10-1801 for communication fraud for property of like value.]~~

3936 (ii) a third degree felony when the value of the loss is or exceeds \$1,500 but is less than
3937 \$5,000; or

3938 (iii) a second degree felony when the value of the loss is or exceeds \$5,000.

3939 ~~[(3)]~~ (4) A corporation or association is guilty of the offense of insurance fraud under
3940 the same conditions as those set forth in Section 76-2-204.

3941 ~~[(4)]~~ (5) The determination of the degree of any offense under Subsections ~~[(1)]~~
3942 ~~(2)(a)(ii) and [(1)] (2)(b) through [(1)] (2)(h)~~ shall be measured by the total value of all
3943 property, money, or other things obtained or sought to be obtained by the fraudulent insurance
3944 act or acts described in Subsections ~~[(1)] (2)(a)(ii) and [(1)] (2)(b) through [(1)] (2)(h)~~.

3945 (6) This section may not be construed to impose criminal or civil liability on any law
3946 enforcement officer acting within the scope of a criminal investigation.

3947 (7) The forfeiture of property under this section, including any seizure and disposition
3948 of the property and any related judicial or administrative proceeding, shall be conducted in
3949 accordance with Title 24, Forfeiture and Disposition of Property Act.

3950 Section 97. Section 76-6-522 is amended to read:

3951 **76-6-522. Equity skimming of a vehicle.**

3952 (1) (a) As used in this section:

3953 (i) "Actor" means a broker, dealer, or a person in collusion with a dealer or broker.

3954 ~~[(a)]~~ (ii) "Broker" means any person who, for compensation of any kind, arranges for
3955 the sale, lease, sublease, or transfer of a vehicle.

3956 ~~[(b)]~~ (iii) "Dealer" means any person engaged in the business of selling, leasing, or
3957 exchanging vehicles for compensation of any kind.

3958 ~~[(c)]~~ (iv) "Lease" means any grant of use or possession of a vehicle for consideration,
3959 with or without an option to buy.

3960 ~~[(d)]~~ (v) "Security interest" means an interest in a vehicle that secures payment or
3961 performance of an obligation.

3962 ~~[(e)]~~ (vi) "Transfer" means any delivery or conveyance of a vehicle to another from one
3963 person to another.

3964 ~~[(f)]~~ (vii) "Vehicle" means every device in, upon, or by which any person or property is

3965 or may be transported or drawn upon a highway, or through the air or water, or over land and
 3966 includes a manufactured home or mobile home as defined in Section 41-1a-102.

3967 (b) Terms defined in Section 76-1-101.5 apply to this section.

3968 ~~(2) [A dealer or broker or any other person in collusion with a dealer or broker is guilty~~
 3969 ~~of] An actor commits equity skimming of a vehicle if [he] the actor:~~

3970 ~~(a) (i) transfers or arranges the transfer of a vehicle for consideration or profit[~~when~~~~
 3971 ~~he]; and~~

3972 ~~(ii) has not first obtained written authorization of the lessor or holder of the security~~
 3973 ~~interest; and~~

3974 ~~(b) knows or should have known the vehicle is subject to a lease or security interest[~~;~~~~
 3975 ~~without first obtaining written authorization of the lessor or holder of the security interest].~~

3976 ~~(3) [Equity skimming of a vehicle] A violation of Subsection (2) is a third degree~~
 3977 ~~felony.~~

3978 ~~(4) It is a defense to [the crime of equity skimming of a vehicle if the accused] a~~
 3979 ~~violation of Subsection (2) if the defendant proves by a preponderance of the evidence that the~~
 3980 ~~lease obligation or security interest has been satisfied within 30 days following the transfer of~~
 3981 ~~the vehicle.~~

3982 ~~(5) This section may not be construed to impose criminal or civil liability on any law~~
 3983 ~~enforcement officer acting within the scope of a criminal investigation.~~

3984 ~~(6) The forfeiture of property under this section, including any seizure and disposition~~
 3985 ~~of the property and any related judicial or administrative proceeding, shall be conducted in~~
 3986 ~~accordance with Title 24, Forfeiture and Disposition of Property Act.~~

3987 Section 98. Section **76-6-523** is amended to read:

3988 **76-6-523. Obstruction of the leasing of real property for natural resource or**
 3989 **agricultural production.**

3990 (1) (a) As used in this section:

3991 ~~[(a)] (i) "Competitive process" includes public auction or other public competitive~~
 3992 ~~bidding process.~~

3993 ~~[(b)] (ii) "Natural resource or agricultural production" means:~~

3994 ~~[(i)] (A) the extraction or production of oil, gas, hydrocarbons, or other minerals;~~

3995 ~~[(ii)] (B) production for commercial purposes of crops, livestock, and livestock~~

3996 products, including grazing; or

3997 ~~[(iii)]~~ (C) activities similar in purpose to those listed in Subsections ~~[(1)(b)(i) and (ii)]~~

3998 ~~(1)(a)(ii)(A) and (B).~~

3999 (b) Terms defined in Section 76-1-101.5 apply to this section.

4000 (2) ~~[A person is guilty of]~~ An actor commits obstruction of the leasing of real property
4001 for natural resource or agricultural production if the ~~[person]~~ actor:

4002 (a) bids for a lease as part of a competitive process for the lease;

4003 (b) does not intend to pay for the lease at the time the ~~[person]~~ actor makes the bid
4004 described in Subsection (2)(a); and

4005 (c) does not pay the lessor in full for the lease as required by the lease agreement.

4006 (3) ~~[The offense of obstruction of the leasing of real property for natural resource or~~
4007 ~~agricultural production]~~ A violation of Subsection (2) is:

4008 (a) a third degree felony; and

4009 (b) subject to a minimum fine of not less than \$7,500.

4010 (4) This section may not be construed to impose criminal or civil liability on any law
4011 enforcement officer acting within the scope of a criminal investigation.

4012 (5) The forfeiture of property under this section, including any seizure and disposition
4013 of the property and any related judicial or administrative proceeding, shall be conducted in
4014 accordance with Title 24, Forfeiture and Disposition of Property Act.

4015 Section 99. Section **76-6-524** is amended to read:

4016 **76-6-524. Falsifying information for preconstruction lien purposes.**

4017 ~~[A person who knowingly falsifies]~~ (1) Terms defined in Section 76-1-101.5 apply to
4018 this section.

4019 (2) An actor commits falsifying information for the purpose of obtaining priority of a
4020 preconstruction lien if the actor knowingly falsifies information for the purpose of obtaining
4021 priority of a preconstruction lien under Title 38, Chapter 1a, Preconstruction and Construction
4022 Liens~~[, is guilty of a class B misdemeanor].~~

4023 (3) A violation of Subsection (2) is a class B misdemeanor.

4024 (4) This section may not be construed to impose criminal or civil liability on any law
4025 enforcement officer acting within the scope of a criminal investigation.

4026 (5) The forfeiture of property under this section, including any seizure and disposition

4027 of the property and any related judicial or administrative proceeding, shall be conducted in
4028 accordance with Title 24, Forfeiture and Disposition of Property Act.

4029 Section 100. Section **76-6-601** is amended to read:

4030 **76-6-601. Definitions.**

4031 As used in this [chapter] part:

4032 (1) "Merchandise" means any personal property displayed, held, or offered for sale by a
4033 merchant.

4034 (2) "Merchant" means an owner or operator of any retail mercantile establishment
4035 where merchandise is displayed, held, or offered for sale and includes the merchant's
4036 employees, servants, or agents.

4037 (3) "Minor" means any unmarried person under 18 years of age.

4038 (4) "Peace officer" has the same meaning as provided in Title 53, Chapter 13, Peace
4039 Officer Classifications.

4040 (5) "Premises of a retail mercantile establishment" includes, but is not limited to, the
4041 retail mercantile establishment; any common use areas in shopping centers and all parking lots
4042 or areas set aside for the benefit of those patrons of the retail mercantile establishment.

4043 (6) "Retail mercantile establishment" means any place where merchandise is displayed,
4044 held, or offered for sale to the public.

4045 (7) "Retail value" means the merchant's stated or advertised price of the merchandise.

4046 (8) "Shopping cart" means those push carts of the types which are commonly provided
4047 by grocery stores, drug stores, or other mercantile establishments, or markets for the use of the
4048 public in transporting commodities in stores and markets from the store to a place outside the
4049 store.

4050 (9) "Under-ring" means to cause the cash register or other sales recording device to
4051 reflect less than the retail value of the merchandise.

4052 Section 101. Section **76-6-602** is amended to read:

4053 **76-6-602. Retail theft.**

4054 [~~A person commits the offense of retail theft when he~~] (1) Terms defined in Sections
4055 76-1-101.5 and 76-6-601 apply to this section.

4056 (2) An actor commits retail theft if the actor knowingly:

4057 [~~(1) Takes~~] (a) takes possession of, conceals, carries away, transfers or causes to be

4058 carried away or transferred, any merchandise displayed, held, stored, or offered for sale in a
4059 retail mercantile establishment with the intention of:

4060 (i) retaining [such] the merchandise; or [with the intention of]

4061 (ii) depriving the merchant permanently of the possession, use or benefit of such

4062 merchandise without paying the retail value of [such] the merchandise; [or]

4063 ~~[(2) Alters;]~~ (b) (i) alters transfers, or removes any label, price tag, marking, indicia of
4064 value, or any other markings which aid in determining value of any merchandise displayed,
4065 held, stored, or offered for sale, in a retail mercantile establishment; and

4066 (ii) attempts to purchase [such] the merchandise described in Subsection (2)(b)(i)

4067 personally or in consort with another at less than the retail value with the intention of depriving

4068 the merchant of the retail value of [such] the merchandise; [or]

4069 ~~[(3) Transfers]~~ (c) transfers any merchandise displayed, held, stored, or offered for sale

4070 in a retail mercantile establishment from the container in or on which [such] the merchandise is

4071 displayed to any other container with the intention of depriving the merchant of the retail value

4072 of [such] the merchandise; [or]

4073 ~~[(4) Under-rings]~~ (d) under-rings with the intention of depriving the merchant of the

4074 retail value of the merchandise; or

4075 ~~[(5) Removes]~~ (e) removes a shopping cart from the premises of a retail mercantile

4076 establishment with the intent of depriving the merchant of the possession, use, or benefit of

4077 [such] the shopping cart.

4078 (3) A violation of Subsection (2) is:

4079 (a) a second degree felony if the:

4080 (i) value of the merchandise or shopping cart is or exceeds \$5,000;

4081 (ii) merchandise stolen is a firearm or an operable motor vehicle; or

4082 (b) a third degree felony if:

4083 (i) the value of the merchandise is or exceeds \$1,500 but is less than \$5,000;

4084 (ii) the merchandise is a catalytic converter as defined under Section [76-6-1402](#);

4085 (iii) the value of the merchandise or shopping cart is or exceeds \$500 and the actor has

4086 been twice before convicted of any of the following offenses, if each prior offense was

4087 committed within 10 years before the date of the current conviction or the date of the offense

4088 upon which the current conviction is based and at least one of those convictions is for a class A

4089 misdemeanor:

4090 (A) any theft, any robbery, or any burglary with intent to commit theft;

4091 (B) any offense under Part 5, Fraud; or

4092 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

4093 (iv) (A) the value of merchandise or shopping cart is or exceeds \$500 but is less than
4094 \$1,500;

4095 (B) the theft occurs in a retail mercantile establishment or on the premises of a retail
4096 mercantile establishment where the offender has committed any theft within the past five years;
4097 and

4098 (C) the offender has received written notice from the merchant prohibiting the offender
4099 from entering the retail mercantile establishment or premises of a retail mercantile
4100 establishment pursuant to Subsection [78B-3-108\(4\)](#); or

4101 (v) the actor has been previously convicted of a felony violation of any of the offenses
4102 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
4103 within 10 years before the date of the current conviction or the date of the offense upon which
4104 the current conviction is based;

4105 (c) a class A misdemeanor if:

4106 (i) the value of the merchandise or shopping cart stolen is or exceeds \$500 but is less
4107 than \$1,500;

4108 (ii) (A) the value of merchandise or shopping cart is less than \$500;

4109 (B) the theft occurs in a retail mercantile establishment or premises of a retail
4110 mercantile establishment where the offender has committed any theft within the past five years;
4111 and

4112 (C) the offender has received written notice from the merchant prohibiting the offender
4113 from entering the retail mercantile establishment or premises of a retail mercantile
4114 establishment pursuant to Subsection [78B-3-108\(4\)](#); or

4115 (iii) the actor has been twice before convicted of any of the offenses listed in
4116 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
4117 years before the date of the current conviction or the date of the offense upon which the current
4118 conviction is based; or

4119 (d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is

4120 less than \$500 and the theft is not an offense under Subsection (3)(c).

4121 Section 102. Section **76-6-608** is amended to read:

4122 **76-6-608. Theft detection shielding devices prohibited.**

4123 [~~(1) A person may not~~] (1) Terms defined in Sections [76-1-101.5](#) and [76-6-601](#) apply
4124 to this section.

4125 (2) An actor commits the unlawful shielding of a theft detection device if the actor
4126 knowingly:

4127 (a) [~~make or possess~~] makes or possesses any container or device used for, intended for
4128 use for, or represented as having the purpose of shielding merchandise from any electronic or
4129 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;

4130 (b) [~~sell, offer to sell, advertise, give, transport, or otherwise transfer~~] sells, offers to
4131 sell, advertises, gives, transports, or otherwise transfers to another any container or device
4132 intended for use for or represented as having the purpose of shielding merchandise from any
4133 electronic or magnetic theft alarm sensor;

4134 (c) [~~possess~~] possesses any tool or instrument designed to remove any theft detection
4135 device from any merchandise, with the intent to use the tool or instrument to remove any theft
4136 detection device from any merchandise without the permission of the merchant or the person
4137 owning or in possession of the merchandise; or

4138 (d) intentionally [~~remove~~] removes a theft detection device from merchandise prior to
4139 purchase and without the permission of the merchant.

4140 [~~(2)~~] (3) (a) A violation of Subsection [~~(1)~~] (2)(a), (b), or (c) is a class A misdemeanor.

4141 (b) A violation of Subsection [~~(1)~~] (2)(d) is a:

4142 (i) class B misdemeanor if the value of the merchandise from which the theft detection
4143 device is removed is less than \$500; or

4144 (ii) class A misdemeanor if the value of the merchandise from which the theft detection
4145 device is removed is or exceeds \$500.

4146 [~~(3)~~] (4) A violation of Subsection [~~(1)~~] (2) is a separate offense from any offense
4147 listed in [~~Title 76, Chapter 6,~~] Part 4, Theft, or Part 6, Retail Theft.

4148 [~~(4)~~] (5) Criminal prosecutions under this section do not affect any person's right of
4149 civil action for redress for damages suffered as a result of any violation of this section.

4150 Section 103. Section **76-6-703** is amended to read:

4151 **76-6-703. Unlawful computer technology access or action or denial of service**
4152 **attack.**

4153 ~~[(1) It is unlawful for a person to:]~~

4154 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4155 (2) An actor commits unlawful computer technology access or action or denial of
4156 service attack if the actor:

4157 (a) without authorization, or in excess of the ~~[person's]~~ actor's authorization, ~~[access]~~
4158 accesses or ~~[attempt]~~ attempts to access computer technology if the access or attempt to access
4159 results in:

4160 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
4161 of computer technology;

4162 (ii) interference with or interruption of:

4163 (A) the lawful use of computer technology; or

4164 (B) the transmission of data;

4165 (iii) physical damage to or loss of real, personal, or commercial property;

4166 (iv) audio, video, or other surveillance of another person; or

4167 (v) economic loss to any person or entity;

4168 (b) after accessing computer technology that the ~~[person]~~ actor is authorized to access,
4169 knowingly ~~[take]~~ takes or ~~[attempt]~~ attempts to take unauthorized or unlawful action that
4170 results in:

4171 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
4172 of computer technology;

4173 (ii) interference with or interruption of:

4174 (A) the lawful use of computer technology; or

4175 (B) the transmission of data;

4176 (iii) physical damage to or loss of real, personal, or commercial property;

4177 (iv) audio, video, or other surveillance of another person; or

4178 (v) economic loss to any person or entity; or

4179 (c) knowingly ~~[engage]~~ engages in a denial of service attack.

4180 ~~[(2) A person who violates Subsection (1) is guilty of:]~~

4181 (3) A violation of Subsection (2) is:

4182 (a) a class B misdemeanor ~~[when]~~ if:

4183 (i) the economic loss or other loss or damage caused or the value of the money,

4184 property, or benefit obtained or sought to be obtained is less than \$500; or

4185 (ii) the information obtained is not confidential;

4186 (b) a class A misdemeanor ~~[when]~~ if the economic loss or other loss or damage caused

4187 or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds

4188 \$500 but is less than \$1,500;

4189 (c) a third degree felony ~~[when]~~ if:

4190 (i) the economic loss or other loss or damage caused or the value of the money,

4191 property, or benefit obtained or sought to be obtained is or exceeds \$1,500 but is less than

4192 \$5,000;

4193 (ii) the property or benefit obtained or sought to be obtained is a license or entitlement;

4194 (iii) the damage is to the license or entitlement of another person;

4195 (iv) the information obtained is confidential or identifying information; or

4196 (v) in gaining access the actor breaches or breaks through a security system; or

4197 (d) a second degree felony ~~[when]~~ if the economic loss or other loss or damage caused

4198 or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds

4199 \$5,000~~;~~or].

4200 ~~[(e) a third degree felony when:]~~

4201 ~~[(i) the property or benefit obtained or sought to be obtained is a license or~~

4202 ~~entitlement;]~~

4203 ~~[(ii) the damage is to the license or entitlement of another person;]~~

4204 ~~[(iii) the information obtained is confidential or identifying information; or]~~

4205 ~~[(iv) in gaining access the person breaches or breaks through a security system.]~~

4206 ~~[(3)(a) A person who intentionally or knowingly and without authorization gains or~~

4207 ~~attempts to gain access to a computer, computer network, computer property, or computer~~

4208 ~~system under circumstances not otherwise constituting an offense under this section is guilty of~~

4209 ~~a class B misdemeanor.]~~

4210 ~~[(b) Notwithstanding Subsection (3)(a), a retailer that uses an electronic product~~

4211 ~~identification or tracking system, or other technology, to identify, track, or price goods is not~~

4212 ~~guilty of a violation of Subsection (3)(a) if the equipment designed to read the electronic~~

4213 ~~product identification or tracking system data and used by the retailer to identify, track, or price~~
4214 ~~goods is located within the retailer's location.]~~

4215 ~~[(4) (a) A person who, with intent that electronic communication harassment occur,~~
4216 ~~discloses or disseminates another person's identifying information with the expectation that~~
4217 ~~others will further disseminate or use the person's identifying information is subject to the~~
4218 ~~penalties outlined in Subsection (4)(b).]~~

4219 ~~[(b) If the disclosure or dissemination of another person's identifying information~~
4220 ~~results in electronic communication harassment, as described in Section 76-9-201, of the~~
4221 ~~person whose identifying information is disseminated, the person disseminating the~~
4222 ~~information is guilty of:]~~

4223 ~~[(i) a class B misdemeanor if the person whose identifying information is disseminated~~
4224 ~~is an adult; or]~~

4225 ~~[(ii) a class A misdemeanor if the person whose identifying information is~~
4226 ~~disseminated is a minor.]~~

4227 ~~[(c) A second offense under Subsection (4)(b)(i) is a class A misdemeanor.]~~

4228 ~~[(d) A second offense under Subsection (4)(b)(ii), and a third or subsequent offense~~
4229 ~~under this Subsection (4)(b), is a third degree felony.]~~

4230 ~~[(5) A person who uses or knowingly allows another person to use any computer,~~
4231 ~~computer network, computer property, or computer system, program, or software to devise or~~
4232 ~~execute any artifice or scheme to defraud or to obtain money, property, services, or other things~~
4233 ~~of value by false pretenses, promises, or representations, is guilty of an offense based on the~~
4234 ~~value of the money, property, services, or things of value, in the degree set forth in Subsection~~
4235 ~~76-10-1801(1).]~~

4236 ~~[(6) A person is guilty of a third degree felony if the person intentionally or knowingly,~~
4237 ~~and without lawful authorization, interferes with or interrupts critical infrastructure.]~~

4238 ~~[(7) It is an affirmative defense to Subsection (1), (2), or (3) that a person]~~

4239 (4) (a) It is an affirmative defense that the actor obtained access or attempted to obtain
4240 access:

4241 [(a)] (i) in response to, and for the purpose of protecting against or investigating, a
4242 prior attempted or successful breach of security of computer technology whose security the
4243 [person] actor is authorized or entitled to protect, and the access attempted or obtained was no

4244 greater than reasonably necessary for that purpose; or
4245 ~~[(b)]~~ (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain
4246 a search warrant.

4247 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
4248 in this section may be construed to impose liability or culpability on, an interactive computer
4249 service for content provided by another person.

4250 (c) This section does not affect, limit, or apply to any activity or conduct that is
4251 protected by the constitution or laws of this state, or by the constitution or laws of the United
4252 States.

4253 ~~[(8)]~~ (5) (a) An interactive computer service is not guilty of violating this section if a
4254 person violates this section using the interactive computer service and the interactive computer
4255 service did not knowingly assist the person to commit the violation.

4256 (b) A service provider is not guilty of violating this section for:

4257 (i) action taken in relation to a customer of the service provider, for a legitimate
4258 business purpose, to install software on, monitor, or interact with the customer's Internet or
4259 other network connection, service, or computer for network or computer security purposes,
4260 authentication, diagnostics, technical support, maintenance, repair, network management,
4261 updates of computer software or system firmware, or remote system management; or

4262 (ii) action taken, including scanning and removing computer software, to detect or
4263 prevent the following:

4264 (A) unauthorized or fraudulent use of a network, service, or computer software;

4265 (B) illegal activity; or

4266 (C) infringement of intellectual property rights.

4267 ~~[(9) Subsections (4)(a) and (b) do not apply to a person who provides information in~~
4268 ~~conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health~~
4269 ~~Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.]~~

4270 ~~[(10) In accordance with 47 U.S.C.A. Sec. 230, this section may not apply to, and~~
4271 ~~nothing in this section may be construed to impose liability or culpability on, an interactive~~
4272 ~~computer service for content provided by another person.]~~

4273 ~~[(11) This section does not affect, limit, or apply to any activity or conduct that is~~
4274 ~~protected by the constitution or laws of this state or by the constitution or laws of the United~~

4275 States:]

4276 Section 104. Section **76-6-703.1** is enacted to read:

4277 **76-6-703.1. Unlawful disclosure of personal information.**

4278 (1) (a) As used in this section, "electronic communication harassment" means an
4279 offense under Section 76-9-201.

4280 (b) Terms defined in Sections 76-1-101.5 and 76-6-702 apply to this section.

4281 (2) An actor commits unlawful disclosure of personal information if:

4282 (a) with intent that electronic communication harassment occur, the actor discloses or
4283 disseminates another person's identifying information with the expectation that others will
4284 further disseminate or use the person's identifying information; and

4285 (b) the disclosure or dissemination of the other person's identifying information results
4286 in electronic communication harassment.

4287 (3) (a) If the person whose identifying information is disseminated is an adult, a
4288 violation of Subsection (2) is:

4289 (i) a class B misdemeanor on the first offense;

4290 (ii) a class A misdemeanor on the second offense; or

4291 (iii) a third degree felony on a third or subsequent offense.

4292 (b) If the person whose identifying information is disseminated is a minor, a violation
4293 of Subsection (2) is:

4294 (i) a class A misdemeanor on the first offense; or

4295 (ii) a third degree felony on the second or subsequent offense.

4296 (4) (a) This section does not apply to an actor who provides information in conjunction
4297 with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, or Title 67,
4298 Chapter 21, Utah Protection of Public Employees Act.

4299 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
4300 in this section may be construed to impose liability or culpability on, an interactive computer
4301 service for content provided by another person.

4302 (c) This section does not affect, limit, or apply to any activity or conduct that is
4303 protected by the constitution or laws of this state, or by the constitution or laws of the United
4304 States.

4305 (5) (a) An interactive computer service is not guilty of violating this section if an actor

4306 violates this section using the interactive computer service and the interactive computer service
4307 did not knowingly assist the actor to commit the violation.

4308 (b) A service provider is not guilty of violating this section for:

4309 (i) action taken in relation to a customer of the service provider, for a legitimate
4310 business purpose, to install software on, monitor, or interact with the customer's Internet or
4311 other network connection, service, or computer for network or computer security purposes,
4312 authentication, diagnostics, technical support, maintenance, repair, network management,
4313 updates of computer software or system firmware, or remote system management; or

4314 (ii) action taken, including scanning and removing computer software, to detect or
4315 prevent the following:

4316 (A) unauthorized or fraudulent use of a network, service, or computer software;

4317 (B) illegal activity; or

4318 (C) infringement of intellectual property rights.

4319 Section 105. Section **76-6-703.3** is enacted to read:

4320 **76-6-703.3. Unlawful use of technology to defraud.**

4321 (1) (a) As used in this section, "sensitive personal identifying information" means the
4322 same as that term is defined in Section [76-10-1801](#).

4323 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4324 (2) An actor commits unlawful use of technology to defraud if the actor uses or
4325 knowingly allows another person to use a computer, computer network, computer property, or
4326 computer system, program, or software to devise or execute any artifice or scheme to defraud
4327 or to obtain money, property, a service, or other thing of value by a false pretense, promise, or
4328 representation.

4329 (3) A violation of Subsection (2) is:

4330 (a) a class B misdemeanor if the value of the money, property, service, or thing
4331 obtained or sought to be obtained is less than \$500;

4332 (b) a class A misdemeanor if the value of the money, property, service, or thing
4333 obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

4334 (c) a third degree felony if the value of the money, property, service, or thing obtained
4335 or sought to be obtained is or exceeds \$1,500 but is less than \$5,000; or

4336 (d) a second degree felony if:

4337 (i) the value of the money, property, service, or thing obtained or sought to be obtained
4338 is or exceeds \$5,000; or

4339 (ii) the object or purpose of the artifice or scheme to defraud is the obtaining of
4340 sensitive personal identifying information, regardless of the value.

4341 (4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and
4342 nothing in this section may be construed to impose liability or culpability on, an interactive
4343 computer service for content provided by another person.

4344 (b) This section does not affect, limit, or apply to any activity or conduct that is
4345 protected by the constitution or laws of this state, or by the constitution or laws of the United
4346 States.

4347 (5) (a) An interactive computer service is not guilty of violating this section if a person
4348 violates this section using the interactive computer service and the interactive computer service
4349 did not knowingly assist the person to commit the violation.

4350 (b) A service provider is not guilty of violating this section for:

4351 (i) action taken in relation to a customer of the service provider, for a legitimate
4352 business purpose, to install software on, monitor, or interact with the customer's Internet or
4353 other network connection, service, or computer for network or computer security purposes,
4354 authentication, diagnostics, technical support, maintenance, repair, network management,
4355 updates of computer software or system firmware, or remote system management; or

4356 (ii) action taken, including scanning and removing computer software, to detect or
4357 prevent the following:

4358 (A) unauthorized or fraudulent use of a network, service, or computer software;

4359 (B) illegal activity; or

4360 (C) infringement of intellectual property rights.

4361 Section 106. Section **76-6-703.5** is enacted to read:

4362 **76-6-703.5. Interference or interruption of critical infrastructure.**

4363 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4364 (2) An actor commits interference or interruption of critical infrastructure if the actor
4365 intentionally or knowingly, and without lawful authorization, interferes with or interrupts
4366 critical infrastructure.

4367 (3) A violation of Subsection (2) is a third degree felony.

4368 (4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and
4369 nothing in this section may be construed to impose liability or culpability on, an interactive
4370 computer service for content provided by another person.

4371 (b) This section does not affect, limit, or apply to any activity or conduct that is
4372 protected by the constitution or laws of this state, or by the constitution or laws of the United
4373 States.

4374 (5) (a) An interactive computer service is not guilty of violating this section if a person
4375 violates this section using the interactive computer service and the interactive computer service
4376 did not knowingly assist the person to commit the violation.

4377 (b) A service provider is not guilty of violating this section for:

4378 (i) action taken in relation to a customer of the service provider, for a legitimate
4379 business purpose, to install software on, monitor, or interact with the customer's Internet or
4380 other network connection, service, or computer for network or computer security purposes,
4381 authentication, diagnostics, technical support, maintenance, repair, network management,
4382 updates of computer software or system firmware, or remote system management; or

4383 (ii) action taken, including scanning and removing computer software, to detect or
4384 prevent the following:

4385 (A) unauthorized or fraudulent use of a network, service, or computer software;

4386 (B) illegal activity; or

4387 (C) infringement of intellectual property rights.

4388 Section 107. Section **76-6-703.7** is enacted to read:

4389 **76-6-703.7. Unlawful computer access.**

4390 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

4391 (2) An actor commits unlawful computer access if:

4392 (a) the actor intentionally or knowingly, and without authorization, gains or attempts to
4393 gain access to a computer, computer network, computer property, or computer system; and

4394 (b) the circumstances of the violation of Subsection (2)(a) do not constitute an offense
4395 under Section [76-6-703](#), [76-6-703.1](#), [76-6-703.3](#), or [76-6-703.5](#).

4396 (3) A violation of Subsection (2) is a class B misdemeanor.

4397 (4) (a) Notwithstanding Subsection (2), a retailer that uses an electronic product
4398 identification or tracking system, or other technology, to identify, track, or price goods is not

4399 guilty of a violation of this section if the equipment designed to read the electronic product
4400 identification or tracking system data and used by the retailer to identify, track, or price goods
4401 is located within the retailer's location.

4402 (b) It is an affirmative defense to a violation under this section that the actor obtained
4403 access or attempted to obtain access:

4404 (i) in response to, and for the purpose of protecting against or investigating, a prior
4405 attempted or successful breach of security of computer technology whose security the actor is
4406 authorized or entitled to protect, and the access attempted or obtained was no greater than
4407 reasonably necessary for that purpose; or

4408 (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a
4409 search warrant.

4410 (c) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
4411 in this section may be construed to impose liability or culpability on, an interactive computer
4412 service for content provided by another person.

4413 (d) This section does not affect, limit, or apply to any activity or conduct that is
4414 protected by the constitution or laws of this state, or by the constitution or laws of the United
4415 States.

4416 (5) (a) An interactive computer service is not guilty of violating this section if an actor
4417 violates this section using the interactive computer service and the interactive computer service
4418 did not knowingly assist the actor to commit the violation.

4419 (b) A service provider is not guilty of violating this section for:

4420 (i) action taken in relation to a customer of the service provider, for a legitimate
4421 business purpose, to install software on, monitor, or interact with the customer's Internet or
4422 other network connection, service, or computer for network or computer security purposes,
4423 authentication, diagnostics, technical support, maintenance, repair, network management,
4424 updates of computer software or system firmware, or remote system management; or

4425 (ii) action taken, including scanning and removing computer software, to detect or
4426 prevent the following:

4427 (A) unauthorized or fraudulent use of a network, service, or computer software;

4428 (B) illegal activity; or

4429 (C) infringement of intellectual property rights.

4430 Section 108. Section **76-6-705** is amended to read:

4431 **76-6-705. Reporting violations.**

4432 (1) Each person who has reason to believe that ~~[the provisions]~~ a provision of Section
4433 76-6-703 ~~[are being or have]~~, 76-6-703.1, 76-6-703.3, 76-6-703.5, or 76-6-703.7 is being or
4434 has been violated shall report the suspected violation to:

4435 (a) the attorney general, or county attorney, or, if within a prosecution district, the
4436 district attorney of the county or prosecution district in which part or all of the ~~[violations]~~
4437 violation occurred; or

4438 (b) a state or local law enforcement agency.

4439 (2) Subsection (1) does not apply to the extent that the person is prohibited from
4440 reporting by a statutory or common law privilege.

4441 Section 109. Section **76-6-801** is amended to read:

4442 **76-6-801. Library theft.**

4443 ~~[A person is guilty of the crime of library theft when he]~~

4444 (1) (a) As used in this section:

4445 (i) "Library" means:

4446 (A) a public library;

4447 (B) a library of an educational or historical society;

4448 (C) a museum; or

4449 (D) a repository of public records.

4450 (ii) "Library materials" means a book, plate, picture, photograph, engraving, painting,
4451 drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public
4452 record, microfilm, sound recording, audiovisual materials in any format, electronic data
4453 processing records, artifacts, or other documentary, written or printed materials regardless of
4454 physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a
4455 library.

4456 (b) Terms defined in Section 76-1-101.5 apply to this section.

4457 (2) An actor commits library theft if the actor:

4458 (a) willfully, for the purpose of converting to personal use, and depriving the owner,
4459 conceals on [his] the actor's person or among [his] the actor's belongings library materials
4460 while on the premises of the library; or

4461 **(b)** willfully and without authority removes library materials from the library building
4462 with the intention of converting them to ~~[his]~~ the actor's own use.

4463 **(3)** A violation of Subsection (2) is:

4464 **(a)** a second degree felony if the value of the library materials is or exceeds \$5,000;

4465 **(b)** a third degree felony if:

4466 **(i)** the value of the library materials is or exceeds \$1,500 but is less than \$5,000;

4467 **(ii)** the value of the library materials is or exceeds \$500 and the actor has been twice

4468 before convicted of any of the following offenses, if each prior offense was committed within

4469 10 years before the date of the current conviction or the date of the offense upon which the

4470 current conviction is based and at least one of those convictions is for a class A misdemeanor:

4471 **(A)** any theft, any robbery, or any burglary with intent to commit theft;

4472 **(B)** any offense under Part 5, Fraud; or

4473 **(C)** any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);

4474 **(iii)** (A) the value of the library materials is or exceeds \$500 but is less than \$1,500;

4475 **(B)** the theft occurs on a property where the offender has committed any theft within

4476 the past five years; and

4477 **(C)** the offender has received written notice from the library prohibiting the offender

4478 from entering the property if the library has complied with the provisions of Subsection

4479 78B-3-108(4) governing notice by a merchant; or

4480 **(iv)** the actor has been previously convicted of a felony violation of any of the offenses

4481 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed

4482 within 10 years before the date of the current conviction or the date of the offense upon which

4483 the current conviction is based;

4484 **(c)** a class A misdemeanor if:

4485 **(i)** the value of the library materials stolen is or exceeds \$500 but is less than \$1,500;

4486 **(ii)** (A) the value of the library materials is less than \$500;

4487 **(B)** the theft occurs on a property where the offender has committed any theft within

4488 the past five years; and

4489 **(C)** the offender has received written notice from the library if the library has complied

4490 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

4491 **(iii)** the actor has been twice before convicted of any of the offenses listed in

4492 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
4493 years before the date of the current conviction or the date of the offense upon which the current
4494 conviction is based; or

4495 (d) a class B misdemeanor if the value of the library materials stolen is less than \$500
4496 and the theft is not an offense under Subsection (3)(c).

4497 (4) (a) An actor who willfully conceals library materials on the actor's person or among
4498 the actor's belongings while on the premises of the library or in the library's immediate vicinity
4499 is prima facie presumed to have concealed library materials with the intention of converting the
4500 library materials to the actor's own use.

4501 (b) If library materials are found concealed upon the actor's person or among the actor's
4502 belongings, or electronic security devices are activated by the actor's presence, it is prima facie
4503 evidence of willful concealment.

4504 Section 110. Section **76-6-803** is amended to read:

4505 **76-6-803. Mutilation or damaging of library material.**

4506 ~~[A person is guilty of the crime of library theft when he]~~ (1) (a) As used in this section:

4507 (i) "Library" means the same as that term is defined in Section [76-6-801](#).

4508 (ii) "Library materials" means the same as that term is defined in Section [76-6-801](#).

4509 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

4510 (2) An actor is guilty of mutilation or damage of library materials if the actor
4511 intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or
4512 otherwise damages library materials.

4513 (3) A violation of Subsection (2) is:

4514 (a) a second degree felony if the value of the library materials is or exceeds \$5,000;

4515 (b) a third degree felony if:

4516 (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;

4517 (ii) the value of the library materials is or exceeds \$500 and the actor has been twice
4518 before convicted of any of the following offenses, if each prior offense was committed within
4519 10 years before the date of the current conviction or the date of the offense upon which the
4520 current conviction is based and at least one of those convictions is for a class A misdemeanor:

4521 (A) any theft, any robbery, or any burglary with intent to commit theft;

4522 (B) any offense under Part 5, Fraud; or

4523 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
 4524 (iii) (A) the value of the library materials is or exceeds \$500 but is less than \$1,500;
 4525 (B) the theft occurs on a property where the offender has committed any theft within
 4526 the past five years; and
 4527 (C) the offender has received written notice from the library if the library has complied
 4528 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
 4529 (iv) the actor has been previously convicted of a felony violation of any of the offenses
 4530 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
 4531 within 10 years before the date of the current conviction or the date of the offense upon which
 4532 the current conviction is based;
 4533 (c) a class A misdemeanor if:
 4534 (i) the value of the library materials stolen is or exceeds \$500 but is less than \$1,500;
 4535 (ii) (A) the value of the library materials is less than \$500;
 4536 (B) the theft occurs on a property where the offender has committed any theft within
 4537 the past five years; and
 4538 (C) the offender has received written notice from the library if the library has complied
 4539 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
 4540 (iii) the actor has been twice before convicted of any of the offenses listed in
 4541 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
 4542 years before the date of the current conviction or the date of the offense upon which the current
 4543 conviction is based; or
 4544 (d) a class B misdemeanor if the value of the library materials stolen is less than \$500
 4545 and the theft is not an offense under Subsection (3)(c).

4546 Section 111. Section **76-6-803.30** is amended to read:

4547 **76-6-803.30. Failure to return library material -- Written notice.**

4548 ~~[(1) A person is guilty of library theft when]~~ (1) (a) As used in this section:

4549 (i) "Library" means the same as that term is defined in Section 76-6-801.

4550 (ii) "Library materials" means the same as that term is defined in Section 76-6-801.

4551 (b) Terms defined in Section 76-1-101.5 apply to this section.

4552 (2) (a) An actor is guilty of failure to return library materials if the actor, having
 4553 possession or having been in possession of library materials[,-he]:

4554 ~~[(a)]~~ (i) fails to return the materials within 30 days after receiving written notice
4555 demanding return of the materials; or

4556 ~~[(b)]~~ (ii) if the materials are lost or destroyed, fails to pay the replacement value of the
4557 materials within 30 days after being notified.

4558 [(2)] (b) Written notice is considered received upon the sworn affidavit of the person
4559 delivering the notice with a statement as to the date, place, and manner of delivery, or upon
4560 proof that the notice was mailed postage prepaid, via the United States Postal Service, to the
4561 current address listed for the person in the library records.

4562 (3) A violation of Subsection (2) is:

4563 (a) a second degree felony if the value of the library materials is or exceeds \$5,000;
4564 (b) a third degree felony if:

4565 (i) the value of the library materials is or exceeds \$1,500 but is less than \$5,000;
4566 (ii) the value of the library materials is or exceeds \$500 and the actor has been twice
4567 before convicted of any of the following offenses, if each prior offense was committed within
4568 10 years before the date of the current conviction or the date of the offense upon which the
4569 current conviction is based and at least one of those convictions is for a class A misdemeanor:

4570 (A) any theft, any robbery, or any burglary with intent to commit theft;
4571 (B) any offense under Part 5, Fraud; or
4572 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);
4573 (iii) (A) the value of the library materials is or exceeds \$500 but is less than \$1,500;
4574 (B) the theft occurs on a property where the offender has committed any theft within
4575 the past five years; and

4576 (C) the offender has received written notice from the library if the library has complied
4577 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

4578 (iv) the actor has been previously convicted of a felony violation of any of the offenses
4579 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
4580 within 10 years before the date of the current conviction or the date of the offense upon which
4581 the current conviction is based;

4582 (c) a class A misdemeanor if:

4583 (i) the value of the library materials stolen is or exceeds \$500 but is less than \$1,500;
4584 (ii) (A) the value of the library materials is less than \$500;

4585 (B) the theft occurs on a property where the offender has committed any theft within
4586 the past five years; and

4587 (C) the offender has received written notice from the library if the library has complied
4588 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or

4589 (iii) the actor has been twice before convicted of any of the offenses listed in
4590 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
4591 years before the date of the current conviction or the date of the offense upon which the current
4592 conviction is based; or

4593 (d) a class B misdemeanor if the value of the library material stolen is less than \$500
4594 and the theft is not an offense under Subsection (3)(c).

4595 Section 112. Section **76-6-803.60** is amended to read:

4596 **76-6-803.60. Detention of theft suspect by library employee -- Purposes.**

4597 (1) (a) As used in this section:

4598 (i) "Library" means the same as that term is defined in Section 76-6-801.

4599 (ii) "Library materials" means the same as that term is defined in Section 76-6-801.

4600 (b) Terms defined in Section 76-1-101.5 apply to this section.

4601 ~~(1)~~ (2) Any employee of the library who has probable cause to believe that a person
4602 has committed library theft may detain the person, on or off the premises of a library, in a
4603 reasonable manner and for a reasonable length of time for all or any of the following purposes:

4604 (a) to make reasonable inquiry as to whether the person has in his possession concealed
4605 library materials;

4606 (b) to request identification;

4607 (c) to verify identification;

4608 (d) to make a reasonable request of the person to place or keep in full view any library
4609 materials the individual may have removed, or which the employee has reason to believe he
4610 may have removed, from its place of display or elsewhere, whether for examination, or for any
4611 other reasonable purpose;

4612 (e) to inform a peace officer of the detention of the person and surrender that person to
4613 the custody of a peace officer; or

4614 (f) in the case of a minor, to inform a peace officer, the parents, guardian, or other
4615 private person interested in the welfare of the minor as soon as possible of this detention and to

4616 surrender custody of the minor to this person.

4617 ~~[(2)]~~ (3) An employee may make a detention under this section off the library premises
4618 only if the detention is pursuant to an immediate pursuit of the person.

4619 Section 113. Section **76-6-803.90** is amended to read:

4620 **76-6-803.90. Liability -- Defense -- Probable cause -- Reasonableness.**

4621 (1) (a) As used in this section, "library" means the same as that term is defined in
4622 Section [76-6-801](#).

4623 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

4624 (2) In any action for false arrest, false imprisonment, unlawful detention, defamation of
4625 character, assault, trespass, or invasion of civil rights brought by any person detained by an
4626 employee of the library, it is a defense to the action that the employee of the library detaining
4627 the person had probable cause to believe that the person had committed ~~[library theft]~~ an
4628 offense under this part and that the employee acted reasonably under all circumstances.

4629 Section 114. Section **76-6-902** is amended to read:

4630 **76-6-902. Antiquities alteration, removal, injury, or destruction.**

4631 ~~[(1) It is unlawful for any person to intentionally alter, remove, injure, or destroy~~
4632 ~~antiquities]~~ (1) Terms defined in Sections [76-1-101.5](#) and [76-6-901](#) apply to this section.

4633 (2) An actor commits antiquities alteration, removal, injury, or destruction if the actor:

4634 (a) intentionally alters, removes, injures, or destroys antiquities from state lands or
4635 private lands without the landowner's consent[-]; or

4636 ~~[(2) It is unlawful to intentionally reproduce, rework, or forge any antiquities or make~~
4637 ~~any object, whether copies or not, or falsely label, describe, identify, or offer for sale or~~
4638 ~~exchange any object with the intent to represent the object as original and genuine, nor may any~~
4639 ~~person offer any object for sale or exchange that was collected or excavated in violation of this~~
4640 ~~chapter.]~~

4641 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

4642 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
4643 B misdemeanor.

4644 (b) A violation of Subsection (2) is a third degree felony if:

4645 (i) the violation is the actor's second or subsequent violation of this section, Section
4646 [76-6-902.1](#), or Section [76-6-902.2](#); or

- 4647 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.
4648 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:
4649 (i) the commercial or archaeological value of the antiquities involved in the violation;
4650 and
4651 (ii) the cost of the restoration and repair of the antiquities involved in the violation.
4652 (d) An actor shall surrender to the landowner all articles and material discovered,
4653 collected, excavated, or offered for sale or exchange in violation of this section.

4654 Section 115. Section **76-6-902.1** is enacted to read:

4655 **76-6-902.1. Unlawful creation, labeling, or sale of reproduction of antiquities.**

4656 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-901](#) apply to this section.

4657 (2) An actor commits unlawful reproduction, labeling, or sale of reproduction of
4658 antiquities if the actor:

4659 (a) with the intent to represent one or more objects as original and genuine antiquities,
4660 intentionally:

4661 (i) reproduces, reworks, or forges antiquities; or

4662 (ii) (A) makes an object, whether as a copy or not; or

4663 (B) falsely labels, describes, identifies, or offers for sale or exchange an object; or

4664 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

4665 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
4666 B misdemeanor.

4667 (b) A violation of Subsection (2) is a third degree felony if:

4668 (i) the violation is the actor's second or subsequent violation of this section, Section
4669 [76-6-902](#), or Section [76-6-902.2](#); or

4670 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.

4671 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

4672 (i) the commercial or archaeological value of the antiquities involved in the violation;

4673 and

4674 (ii) the cost of the restoration and repair of the antiquities involved in the violation.

4675 (d) An actor shall surrender to the landowner all articles and material discovered,
4676 collected, excavated, or offered for sale or exchange in violation of this section.

4677 Section 116. Section **76-6-902.2** is enacted to read:

4678 76-6-902.2. Unlawful sale or exchange of antiquities.
4679 (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.
4680 (2) An actor commits unlawful sale or exchange of antiquities if the actor:
4681 (a) offers for sale or exchange an object that was collected or excavated in violation of
4682 Section 76-6-902; or
4683 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).
4684 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
4685 B misdemeanor.
4686 (b) A violation of Subsection (2) is a third degree felony if:
4687 (i) the violation is the actor's second or subsequent violation of this section, Section
4688 76-6-902, or Section 76-6-902.1; or
4689 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds \$500.
4690 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:
4691 (i) the commercial or archaeological value of the antiquities involved in the violation;
4692 and
4693 (ii) the cost of the restoration and repair of the antiquities involved in the violation.
4694 (d) An actor shall surrender to the landowner all articles and material discovered,
4695 collected, excavated, or offered for sale or exchange in violation of this section.

4696 Section 117. Section **76-6-1001** is amended to read:

4697 **76-6-1001. Definitions.**

4698 As used in this part:

- 4699 (1) "Common mail carrier" means a person engaged in or transacting the business of
4700 collecting, transporting, or delivering mail, other than the United States Postal Service.
- 4701 (2) "Key" means any instrument used by the postal service and postal customer, and
4702 which is designed to operate the lock on a mail receptacle.
- 4703 (3) "Mail" means any letter, card, parcel, or other material, along with its contents, that:
4704 (a) has postage affixed by the postal customer or postal service;
4705 (b) has been accepted for delivery by the postal service;
4706 (c) the postal customer leaves for collection by the postal service; or
4707 (d) the postal service delivers to the postal customer.
- 4708 (4) "Mail receptacle" means a mail box, post office box, rural box, or any place or area

4709 intended or used by postal customers or a postal service for the collection or delivery of mail.

4710 (5) "Personal identifying information" means the same as that term is defined in
4711 Section ~~[76-6-1102]~~ 76-6-1101.

4712 (6) "Postage" means a postal service stamp, permit imprint, meter strip, or other
4713 indication of either prepayment for postal service provided or authorization by the postal
4714 service for collection and delivery of mail.

4715 (7) "Postal service" means the United States Postal Service or a private common mail
4716 carrier.

4717 Section 118. Section **76-6-1002** is amended to read:

4718 **76-6-1002. Damage to mail receptacle.**

4719 ~~[(1) A person commits the crime of]~~ (1) Terms defined in Sections ~~76-1-101.5~~ and
4720 76-6-1001 apply to this section.

4721 (2) An actor commits damage to a mail receptacle if the [person] actor knowingly
4722 damages the condition of a mail receptacle, including:

4723 (a) taking, concealing, damaging, or destroying a key; or

4724 (b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.

4725 ~~[(2) (a) In determining the degree of an offense committed under Subsection (1), the~~
4726 ~~penalty levels in Subsection ~~76-6-106(3)(b)~~ apply.]~~

4727 (3) (a) A violation of Subsection (2) is a:

4728 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
4729 loss equal to or in excess of \$5,000 in value;

4730 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
4731 loss equal to or in excess of \$1,500 but is less than \$5,000 in value;

4732 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
4733 pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and

4734 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
4735 loss less than \$500 in value.

4736 (b) If the act committed amounts to an offense subject to a greater penalty, ~~[this~~
4737 ~~subsection]~~ Subsection (3)(a) does not prohibit prosecution and sentencing for the more serious
4738 offense.

4739 (4) The following presumptions and defenses shall be applicable to this section:

4740 (a) possession of property recently stolen, when no satisfactory explanation of such
 4741 possession is made, is prima facie evidence that the person in possession stole the property;

4742 (b) it is no defense under this part that the actor has an interest in the property or
 4743 service stolen if another person also has an interest that the actor is not entitled to infringe,
 4744 provided an interest in property for purposes of this Subsection (4)(b) shall not include a
 4745 security interest for the repayment of a debt or obligation; and

4746 (c) it is a defense under this section that the actor:

4747 (i) acted under an honest claim of right to the property or service involved;

4748 (ii) acted in the honest belief that the actor had the right to obtain or exercise control
 4749 over the property or service as the actor did; or

4750 (iii) obtained or exercised control over the property or service honestly believing that
 4751 the owner, if present, would have consented.

4752 Section 119. Section **76-6-1003** is amended to read:

4753 **76-6-1003. Mail theft.**

4754 ~~[(1) A person commits the crime of]~~ (1) Terms defined in Sections [76-1-101.5](#) and
 4755 [76-6-1001](#) apply to this section.

4756 (2) An actor commits mail theft if the [person] actor:

4757 (a) knowingly, and with the intent to deprive another:

4758 (i) takes, destroys, hides, or embezzles mail; or

4759 (ii) obtains any mail by fraud or deception; or

4760 (b) buys, receives, conceals, or possesses mail and knows or reasonably should have
 4761 known that the mail was unlawfully taken or obtained.

4762 ~~[(2) Mail theft]~~ (3) A violation of Subsection (2) is:

4763 (a) a third degree felony;

4764 (b) a class A misdemeanor, if the mail has no monetary value and does not include the
 4765 name of an individual; or

4766 (c) a second degree felony, if the mail contains the personal identifying information of
 4767 10 or more individuals.

4768 (4) The following presumptions and defenses shall be applicable to this section:

4769 (a) possession of property recently stolen, when no satisfactory explanation of such
 4770 possession is made, is prima facie evidence that the person in possession stole the property;

4771 (b) it is no defense under this section that the actor has an interest in the property or
4772 service stolen if another person also has an interest that the actor is not entitled to infringe,
4773 provided an interest in property for purposes of this Subsection (4)(b) shall not include a
4774 security interest for the repayment of a debt or obligation; and

4775 (c) it is a defense under this section that:

4776 (i) the actor acted under an honest claim of right to the property or service involved;

4777 (ii) the actor acted in the honest belief that the actor had the right to obtain or exercise
4778 control over the property or service as the actor did;

4779 (iii) the actor obtained or exercised control over the property or service honestly
4780 believing that the owner, if present, would have consented;

4781 (iv) the actor was unaware that the mail belonged to another person;

4782 (v) the actor reasonably believed the actor was entitled to the mail or had a right to
4783 acquire or dispose of the mail as the actor did; or

4784 (vi) the mail belonged to the actor's spouse, unless the parties were either legally
4785 separated or living in separate residences at the time of the alleged mail theft.

4786 Section 120. Section **76-6-1101** is repealed and reenacted to read:

4787 **76-6-1101. Definitions.**

4788 (1) As used in this part:

4789 (a) "Personal identifying information" may include:

4790 (i) name;

4791 (ii) birth date;

4792 (iii) address;

4793 (iv) telephone number;

4794 (v) driver license number;

4795 (vi) social security number;

4796 (vii) place of employment;

4797 (viii) employee identification numbers or other personal identification numbers;

4798 (ix) mother's maiden name;

4799 (x) electronic identification numbers;

4800 (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions

4801 Act;

4802 (xii) any other numbers or information that can be used to access a person's financial
4803 resources or medical information, except for numbers or information that can be prosecuted as
4804 financial transaction card offenses under Sections [76-6-506](#), [76-6-506.2](#), [76-6-506.3](#), and
4805 [76-6-506.6](#); or

4806 (xiii) a photograph or any other realistic likeness.

4807 (b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).

4808 Section 121. Section **76-6-1102** is amended to read:

4809 **76-6-1102. Identity fraud.**

4810 ~~[(1) As used in this part:]~~

4811 ~~[(a) "Personal identifying information" may include:]~~

4812 ~~[(i) name;]~~

4813 ~~[(ii) birth date;]~~

4814 ~~[(iii) address;]~~

4815 ~~[(iv) telephone number;]~~

4816 ~~[(v) drivers license number;]~~

4817 ~~[(vi) Social Security number;]~~

4818 ~~[(vii) place of employment;]~~

4819 ~~[(viii) employee identification numbers or other personal identification numbers;]~~

4820 ~~[(ix) mother's maiden name;]~~

4821 ~~[(x) electronic identification numbers;]~~

4822 ~~[(xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions~~
4823 ~~Act;]~~

4824 ~~[(xii) any other numbers or information that can be used to access a person's financial~~
4825 ~~resources or medical information, except for numbers or information that can be prosecuted as~~
4826 ~~financial transaction card offenses under Sections [76-6-506](#) through [76-6-506.6](#); or]~~

4827 ~~[(xiii) a photograph or any other realistic likeness.]~~

4828 ~~[(b) "Restitution" means the same as that term is defined in Section [77-38b-102](#).]~~

4829 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1101](#) apply to this section.

4830 (2) ~~[(a) A person is guilty of identity fraud when that person]~~ An actor commits
4831 identity fraud if the actor knowingly or intentionally uses, or attempts to use, the personal
4832 identifying information of another person, whether that person is alive or deceased, with

4833 fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment,
4834 any other thing of value, or medical information.

4835 ~~[(b) It is not a defense to a violation of Subsection (2)(a) that the person did not know~~
4836 ~~that the personal information belonged to another person.]~~

4837 (3) ~~[Identity fraud]~~ A violation of Subsection (2) is:

4838 (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the
4839 credit, goods, services, employment, or any other thing of value is less than \$5,000; or

4840 (b) a second degree felony if:

4841 (i) the value of the credit, goods, services, employment, or any other thing of value is
4842 or exceeds \$5,000; or

4843 (ii) the use described in Subsection (2)~~[(a)]~~ of personal identifying information results,
4844 directly or indirectly, in bodily injury to another person.

4845 (4) (a) It is not a defense to a violation of Subsection (2) that the actor did not know
4846 that the personal information belonged to another person.

4847 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
4848 the degree of the offense is determined by the total value of all credit, goods, services, or any
4849 other thing of value used, or attempted to be used, through the multiple violations.

4850 ~~[(5) When]~~ (5) (a) If a defendant is convicted of a violation of this section, the court
4851 shall order the defendant to pay restitution in accordance with Title 77, Chapter 38b, Crime
4852 Victims Restitution Act.

4853 ~~[(6)]~~ (b) Restitution under Subsection (5)(a) may include:

4854 ~~[(a)]~~ (i) payment for any costs incurred, including attorney fees, lost wages, and
4855 replacement of checks; and

4856 ~~[(b)]~~ (ii) the value of the victim's time incurred due to the offense:

4857 ~~[(i)]~~ (A) in clearing the victim's credit history or credit rating;

4858 ~~[(ii)]~~ (B) in any civil or administrative proceedings necessary to satisfy or resolve any
4859 debt, lien, or other obligation of the victim or imputed to the victim and arising from the
4860 offense; and

4861 ~~[(iii)]~~ (C) in attempting to remedy any other intended or actual harm to the victim
4862 incurred as a result of the offense.

4863 Section 122. Section **76-6-1105** is amended to read:

- 4864 **76-6-1105. Unlawful possession of another's identification documents.**
- 4865 (1) (a) As used in this section:
- 4866 [~~(a)~~(i)] (i) (A) "Identifying document" means:
- 4867 [~~(A)~~] (I) a government issued document commonly used for identification;
- 4868 [~~(B)~~] (II) a vehicle registration certificate; or
- 4869 [~~(C)~~] (III) any other document, image, data file, or medium containing personal
- 4870 identifying information as defined in [~~Subsections 76-6-1102(1)(a)(ii) through (xiii)]~~
- 4871 Subsection 76-6-1101(1)(a).
- 4872 [~~(ii)~~] (B) "Identifying document" includes:
- 4873 [~~(A)~~] (I) a counterfeit identifying document; or
- 4874 [~~(B)~~] (II) a document containing personal identifying information of a deceased
- 4875 individual.
- 4876 [~~(b)~~] (ii) "Possess" means to have physical control or electronic access.
- 4877 (b) Terms defined in Sections 76-1-101.5 and 76-6-1101 apply to this section.
- 4878 (2) (a) Under circumstances that do not constitute a violation of Section 76-6-502 or
- 4879 76-6-1102 [~~or Section 76-6-502, an individual is guilty of a class A misdemeanor if the~~
- 4880 ~~individual], an actor commits unlawful possession of another's identification documents if the~~
- 4881 actor:
- 4882 (i) obtains or possesses an identifying document:
- 4883 (A) with knowledge that the [~~individual~~] actor is not entitled to obtain or possess the
- 4884 identifying document; or
- 4885 (B) with intent to deceive or defraud; or
- 4886 (ii) assists another person in obtaining or possessing an identifying document:
- 4887 (A) with knowledge that the person is not entitled to obtain or possess the identifying
- 4888 document; or
- 4889 (B) with knowledge that the person intends to use the identifying document to deceive
- 4890 or defraud.
- 4891 (b) Under circumstances that do not constitute a violation of Section 76-6-502 or
- 4892 76-6-1102, an [~~individual is guilty of a third degree felony if the individual~~] actor commits
- 4893 unlawful possession of another's identification documents if the actor:
- 4894 (i) obtains or possesses identifying documents of more than two, but fewer than 100,

4895 individuals:

4896 (A) with knowledge that the individual is not entitled to obtain or possess the
4897 identifying documents; or

4898 (B) with intent to deceive or defraud; or

4899 (ii) assists another person in obtaining or possessing identifying documents of more
4900 than two, but fewer than 100, individuals:

4901 (A) with knowledge that the person is not entitled to obtain or possess the multiple
4902 identifying documents; or

4903 (B) with knowledge that the person intends to use the identifying documents to deceive
4904 or defraud.

4905 (c) Under circumstances that do not constitute a violation of Section [76-6-502](#) or
4906 [76-6-1102](#), an [~~individual is guilty of a second degree felony if the individual~~] actor commits
4907 unlawful possession of another's identification documents if the actor:

4908 (i) obtains or possesses identifying documents of 100 or more individuals:

4909 (A) with knowledge that the individual is not entitled to obtain or possess the
4910 identifying documents; or

4911 (B) with intent to deceive or defraud; or

4912 (ii) assists another person in obtaining or possessing identifying documents of 100 or
4913 more individuals:

4914 (A) with knowledge that the person is not entitled to obtain or possess the identifying
4915 documents; or

4916 (B) with knowledge that the person intends to use the identifying documents to deceive
4917 or defraud.

4918 (3) A violation of:

4919 (a) Subsection (2)(a) is a class A misdemeanor;

4920 (b) Subsection (2)(b) is a third degree felony; or

4921 (c) Subsection (2)(c) is a second degree felony.

4922 Section 123. Section **76-6-1203** is amended to read:

4923 **76-6-1203. Mortgage fraud.**

4924 [~~A person commits the offense of~~] (1) Terms defined in Sections [76-1-101.5](#) and

4925 [76-6-1202](#) apply to this section.

4926 (2) An actor commits mortgage fraud if the [person] actor does any of the following
4927 with the intent to defraud:

4928 ~~[(1)]~~ (a) knowingly makes any material misstatement, misrepresentation, or omission
4929 during the mortgage lending process, intending that it be relied upon by a mortgage lender,
4930 borrower, or any other party to the mortgage lending process;

4931 ~~[(2)]~~ (b) knowingly uses or facilitates the use of any material misstatement,
4932 misrepresentation, or omission, during the mortgage lending process, intending that it be relied
4933 upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

4934 ~~[(3)]~~ (c) files or causes to be filed with any county recorder in Utah any document that
4935 the [person] actor knows contains a material misstatement, misrepresentation, or omission; or

4936 ~~[(4)]~~ (d) receives any proceeds or any compensation in connection with a mortgage
4937 loan that the [person] actor knows resulted from a violation of this section.

4938 (3) (a) Notwithstanding any other administrative, civil, or criminal penalties, a
4939 violation of Subsection (2) is a:

4940 (i) class A misdemeanor if the value is or exceeds \$500 but is less than \$1,500;

4941 (ii) third degree felony if the value is or exceeds \$1,500 but is less than \$5,000;

4942 (iii) second degree felony if the value is or exceeds \$5,000; and

4943 (iv) second degree felony if the object or purpose of the commission of an act of
4944 mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the
4945 value.

4946 (b) The determination of the degree of any offense under Subsection (3)(a) is measured
4947 by the total value of all property, money, or things obtained or sought to be obtained by a
4948 violation of Subsection (2), except as provided in Subsection (3)(a)(iv).

4949 (4) Each residential or commercial property transaction offense under this section
4950 constitutes a separate violation.

4951 Section 124. Section **76-6-1303** is amended to read:

4952 **76-6-1303. Possession, sale, or use of automated sales suppression device**
4953 **unlawful.**

4954 ~~[(1) It is a third degree felony to]~~ (1) Terms defined in Sections 76-1-101.5 and
4955 76-6-1302 apply to this section.

4956 (2) An actor commits possession, sale, or use of an automated sales suppression device

4957 if the actor willfully or knowingly [sell, purchase, install, transfer, use, or possess] sells,
4958 purchases, installs, transfers, uses, or possesses in this state any automated sales suppression
4959 device or phantomware with the intent to defraud[~~, except that any second or subsequent~~
4960 violation of this Subsection (1) is a second degree felony].

4961 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
4962 degree felony.

4963 (b) A second or subsequent violation of Subsection (2)(b) is a second degree felony.

4964 ~~[(2)]~~ (c) Notwithstanding Section 76-3-301, any person convicted of violating
4965 Subsection ~~[(1)]~~ (2) may be fined not more than twice the amount of the applicable taxes that
4966 would otherwise be due, but for the use of the automated sales suppression device or
4967 phantomware.

4968 ~~[(3)]~~ (d) Any person convicted of a violation of Subsection ~~[(1)]~~ (2):

4969 ~~[(a)]~~ (i) is liable for all applicable taxes, penalties under Section 59-1-401, and interest
4970 under Section 59-1-402 that would otherwise be due, but for the use of the automated sales
4971 suppression device or phantomware to evade the payment of taxes; and

4972 ~~[(b)]~~ (ii) shall disgorge all profits associated with the sale or use of an automated sales
4973 suppression device or phantomware.

4974 (4) An automated sales suppression device and any device containing an automated
4975 sales suppression device is contraband and subject to forfeiture under Title 24, Forfeiture and
4976 Disposition of Property Act.

4977 Section 125. Section 76-6-1403 is amended to read:

4978 **76-6-1403. Requirements for record of sale or purchase.**

4979 (1) Every dealer shall:

4980 (a) require the information under Subsection (2) for each transaction of regulated
4981 metal, except under Subsection 76-6-1406(4); and

4982 (b) maintain for each purchase of regulated metal the information required by this part
4983 in a written or electronic log, in the English language.

4984 (2) The dealer shall require the following information of the seller and shall record the
4985 information as required under Subsection (1) for each purchase of regulated metal:

4986 (a) a complete description of the regulated metal, including weight and metallic
4987 description, in accordance with scrap metal recycling industry standards;

- 4988 (b) the full name and residence of each person selling the regulated metal;
4989 (c) the vehicle type and license plate number, if applicable, of the vehicle transporting
4990 the regulated metal to the dealer;
4991 (d) the price per pound and the amount paid for each type of regulated metal purchased
4992 by the dealer;
4993 (e) the date, time, and place of the purchase;
4994 (f) the type and the identifying number of the identification provided in Subsection
4995 (2)(g);
4996 (g) a form of identification that is a valid United States federal or state-issued photo ID,
4997 which includes a driver license, a United States passport, a United States passport card, or a
4998 United States military identification card;
4999 (h) the seller's signature on a certificate stating that [~~he~~] the seller has the legal right to
5000 sell the scrap metal or junk; and
5001 (i) a digital photograph or still video of the seller, taken at the time of the sale, or a
5002 clearly legible photocopy of the seller's identification.
5003 (3) No entry in the log may be erased, deleted, mutilated, or changed.
5004 (4) The log and entries shall be open to inspection by the following officials having
5005 jurisdiction over the area in which the dealer does business during regular business hours:
5006 (a) the county sheriff or deputies;
5007 (b) any law enforcement agency; and
5008 (c) any constable or other state, municipal, or county official in the county in which the
5009 dealer does business.
5010 (5) A dealer shall make these records available for inspection by any law enforcement
5011 agency, upon request, at the dealer's place of business during the dealer's regular business
5012 hours.
5013 (6) Log entries made under this section shall be maintained for not less than three years
5014 from date of entry.
5015 (7) (a) The dealer may maintain the information required by Subsection (2) for repeat
5016 sellers who use the same vehicle to bring regulated metal for each transaction in a relational
5017 database that allows the dealer to enter an initial record of the seller's information and then
5018 relate subsequent transaction records to that initial information, except under Subsection (7)(b).

5019 (b) The dealer shall obtain regarding each transaction with repeat sellers:

5020 (i) a photograph of the seller; and

5021 (ii) a signature from the seller.

5022 (8) A dealer who violates this section is subject to the penalties described in Section

5023 76-6-1403.1.

5024 Section 126. Section **76-6-1403.1** is enacted to read:

5025 **76-6-1403.1. Unlawful conduct with respect to record of sale or purchase.**

5026 (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

5027 (2) A dealer commits unlawful conduct with respect to record of sale or purchase if the
5028 dealer violates a requirement under Section 76-6-1403.

5029 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5030 class C misdemeanor.

5031 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5032 a mandatory fine of no less than \$750.

5033 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5034 has been convicted of a violation of this section or Section 76-6-1404.1, 76-6-1405.1,
5035 76-6-1406.1, or 76-6-1409.1.

5036 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5037 a mandatory fine of no less than \$2,500.

5038 (4) (a) This section does not impair the authority of a county or municipality in this
5039 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5040 may not be any less stringent than the provisions in Section 76-6-1403 or this section.

5041 (b) This section does not impair the authority of a county or municipality to revoke or
5042 deny a business license or permit required by that county or municipality regulating the
5043 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5044 license or permit based on a violation of Section 76-6-1403 or this section.

5045 (c) This section does not prohibit the charging of a seller or dealer with any other
5046 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5047 Section 127. Section **76-6-1404** is amended to read:

5048 **76-6-1404. Required notice to sellers of identification requirements.**

5049 (1) A dealer shall at all times maintain in a prominent place at the dealer's place of

5050 business, in open view to a seller of regulated metal, a clearly legible notice in not less than
5051 two-inch high lettering that contains the following language: "A PERSON ATTEMPTING TO
5052 SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED
5053 BY STATE LAW."

5054 (2) A dealer who violates this section is subject to the penalties described in Section
5055 76-6-1404.1.

5056 Section 128. Section **76-6-1404.1** is enacted to read:

5057 **76-6-1404.1. Unlawful failure to maintain required notice to sellers.**

5058 (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

5059 (2) A dealer commits unlawful failure to maintain required notice to sellers if the
5060 dealer violates a requirement under Section 76-6-1404.

5061 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5062 class C misdemeanor.

5063 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5064 a mandatory fine of no less than \$750.

5065 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5066 has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1405.1,
5067 76-6-1406.1, or 76-6-1409.1.

5068 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5069 a mandatory fine of no less than \$2,500.

5070 (4) (a) This section does not impair the authority of a county or municipality in this
5071 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5072 may not be any less stringent than the provisions in Section 76-6-1404 or this section.

5073 (b) This section does not impair the authority of a county or municipality to revoke or
5074 deny a business license or permit required by that county or municipality regulating the
5075 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5076 license or permit based on a violation of Section 76-6-1404 or this section.

5077 (c) This section does not prohibit the charging of a seller or dealer with any other
5078 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5079 Section 129. Section **76-6-1405** is amended to read:

5080 **76-6-1405. Qualifications to sell to dealer.**

5081 (1) A dealer may not purchase regulated metal from a person younger than 18 years [of
5082 age] old.

5083 (2) If the person is unable to comply with all the identification requirements of
5084 Subsection [76-6-1403\(2\)](#), the dealer may not conduct a transaction of regulated metal with that
5085 person.

5086 (3) A dealer who violates this section is subject to the penalties described in Section
5087 [76-6-1405.1](#).

5088 Section 130. Section **76-6-1405.1** is enacted to read:

5089 **76-6-1405.1. Unlawful failure to comply with qualifications to sell to dealer.**

5090 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1402](#) apply to this section.

5091 (2) A dealer commits unlawful failure to comply with qualifications to sell to dealer if
5092 the dealer violates a requirement under Section [76-6-1405](#).

5093 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5094 class C misdemeanor.

5095 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5096 a mandatory fine of no less than \$750.

5097 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5098 has been convicted of a violation of this section or Section [76-6-1403.1](#), [76-6-1404.1](#),
5099 [76-6-1406.1](#), or [76-6-1409.1](#).

5100 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5101 a mandatory fine of no less than \$2,500.

5102 (4) (a) This section does not impair the authority of a county or municipality in this
5103 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5104 may not be any less stringent than the provisions in Section [76-6-1405](#) or this section.

5105 (b) This section does not impair the authority of a county or municipality to revoke or
5106 deny a business license or permit required by that county or municipality regulating the
5107 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5108 license or permit based on a violation of Section [76-6-1405](#) or this section.

5109 (c) This section does not prohibit the charging of a seller or dealer with any other
5110 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5111 Section 131. Section **76-6-1406** is amended to read:

5112 **76-6-1406. Restrictions on the purchase of regulated metal -- Exemption.**

5113 (1) A dealer may conduct purchase transactions involving regulated metal only
5114 between the hours of 6 a.m. and 7 p.m.

5115 (2) Except when the dealer pays a government entity by check for regulated metal, the
5116 dealer may not purchase any of the following regulated metal without obtaining and keeping on
5117 file reasonable documentation that the seller is an employee, agent, or contractor of a
5118 governmental entity who is authorized to sell the item of regulated metal property on behalf of
5119 the governmental entity:

5120 (a) a manhole cover or sewer grate;

5121 (b) an electric light pole; or

5122 (c) a guard rail.

5123 (3) (a) A dealer may not purchase suspect metal without obtaining the information
5124 under Subsection (3)(b) identifying the owner of the suspect metal.

5125 (b) The owner of the suspect metal shall provide in writing:

5126 (i) the owner's telephone number;

5127 (ii) the owner's business or residential address, which may not be a post box;

5128 (iii) a copy of the owner's driver license; and

5129 (iv) a signed statement that the person is the lawful owner of the suspect metal and
5130 authorizes the seller, identified by name, to sell the suspect metal.

5131 (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on
5132 file for not less than one year.

5133 (4) Transactions with businesses that have an established account with the dealer are
5134 exempt from the requirements of Subsections (2) and (3) if the business holds a valid business
5135 license, and:

5136 (a) (i) the dealer has on file a statement from the business identifying those employees
5137 authorized to sell all metals to the dealer; and

5138 (ii) the dealer conducts regulated metal transactions only with those identified
5139 employees of the business and records the name of the employee when recording the
5140 transaction;

5141 (b) the dealer has on file reasonable documentation from the business that any person
5142 verified as representing the business as an employee, and whom the dealer has verified is an

5143 employee, may sell regulated metal; or

5144 (c) the dealer makes payment for regulated metal purchased from a person by issuing a
5145 check to the business employing the seller.

5146 (5) If a dealer is a catalytic converter purchaser as defined in Section [13-32a-102](#), the
5147 dealer shall comply with the requirements in Title 13, Chapter 32a, Pawnshop, Secondhand
5148 Merchandise, and Catalytic Converter Transaction Information Act.

5149 (6) A dealer who violates this section is subject to the penalties described in Section
5150 [76-6-1406.1](#).

5151 Section 132. Section **76-6-1406.1** is enacted to read:

5152 **76-6-1406.1. Unlawful failure to follow restrictions on the purchase of regulated**
5153 **metal.**

5154 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1402](#) apply to this section.

5155 (2) A dealer commits unlawful failure to follow restrictions on the purchase of
5156 regulated metal if the dealer violates a requirement under Section [76-6-1406](#).

5157 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5158 class C misdemeanor.

5159 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5160 a mandatory fine of no less than \$750.

5161 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5162 has been convicted of a violation of this section or Section [76-6-1403.1](#), [76-6-1404.1](#),
5163 [76-6-1405.1](#), or [76-6-1409.1](#).

5164 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5165 a mandatory fine of no less than \$2,500.

5166 (4) (a) This section does not impair the authority of a county or municipality in this
5167 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5168 may not be any less stringent than the provisions in Section [76-6-1406](#) or this section.

5169 (b) This section does not impair the authority of a county or municipality to revoke or
5170 deny a business license or permit required by that county or municipality regulating the
5171 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5172 license or permit based on a violation of Section [76-6-1406](#) or this section.

5173 (c) This section does not prohibit the charging of a seller or dealer with any other

5174 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5175 Section 133. Section **76-6-1408** is amended to read:

5176 **76-6-1408. Falsification of seller's statement to dealer.**

5177 ~~[(1) (a) Any seller who, in providing any information as required by this part in selling,~~
5178 ~~offering, or attempting to sell regulated metal]~~ (1) Terms defined in Sections 76-1-101.5 and
5179 76-6-1402 apply to this section.

5180 (2) An actor commits falsification of seller's statement to dealer if the actor:

5181 (a) sells, offers to sell, or attempts to sell regulated metal; and

5182 (b) in providing information required by Section 76-6-1403, 76-6-1405, or 76-6-1406,
5183 willfully makes a false statement or provides any untrue information~~[, is guilty of a class B~~

5184 misdemeanor].

5185 ~~[(b) Any seller who is convicted of a class B misdemeanor under this section is subject~~
5186 ~~to a mandatory fine of no less than \$1,000.]~~

5187 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5188 class B misdemeanor.

5189 (ii) An actor who is convicted of a class B misdemeanor under this section is subject to
5190 a mandatory fine of no less than \$1,000.

5191 ~~[(2)(a)]~~ (3) (b) (i) A violation of Subsection [(1) that occurs after the defendant] (2) is
5192 a class A misdemeanor if the actor previously has been convicted of a violation of [Subsection
5193 (1) is a class A misdemeanor] this section.

5194 ~~[(b) Any seller]~~ (ii) An actor who is convicted of a class A misdemeanor under this
5195 section is subject to a mandatory fine of no less than \$2,500.

5196 Section 134. Section **76-6-1409** is amended to read:

5197 **76-6-1409. Hold on stolen regulated metal property -- Hold notice.**

5198 (1) (a) If a law enforcement agency has reasonable cause to believe that items of
5199 regulated metal in the possession of a dealer are stolen, the law enforcement agency may issue
5200 a written hold notice.

5201 (b) The hold notice described in Subsection (1)(a) shall:

5202 ~~[(a)]~~ (i) identify those items of regulated metal alleged to be stolen and subject to hold;
5203 and

5204 ~~[(b)]~~ (ii) inform the dealer of the restrictions imposed on the regulated metal property

5205 under Subsection (2).

5206 (2) For 60 days after the date of receiving a hold notice, a dealer may not process or
5207 remove from the dealer's place of business any regulated metal identified in the hold notice,
5208 unless the property is released earlier by the law enforcement agency or by order of a court of
5209 competent jurisdiction.

5210 (3) On the expiration of the hold notice period, the hold is automatically released, and
5211 the dealer may dispose of the regulated metal, unless otherwise directed by a court of
5212 competent jurisdiction.

5213 (4) A dealer who violates this section is subject to the penalties described in Section
5214 76-6-1409.1.

5215 Section 135. Section **76-6-1409.1** is enacted to read:

5216 **76-6-1409.1. Unlawful violation of regulated metal hold requirement.**

5217 (1) Terms defined in Sections 76-1-101.5 and 76-6-1402 apply to this section.

5218 (2) A dealer commits unlawful violation of regulated metal hold requirement if the
5219 dealer violates a requirement under Section 76-6-1409.

5220 (3) (a) (i) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a
5221 class C misdemeanor.

5222 (ii) A dealer who is convicted of a class C misdemeanor under this section is subject to
5223 a mandatory fine of no less than \$750.

5224 (b) (i) A violation of Subsection (2) is a class A misdemeanor if the dealer previously
5225 has been convicted of a violation of this section or Section 76-6-1403.1, 76-6-1404.1,
5226 76-6-1405.1, or 76-6-1406.1.

5227 (ii) A dealer who is convicted of a class A misdemeanor under this section is subject to
5228 a mandatory fine of no less than \$2,500.

5229 (4) (a) This section does not impair the authority of a county or municipality in this
5230 state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations
5231 may not be any less stringent than the provisions in Section 76-6-1409 or this section.

5232 (b) This section does not impair the authority of a county or municipality to revoke or
5233 deny a business license or permit required by that county or municipality regulating the
5234 authority to sell, purchase, or possess metal, including the revocation or denial of a business
5235 license or permit based on a violation of Section 76-6-1409 or this section.

5236 (c) This section does not prohibit the charging of a seller or dealer with any other
5237 criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

5238 Section 136. Section **76-6a-101**, which is renumbered from Section 76-6a-2 is
5239 renumbered and amended to read:

5240 ~~[76-6a-2]~~. **76-6a-101. Definitions.**

5241 As used in this chapter:

5242 (1) (a) (i) "Compensation" means money, money bonuses, overrides, prizes, or other
5243 real or personal property, tangible or intangible.

5244 ~~[(b)]~~ (ii) "Compensation" does not include payment based on the sale of goods or
5245 services to anyone purchasing the goods or services for actual personal use or consumption.

5246 ~~[(2)]~~ (b) "Consideration" does not include:

5247 (i) payment for sales demonstration equipment ~~[and]~~ or materials furnished at cost for
5248 use in making sales and not for resale~~[-]~~; or

5249 (ii) time or effort spent in selling or recruiting activities.

5250 ~~[(3)]~~ (c) "Person" includes a business trust, estate, trust, joint venture, or any other
5251 legal or commercial entity.

5252 ~~[(4)]~~ (d) "Pyramid scheme" means any sales device or plan under which a person gives
5253 consideration to another person in exchange for compensation or the right to receive
5254 compensation ~~[which]~~ that is derived primarily from the introduction of other persons into the
5255 sales device or plan rather than from the sale of goods, services, or other property.

5256 (2) Terms defined in Section 76-1-101.5 apply to this part.

5257 Section 137. Section **76-6a-102** is enacted to read:

5258 **76-6a-102. Conducting pyramid scheme -- Violation as deceptive consumer sales**
5259 **practice -- Prosecution of civil violation.**

5260 (1) Terms defined in Section 76-1-101.5 apply to this section.

5261 (2) An actor commits the offense of conducting a pyramid scheme if the actor
5262 knowingly organizes, establishes, promotes, or administers a pyramid scheme.

5263 (3) A violation of Subsection (2) is a third degree felony.

5264 (4) It is not a defense to an action brought under this section that:

5265 (a) the sales device or plan limits the number of persons who may be introduced into
5266 the sales device or plan;

5267 (b) the sales device or plan includes additional conditions affecting eligibility for
5268 introduction into the sales device or plan or when compensation may be received from the sales
5269 device or plan; or

5270 (c) a person receives property or services in addition to the compensation or right to
5271 receive compensation in connection with a pyramid scheme.

5272 (5) The appropriate county attorney or district attorney has primary responsibility for
5273 investigating and prosecuting a criminal violation of this section.

5274 (6) (a) A violation under this section constitutes a violation of Section [13-11-4](#).

5275 (b) A criminal conviction under this section is prima facie evidence of a violation of
5276 Section [13-11-4](#).

5277 (c) In addition to prosecution under this section, a violation of this section shall be
5278 civily investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales
5279 Practices Act.

5280 Section 138. Section **76-6a-103** is enacted to read:

5281 **76-6a-103. Participating in pyramid scheme -- Violation as deceptive consumer**
5282 **sales practice -- Prosecution of civil violation.**

5283 (1) Terms defined in Section [76-1-101.5](#) apply to this section.

5284 (2) An actor commits the offense of participating in a pyramid scheme if the actor
5285 participates in a pyramid scheme only by receiving compensation for the introduction of
5286 another person into the pyramid scheme rather than from the sale of goods, services, or other
5287 property.

5288 (3) A violation of Subsection (2) is a class B misdemeanor.

5289 (4) It is not a defense to an action brought under this section that:

5290 (a) the sales device or plan limits the number of persons who may be introduced into
5291 the sales device or plan;

5292 (b) the sales device or plan includes additional conditions affecting eligibility for
5293 introduction into the sales device or plan or when compensation may be received from the sales
5294 device or plan; or

5295 (c) a person receives property or services in addition to the compensation or right to
5296 receive compensation in connection with a pyramid scheme.

5297 (5) The appropriate county attorney or district attorney has primary responsibility for

5298 investigating and prosecuting a criminal violation of this section.

5299 (6) (a) A violation under this section constitutes a violation of Section 13-11-4.

5300 (b) A criminal conviction under this section is prima facie evidence of a violation of
5301 Section 13-11-4.

5302 (c) In addition to prosecution under this section, a violation of this section shall be
5303 civilly investigated and prosecuted as prescribed by Title 13, Chapter 11, Utah Consumer Sales
5304 Practices Act.

5305 Section 139. Section **76-6a-104**, which is renumbered from Section 76-6a-6 is
5306 renumbered and amended to read:

5307 ~~[76-6a-6].~~ **76-6a-104. Rights of person giving consideration pyramid in**
5308 **scheme.**

5309 (1) (a) Any person giving consideration in connection with a pyramid scheme may,
5310 notwithstanding any agreement to the contrary, declare ~~[his]~~ the person's giving of
5311 consideration and the related sale or contract for sale void, and may bring a court action to
5312 recover the consideration.

5313 (b) In ~~[the action]~~ an action brought under Subsection (1)(a), the court shall, in addition
5314 to any judgment awarded to the plaintiff, require the defendant to pay to the plaintiff interest as
5315 provided in Section 15-1-4, reasonable attorneys' fees, and the costs of the action reduced by
5316 any compensation paid by the defendant to the plaintiff in connection with the pyramid scheme.

5317 (2) (a) The rights, remedies, and penalties provided in this chapter are independent of
5318 and supplemental to each other and to any other right, remedy or penalty available in law or
5319 equity.

5320 (b) Nothing contained in this chapter shall be construed to diminish or abrogate any
5321 other right, remedy or penalty.

5322 Section 140. Section **76-9-201** is amended to read:

5323 **76-9-201. Electronic communication harassment -- Definitions -- Penalties.**

5324 (1) As used in this section:

5325 (a) "Adult" means an individual 18 years ~~[of age]~~ old or older.

5326 (b) "Electronic communication" means a communication by electronic,
5327 electro-mechanical, or electro-optical communication device for the transmission and reception
5328 of audio, image, or text but does not include broadcast transmissions or similar

5329 communications that are not targeted at a specific individual.

5330 (c) "Electronic communication device" includes a telephone, a facsimile machine,
5331 electronic mail, a pager, a computer, or another device or medium that can be used to
5332 communicate electronically.

5333 (d) "Minor" means an individual who is younger than 18 years [~~of age~~] old.

5334 (e) "Personal identifying information" means the same as that term is defined in
5335 Section [~~76-6-1102~~] 76-6-1101.

5336 (2) Except to the extent the person's conduct constitutes an offense under Section
5337 76-9-203, a person is guilty of electronic communication harassment and subject to prosecution
5338 in the jurisdiction where the communication originated or was received if with intent to
5339 intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of
5340 another, the person:

5341 (a) (i) makes repeated contact by means of electronic communications, regardless of
5342 whether a conversation ensues; or

5343 (ii) after the recipient has requested or informed the person not to contact the recipient,
5344 and the person repeatedly or continuously:

5345 (A) contacts the electronic communication device of the recipient; or

5346 (B) causes an electronic communication device of the recipient to ring or to receive
5347 other notification of attempted contact by means of electronic communication;

5348 (b) makes contact by means of electronic communication and insults, taunts, or
5349 challenges the recipient of the communication or any person at the receiving location in a
5350 manner likely to provoke a violent or disorderly response;

5351 (c) makes contact by means of electronic communication and threatens to inflict injury,
5352 physical harm, or damage to any person or the property of any person; or

5353 (d) causes disruption, jamming, or overload of an electronic communication system
5354 through excessive message traffic or other means utilizing an electronic communication device.

5355 (3) A person is guilty of electronic communication harassment if the person:

5356 (a) electronically publishes, posts, or otherwise discloses personal identifying
5357 information of another individual in a public online site or forum with the intent to abuse,
5358 threaten, or disrupt the other individual's electronic communication and without the other
5359 individual's permission; or

5360 (b) sends a communication by electronic mail, instant message, or other similar means,
5361 if:

5362 (i) the communication references personal identifying information of another
5363 individual; [~~and~~]

5364 (ii) the person sends the communication:

5365 (A) without the individual's consent; and

5366 (B) with the intent to cause a recipient of the communication to reasonably believe that
5367 the individual authorized or sent the communication; and

5368 (iii) with the intent to:

5369 (A) cause an individual physical, emotional, or economic injury or damage; or

5370 (B) defraud an individual.

5371 (4) (a) Electronic communication harassment is a class B misdemeanor.

5372 (b) A second or subsequent offense of electronic communication harassment is a class
5373 A misdemeanor.

5374 (5) (a) Except as provided under Subsection (5)(b), criminal prosecution under this
5375 section does not affect an individual's right to bring a civil action for damages suffered as a
5376 result of the commission of an offense under this section.

5377 (b) This section does not create a civil cause of action based on electronic
5378 communications made for legitimate business purposes.

5379 Section 141. Section **76-10-204** is amended to read:

5380 **76-10-204. Damaging bridge, dam, canal, or other water-related structure.**

5381 (1) A person is guilty of a third degree felony who intentionally, knowingly, or
5382 recklessly commits an offense under Subsection (2) that does not amount to a violation of
5383 Subsection ~~76-6-106(2)(b)~~(a)(ii).

5384 (2) Offenses referred to in Subsection (1) are when a person:

5385 (a) cuts, breaks, damages, or destroys any bridge, dam, canal, flume, aqueduct, levee,
5386 embankment, reservoir, or other structure erected to create hydraulic power, to drain or reclaim
5387 any swamp and overflowed or marsh land, to conduct water for mining, manufacturing,
5388 reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town;

5389 (b) makes or causes to be made any aperture in any dam, canal, flume, aqueduct,
5390 reservoir, embankment, levee, or structure with intent to injure or destroy it; or

5391 (c) draws up, cuts, or injures any piles fixed in the ground and used for securing any
5392 lake or river bank or walls or any dock, quay, jetty, or lock.

5393 Section 142. Section **76-10-1302** is amended to read:

5394 **76-10-1302. Prostitution.**

5395 (1) An actor, except for a child under Section [76-10-1315](#), is guilty of prostitution if
5396 the actor engages in sexual activity with another individual for a fee, or the functional
5397 equivalent of a fee.

5398 (2) (a) Except as provided in Subsection (2)(b) and Section [76-10-1309](#), a violation of
5399 Subsection (1) is a class B misdemeanor.

5400 (b) Except as provided in Section [76-10-1309](#), an actor who is convicted a second time,
5401 and on all subsequent convictions, of a subsequent offense of prostitution under this section or
5402 under a local ordinance adopted under Section [76-10-1307](#), is guilty of a class A misdemeanor.

5403 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the
5404 actor engages in a violation of Subsection (1) at or near the time the actor witnesses or is a
5405 victim of any of the following offenses, or an attempt to commit any of the following offenses,
5406 and the actor reports the offense or attempt to law enforcement in good faith:

5407 (a) assault, Section [76-5-102](#);

5408 (b) aggravated assault, Section [76-5-103](#);

5409 (c) mayhem, Section [76-5-105](#);

5410 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
5411 homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;

5412 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
5413 aggravated human trafficking, human smuggling or aggravated human smuggling, or human
5414 trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

5415 (f) rape, Section [76-5-402](#);

5416 (g) rape of a child, Section [76-5-402.1](#);

5417 (h) object rape, Section [76-5-402.2](#);

5418 (i) object rape of a child, Section [76-5-402.3](#);

5419 (j) forcible sodomy, Section [76-5-403](#);

5420 (k) sodomy on a child, Section [76-5-403.1](#);

5421 (l) forcible sexual abuse, Section [76-5-404](#);

- 5422 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
5423 Section 76-5-404.3;
- 5424 (n) aggravated sexual assault, Section 76-5-405;
- 5425 (o) sexual exploitation of a minor, Section 76-5b-201;
- 5426 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 5427 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 5428 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and
5429 Criminal Trespass;
- 5430 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or
- 5431 (t) theft by extortion under Section 76-6-406 under the circumstances described in
5432 Subsection [~~76-6-406(2)(a) or (b)~~] 76-6-406(1)(a)(i) or (ii).
- 5433 Section 143. Section 76-10-1602 is amended to read:
- 5434 **76-10-1602. Definitions.**
- 5435 As used in this part:
- 5436 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
5437 business trust, association, or other legal entity, and any union or group of individuals
5438 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 5439 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
5440 commission of at least three episodes of unlawful activity, which episodes are not isolated, but
5441 have the same or similar purposes, results, participants, victims, or methods of commission, or
5442 otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall
5443 demonstrate continuing unlawful conduct and be related either to each other or to the
5444 enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have
5445 occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful
5446 activity as defined by this part shall have occurred within five years of the commission of the
5447 next preceding act alleged as part of the pattern.
- 5448 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
5449 interest in property, including state, county, and local governmental entities.
- 5450 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request,
5451 command, encourage, or intentionally aid another person to engage in conduct which would
5452 constitute any offense described by the following crimes or categories of crimes, or to attempt

5453 or conspire to engage in an act which would constitute any of those offenses, regardless of
5454 whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor
5455 or a felony:

5456 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized
5457 Recording Practices Act;

5458 (b) any act prohibited by the criminal provisions of Title 19, Environmental Quality
5459 Code, Sections 19-1-101 through 19-7-109;

5460 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary
5461 purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources
5462 Code of Utah, or Section 23-20-4;

5463 (d) false claims for medical benefits, kickbacks, and any other act prohibited by Title
5464 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

5465 (e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal
5466 Offenses and Procedure Act;

5467 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform
5468 Land Sales Practices Act;

5469 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah
5470 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
5471 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d,
5472 Clandestine Drug Lab Act;

5473 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
5474 Securities Act;

5475 (i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah
5476 Procurement Code;

5477 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

5478 (k) a threat of terrorism, Section 76-5-107.3;

5479 (l) a criminal homicide offense, as described in Section 76-5-201;

5480 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

5481 (n) human trafficking, human trafficking of a child, human smuggling, or aggravated
5482 human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and
5483 76-5-310;

- 5484 (o) sexual exploitation of a minor or aggravated sexual exploitation of a minor,
5485 Sections 76-5b-201 and 76-5b-201.1;
- 5486 (p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- 5487 (q) causing a catastrophe, Section 76-6-105;
- 5488 (r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- 5489 (s) burglary of a vehicle, Section 76-6-204;
- 5490 (t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- 5491 (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- 5492 (v) theft, Section 76-6-404;
- 5493 (w) theft by deception, Section 76-6-405;
- 5494 (x) theft by extortion, Section 76-6-406;
- 5495 (y) receiving stolen property, Section 76-6-408;
- 5496 (z) theft of services, Section 76-6-409;
- 5497 (aa) forgery, Section 76-6-501;
- 5498 (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, [76-6-506.5;] and
5499 76-6-506.6;
- 5500 (cc) deceptive business practices, Section 76-6-507;
- 5501 (dd) bribery or receiving bribe by person in the business of selection, appraisal, or
5502 criticism of goods, Section 76-6-508;
- 5503 (ee) bribery of a labor official, Section 76-6-509;
- 5504 (ff) defrauding creditors, Section 76-6-511;
- 5505 (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- 5506 (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- 5507 (ii) bribery or threat to influence contest, Section 76-6-514;
- 5508 (jj) making a false credit report, Section 76-6-517;
- 5509 (kk) criminal simulation, Section 76-6-518;
- 5510 (ll) criminal usury, Section 76-6-520;
- 5511 (mm) [~~fraudulent insurance act~~] insurance fraud, Section 76-6-521;
- 5512 (nn) retail theft, Section 76-6-602;
- 5513 (oo) computer crimes, Section 76-6-703;
- 5514 (pp) identity fraud, Section 76-6-1102;

- 5515 (qq) mortgage fraud, Section 76-6-1203;
- 5516 (rr) sale of a child, Section 76-7-203;
- 5517 (ss) bribery to influence official or political actions, Section 76-8-103;
- 5518 (tt) threats to influence official or political action, Section 76-8-104;
- 5519 (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- 5520 (vv) receiving bribe or bribery for endorsement of person as public servant, Section
- 5521 76-8-106;
- 5522 (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- 5523 (xx) obstruction of justice, Section 76-8-306;
- 5524 (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- 5525 (zz) false or inconsistent material statements, Section 76-8-502;
- 5526 (aaa) false or inconsistent statements, Section 76-8-503;
- 5527 (bbb) written false statements, Section 76-8-504;
- 5528 (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 5529 (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 5530 (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 5531 (fff) tampering with evidence, Section 76-8-510.5;
- 5532 (ggg) falsification or alteration of government record, Section 76-8-511, if the record is
- 5533 a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and
- 5534 Regulation Act[, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist
- 5535 Disclosure and Regulation Act];
- 5536 (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or
- 5537 76-8-1205;
- 5538 (iii) unemployment insurance fraud, Section 76-8-1301;
- 5539 (jjj) intentionally or knowingly causing one animal to fight with another, Subsection
- 5540 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- 5541 (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or
- 5542 parts, Section 76-10-306;
- 5543 (lll) delivery to common carrier, mailing, or placement on premises of an incendiary
- 5544 device, Section 76-10-307;
- 5545 (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

- 5546 (nnn) unlawful marking of pistol or revolver, Section 76-10-521;
- 5547 (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;
- 5548 (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section
- 5549 76-10-1002;
- 5550 (qqq) selling goods under counterfeited trademark, trade name, or trade devices,
- 5551 Section 76-10-1003;
- 5552 (rrr) sales in containers bearing registered trademark of substituted articles, Section
- 5553 76-10-1004;
- 5554 (sss) selling or dealing with article bearing registered trademark or service mark with
- 5555 intent to defraud, Section 76-10-1006;
- 5556 (ttt) gambling, Section 76-10-1102;
- 5557 (uuu) gambling fraud, Section 76-10-1103;
- 5558 (vvv) gambling promotion, Section 76-10-1104;
- 5559 (www) possessing a gambling device or record, Section 76-10-1105;
- 5560 (xxx) confidence game, Section 76-10-1109;
- 5561 (yyy) distributing pornographic material, Section 76-10-1204;
- 5562 (zzz) inducing acceptance of pornographic material, Section 76-10-1205;
- 5563 (aaaa) dealing in harmful material to a minor, Section 76-10-1206;
- 5564 (bbbb) distribution of pornographic films, Section 76-10-1222;
- 5565 (cccc) indecent public displays, Section 76-10-1228;
- 5566 (dddd) prostitution, Section 76-10-1302;
- 5567 (eeee) aiding prostitution, Section 76-10-1304;
- 5568 (ffff) exploiting prostitution, Section 76-10-1305;
- 5569 (gggg) aggravated exploitation of prostitution, Section 76-10-1306;
- 5570 (hhhh) communications fraud, Section 76-10-1801;
- 5571 (iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and
- 5572 Currency Transaction Reporting Act;
- 5573 (jjjj) vehicle compartment for contraband, Section 76-10-2801;
- 5574 (kkkk) any act prohibited by the criminal provisions of the laws governing taxation in
- 5575 this state; and
- 5576 (llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C.

5577 Sec. 1961(1)(B), (C), and (D).

5578 Section 144. Section 77-18-105 is amended to read:

5579 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**

5580 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
5581 **supervision for payments on criminal accounts receivable.**

5582 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
5583 abeyance agreement, the court may hold the plea in abeyance:

5584 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

5585 (b) under the terms of the plea in abeyance agreement.

5586 (2) If a defendant is convicted, the court:

5587 (a) shall impose a sentence in accordance with Section 76-3-201; and

5588 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
5589 defendant:

5590 (i) on probation under the supervision of the department;

5591 (ii) on probation under the supervision of an agency of a local government or a private
5592 organization; or

5593 (iii) on court probation under the jurisdiction of the sentencing court.

5594 (3) (a) The legal custody of all probationers under the supervision of the department is
5595 with the department.

5596 (b) The legal custody of all probationers under the jurisdiction of the sentencing court
5597 is vested as ordered by the court.

5598 (c) The court has continuing jurisdiction over all probationers.

5599 (4) (a) Court probation may include an administrative level of services, including
5600 notification to the sentencing court of scheduled periodic reviews of the probationer's

5601 compliance with conditions.

5602 (b) Supervised probation services provided by the department, an agency of a local
5603 government, or a private organization shall specifically address the defendant's risk of
5604 reoffending as identified by a screening or an assessment.

5605 (5) (a) Before ordering supervised probation, the court shall consider the supervision
5606 costs to the defendant for each entity that can supervise the defendant.

5607 (b) (i) A court may order an agency of a local government to supervise the probation

5608 for an individual convicted of any crime if:

5609 (A) the agency has the capacity to supervise the individual; and

5610 (B) the individual's supervision needs will be met by the agency.

5611 (ii) A court may only order:

5612 (A) the department to supervise the probation for an individual convicted of a class A
5613 misdemeanor or any felony; or

5614 (B) a private organization to supervise the probation for an individual convicted of a
5615 class A, B, or C misdemeanor or an infraction.

5616 (c) A court may not order a specific private organization to supervise an individual
5617 unless there is only one private organization that can provide the specific supervision services
5618 required to meet the individual's supervision needs.

5619 (6) (a) If a defendant is placed on probation, the court may order the defendant as a
5620 condition of the defendant's probation:

5621 (i) to provide for the support of persons for whose support the defendant is legally
5622 liable;

5623 (ii) to participate in available treatment programs, including any treatment program in
5624 which the defendant is currently participating if the program is acceptable to the court;

5625 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and
5626 Mental Health for treatment at the Utah State Hospital in accordance with Section [77-18-106](#);

5627 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an
5628 initial condition of probation that does not exceed one year in a county jail designated by the
5629 department, after considering any recommendation by the court as to which jail the court finds
5630 most appropriate;

5631 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);

5632 (vi) to participate in compensatory service programs, including the compensatory
5633 service program described in Section [~~76-6-107.1~~] [76-3-410](#);

5634 (vii) to pay for the costs of investigation, probation, or treatment services;

5635 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime
5636 Victims Restitution Act; or

5637 (ix) to comply with other terms and conditions the court considers appropriate to
5638 ensure public safety or increase a defendant's likelihood of success on probation.

5639 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
5640 defendant to include a period of time that is served in a county jail immediately before the
5641 termination of probation as long as that period of time does not exceed one year.

5642 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation
5643 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply
5644 to the period of time that the court orders the defendant to serve in a county jail under this
5645 Subsection (6)(b)(ii).

5646 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on
5647 probation after December 31, 2018:

5648 (i) may not exceed the individual's maximum sentence;

5649 (ii) shall be for a period of time that is in accordance with the supervision length
5650 guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the
5651 extent the guidelines are consistent with the requirements of the law; and

5652 (iii) shall be terminated in accordance with the supervision length guidelines
5653 established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the
5654 guidelines are consistent with the requirements of the law.

5655 (b) Probation of an individual placed on probation after December 31, 2018, whose
5656 maximum sentence is one year or less, may not exceed 36 months.

5657 (c) Probation of an individual placed on probation on or after October 1, 2015, but
5658 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
5659 completion without violation of 36 months probation in felony or class A misdemeanor cases,
5660 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance
5661 with Section 64-13-21 regarding earned credits.

5662 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
5663 offense for criminal nonsupport under Section 76-7-201.

5664 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
5665 accounts receivable for the defendant upon termination of the probation period for the
5666 defendant under Subsection (7), the court may require the defendant to continue to make
5667 payments towards the criminal accounts receivable in accordance with the payment schedule
5668 established by the court under Section 77-32b-103.

5669 (b) A court may not require the defendant to make payments as described in Subsection

5670 (8)(a) beyond the expiration of the defendant's sentence.

5671 (c) If the court requires a defendant to continue to pay in accordance with the payment
5672 schedule for the criminal accounts receivable under this Subsection (8) and the defendant
5673 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil
5674 judgment of restitution and a civil accounts receivable for the defendant as described in Section
5675 77-18-114.

5676 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
5677 own motion, the court may require a defendant to show cause as to why the defendant's failure
5678 to pay in accordance with the payment schedule should not be treated as contempt of court.

5679 (ii) A court may hold a defendant in contempt for failure to make payments for a
5680 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

5681 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
5682 offense for criminal nonsupport under Section 76-7-201.

5683 (9) When making any decision regarding probation, the court shall consider
5684 information provided by the Department of Corrections regarding a defendant's individual case
5685 action plan, including any progress the defendant has made in satisfying the case action plan's
5686 completion requirements.

5687 Section 145. Section 77-23a-8 is amended to read:

5688 **77-23a-8. Court order to authorize or approve interception -- Procedure.**

5689 (1) The attorney general of the state, any assistant attorney general specially designated
5690 by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy
5691 district attorney specially designated by the county attorney or by the district attorney, may
5692 authorize an application to a judge of competent jurisdiction for an order for an interception of
5693 wire, electronic, or oral communications by any law enforcement agency of the state, the
5694 federal government or of any political subdivision of the state that is responsible for
5695 investigating the type of offense for which the application is made.

5696 (2) The judge may grant the order in conformity with the required procedures when the
5697 interception sought may provide or has provided evidence of the commission of:

5698 (a) any act:

5699 (i) prohibited by the criminal provisions of:

5700 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

- 5701 (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
5702 (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
5703 (ii) punishable by a term of imprisonment of more than one year;
5704 (b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform
5705 Securities Act, and punishable by a term of imprisonment of more than one year;
5706 (c) an offense:
5707 (i) of:
5708 (A) attempt, Section 76-4-101;
5709 (B) conspiracy, Section 76-4-201;
5710 (C) solicitation, Section 76-4-203; and
5711 (ii) punishable by a term of imprisonment of more than one year;
5712 (d) a threat of terrorism offense punishable by a maximum term of imprisonment of
5713 more than one year, Section 76-5-107.3;
5714 (e) (i) aggravated murder, Section 76-5-202;
5715 (ii) murder, Section 76-5-203; or
5716 (iii) manslaughter, Section 76-5-205;
5717 (f) (i) kidnapping, Section 76-5-301;
5718 (ii) child kidnapping, Section 76-5-301.1;
5719 (iii) aggravated kidnapping, Section 76-5-302;
5720 (iv) human trafficking, Section 76-5-308, 76-5-308.1, or 76-5-308.5, or human
5721 smuggling, Section 76-5-308.3; or
5722 (v) aggravated human trafficking, Section 76-5-310, or aggravated human smuggling,
5723 Section 76-5-310.1;
5724 (g) (i) arson, Section 76-6-102; or
5725 (ii) aggravated arson, Section 76-6-103;
5726 (h) (i) burglary, Section 76-6-202; or
5727 (ii) aggravated burglary, Section 76-6-203;
5728 (i) (i) robbery, Section 76-6-301; or
5729 (ii) aggravated robbery, Section 76-6-302;
5730 (j) an offense:
5731 (i) of:

- 5732 (A) theft, Section 76-6-404;
- 5733 (B) theft by deception, Section 76-6-405; or
- 5734 (C) theft by extortion, Section 76-6-406; and
- 5735 (ii) punishable by a maximum term of imprisonment of more than one year;
- 5736 (k) an offense of receiving stolen property that is punishable by a maximum term of
- 5737 imprisonment of more than one year, Section 76-6-408;
- 5738 (l) a financial card transaction offense punishable by a maximum term of imprisonment
- 5739 of more than one year, Section 76-6-506.2, 76-6-506.3, 76-6-506.5, or 76-6-506.6;
- 5740 (m) bribery of a labor official, Section 76-6-509;
- 5741 (n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;
- 5742 (o) a criminal simulation offense punishable by a maximum term of imprisonment of
- 5743 more than one year, Section 76-6-518;
- 5744 (p) criminal usury, Section 76-6-520;
- 5745 (q) [~~a fraudulent insurance act offense~~] insurance fraud punishable by a maximum term
- 5746 of imprisonment of more than one year, Section 76-6-521;
- 5747 (r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by
- 5748 a maximum term of imprisonment of more than one year, Section 76-6-703;
- 5749 (s) bribery to influence official or political actions, Section 76-8-103;
- 5750 (t) misusing public money or public property, Section 76-8-402;
- 5751 (u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- 5752 (v) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- 5753 (w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;
- 5754 (x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- 5755 (y) obstruction of justice, Section 76-8-306;
- 5756 (z) destruction of property to interfere with preparation for defense or war, Section
- 5757 76-8-802;
- 5758 (aa) an attempt to commit crimes of sabotage, Section 76-8-804;
- 5759 (bb) conspiracy to commit crimes of sabotage, Section 76-8-805;
- 5760 (cc) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 5761 (dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 5762 (ee) riot punishable by a maximum term of imprisonment of more than one year,

- 5763 Section 76-9-101;
- 5764 (ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a
5765 maximum term of imprisonment of more than one year, Section 76-9-301.1;
- 5766 (gg) possession, use, or removal of an explosive, chemical, or incendiary device and
5767 parts, Section 76-10-306;
- 5768 (hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary
5769 device, Section 76-10-307;
- 5770 (ii) exploiting prostitution, Section 76-10-1305;
- 5771 (jj) aggravated exploitation of prostitution, Section 76-10-1306;
- 5772 (kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;
- 5773 (ll) discharging firearms and hurling missiles, Section 76-10-1505;
- 5774 (mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and
5775 the offenses listed under the definition of unlawful activity in the act, including the offenses not
5776 punishable by a maximum term of imprisonment of more than one year when those offenses
5777 are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;
- 5778 (nn) communications fraud, Section 76-10-1801;
- 5779 (oo) money laundering, Sections 76-10-1903 and 76-10-1904; or
- 5780 (pp) reporting by a person engaged in a trade or business when the offense is
5781 punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.
- 5782 Section 146. Section 77-36-1.1 is amended to read:
- 5783 **77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence**
5784 **offenses.**
- 5785 (1) As used in this section:
- 5786 (a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.
- 5787 (ii) "Convicted" includes:
- 5788 (A) a plea of guilty or guilty and mentally ill;
- 5789 (B) a plea of no contest; and
- 5790 (C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas
5791 in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in
5792 accordance with the plea in abeyance agreement.
- 5793 (iii) "Convicted" does not include an adjudication in juvenile court.

5794 ~~[(b) "Criminal mischief offense" means commission or attempt to commit an offense~~
5795 ~~under Section 76-6-106 by one cohabitant against another.]~~

5796 [(c)] (b) "Offense against the person" means commission or attempt to commit an
5797 offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal
5798 Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7,
5799 Genital Mutilation, by one cohabitant against another.

5800 (c) "Property damage offense" means the commission or attempt to commit an offense
5801 under Section 76-6-106.1 by one cohabitant against another.

5802 (d) "Qualifying domestic violence offense" means:

5803 (i) a domestic violence offense in Utah; or

5804 (ii) an offense in any other state, or in any district, possession, or territory of the United
5805 States, that would be a domestic violence offense under Utah law.

5806 (2) An individual who is convicted of a domestic violence offense is guilty of a class B
5807 misdemeanor if:

5808 (a) the domestic violence offense described in this Subsection (2) is designated by law
5809 as a class C misdemeanor; and

5810 (b) the individual commits or is convicted of the domestic violence offense described
5811 in this Subsection (2):

5812 (i) within 10 years after the day on which the individual is convicted of a qualifying
5813 domestic violence offense that is not a criminal mischief offense; or

5814 (ii) within five years after the day on which the individual is convicted of a criminal
5815 mischief offense.

5816 (3) An individual who is convicted of a domestic violence offense is guilty of a class A
5817 misdemeanor if:

5818 (a) the domestic violence offense described in this Subsection (3) is designated by law
5819 as a class B misdemeanor; and

5820 (b) the individual commits or is convicted of the domestic violence offense described
5821 in this Subsection (3):

5822 (i) within 10 years after the day on which the individual is convicted of a qualifying
5823 domestic violence offense that is not a criminal mischief offense; or

5824 (ii) within five years after the day on which the individual is convicted of a criminal

5825 mischief offense.

5826 (4) An individual who is convicted of a domestic violence offense is guilty of a third
5827 degree felony if:

5828 (a) the domestic violence offense described in this Subsection (4) is designated by law
5829 as a class B misdemeanor offense against the person and the individual:

5830 (i) (A) commits or is convicted of the domestic violence offense described in this
5831 Subsection (4) within 10 years after the day on which the individual is convicted of a
5832 qualifying domestic violence offense that is not a criminal mischief offense; and

5833 (B) is convicted of another qualifying domestic violence offense that is not a criminal
5834 mischief offense after the day on which the individual is convicted of the qualifying domestic
5835 violence offense described in Subsection (4)(a)(i)(A) and before the day on which the
5836 individual is convicted of the domestic violence offense described in this Subsection (4);

5837 (ii) (A) commits or is convicted of the domestic violence offense described in this
5838 Subsection (4) within five years after the day on which the individual is convicted of a criminal
5839 mischief offense; and

5840 (B) is convicted of another criminal mischief offense after the day on which the
5841 individual is convicted of the criminal mischief offense described in Subsection (4)(a)(ii)(A)
5842 and before the day on which the individual is convicted of the domestic violence offense
5843 described in this Subsection (4); or

5844 (iii) commits or is convicted of the domestic violence offense described in this
5845 Subsection (4) within 10 years after the day on which the individual is convicted of a
5846 qualifying domestic violence offense that is not a criminal mischief offense and within five
5847 years after the day on which the individual is convicted of a criminal mischief offense; and

5848 (b) (i) the domestic violence offense described in this Subsection (4) is designated by
5849 law as a class A misdemeanor; and

5850 (ii) the individual commits or is convicted of the domestic violence offense described
5851 in this Subsection (4):

5852 (A) within 10 years after the day on which the individual is convicted of a qualifying
5853 domestic violence offense that is not a criminal mischief offense; or

5854 (B) within five years after the day on which the individual is convicted of a criminal
5855 mischief offense.

5856 Section 147. Section **77-42-105** is amended to read:

5857 **77-42-105. Registerable offenses.**

5858 A person shall be required to register with the Office of the Attorney General for a
5859 conviction of any of the following offenses as a second degree felony:

5860 (1) Section **61-1-1** or Section **61-1-2**, securities fraud;

5861 (2) Section **76-6-405**, theft by deception;

5862 (3) Section **76-6-513**, unlawful dealing of property by fiduciary;

5863 (4) Section **76-6-521**, [~~fraudulent~~] insurance fraud;

5864 (5) Section **76-6-1203**, mortgage fraud;

5865 (6) Section **76-10-1801**, communications fraud;

5866 (7) Section **76-10-1903**, money laundering; and

5867 (8) Section **76-10-1603**, pattern of unlawful activity, if at least one of the unlawful
5868 activities used to establish the pattern of unlawful activity is an offense listed in Subsections
5869 (1) through (7).

5870 Section 148. Section **78B-3-108** is amended to read:

5871 **78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by**
5872 **adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice**
5873 **required for penalty demand.**

5874 (1) As used in this section:

5875 (a) "Merchandise" has the same meaning as provided in Section **76-6-601**.

5876 (b) "Merchant" has the same meaning as provided in Section **76-6-601**.

5877 (c) "Minor" has the same meaning as provided in Section **76-6-601**.

5878 (d) "Premises" has the same meaning as "retail mercantile establishment" found in
5879 Section **76-6-601**.

5880 (2) (a) A merchant may request an individual on the merchant's premises to place or
5881 keep in full view any merchandise the individual may have removed, or which the merchant
5882 has reason to believe the individual may have removed, from its place of display or elsewhere,
5883 whether for examination, purchase, or for any other reasonable purpose.

5884 (b) The merchant may not be criminally or civilly liable for having made the request.

5885 (3) (a) A merchant who has reason to believe that an individual has committed any of
5886 the offenses listed in Subsection [~~76-6-412(1)(b)~~] **76-6-404(3)(b)(iii)(A), (B), or (C)** and that

5887 the merchant can recover the merchandise by taking the individual into custody and detaining
5888 the individual may, for the purpose of attempting to recover the merchandise or for the purpose
5889 of informing a peace officer of the circumstances of the detention, take the individual into
5890 custody and detain the individual in a reasonable manner and for a reasonable length of time.

5891 (b) Neither the merchant nor the merchant's employee may be criminally or civilly
5892 liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type
5893 of claim or action unless the custody and detention are unreasonable under all the
5894 circumstances.

5895 (4) (a) A merchant may prohibit an individual who has committed any of the offenses
5896 listed in Subsection [~~76-6-412(1)(b)~~] 76-6-404(3)(b)(iii) from reentering the premises on which
5897 the individual has committed the offense.

5898 (b) The merchant shall give written notice of this prohibition to the individual under
5899 Subsection (4)(a). The notice may be served by:

5900 (i) delivering a copy to the individual personally;

5901 (ii) sending a copy through registered or certified mail addressed to the individual at
5902 the individual's residence or usual place of business;

5903 (iii) leaving a copy with an individual of suitable age and discretion at either location
5904 under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or
5905 place of business if the individual is absent from the residence or usual place of business; or

5906 (iv) affixing a copy in a conspicuous place at the individual's residence or place of
5907 business.

5908 (c) The individual serving the notice may authenticate service with the individual's
5909 signature, the method of service, and legibly documenting the date and time of service.

5910 (5) An adult who commits any of the offenses listed in Subsection [~~76-6-412(1)(b)~~]
5911 76-6-404(3)(b)(iii)(A), (B), or (C) is also liable in a civil action for:

5912 (a) actual damages;

5913 (b) a penalty to the merchant in the amount of the retail price of the merchandise not to
5914 exceed \$1,000; and

5915 (c) an additional penalty as determined by the court of not less than \$100 nor more than
5916 \$500, plus court costs and reasonable attorney fees.

5917 (6) A minor who commits any of the offenses listed in Subsection [~~76-6-412(1)(b)~~]

5918 [76-6-404\(3\)\(b\)\(iii\)\(A\)](#), (B), or (C) and the minor's parents or legal guardian are jointly and
5919 severally liable in a civil action to the merchant for:

5920 (a) actual damages;

5921 (b) a penalty to be remitted to the merchant in the amount of the retail price of the
5922 merchandise not to exceed \$500 plus an additional penalty as determined by the court of not
5923 less than \$50 nor more than \$500; and

5924 (c) court costs and reasonable attorney fees.

5925 (7) A parent or guardian is not liable for damages under this section if the parent or
5926 guardian made a reasonable effort to restrain the wrongful taking and reported it to the
5927 merchant involved or to the law enforcement agency having primary jurisdiction once the
5928 parent or guardian knew of the minor's unlawful act. A report is not required under this section
5929 if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of
5930 the merchant involved.

5931 (8) A conviction in a criminal action for any of the offenses listed in Subsection
5932 [~~76-6-412(1)(b)~~] [76-6-404\(3\)\(b\)\(iii\)\(A\)](#), (B), or (C) is not a condition precedent to a civil
5933 action authorized under Subsection (5) or (6).

5934 (9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall
5935 give written notice to the individual or individuals from whom the penalty is sought. The
5936 notice shall state:

5937 "IMPORTANT NOTICE: The payment of any penalty demanded of you does not
5938 prevent criminal prosecution under a related criminal provision."

5939 (b) This notice shall be boldly and conspicuously displayed, in at least the same size
5940 type as is used in the demand, and shall be sent with the demand for payment of the penalty
5941 described in Subsection (5) or (6).

5942 (10) The provision of Section [78B-8-201](#) requiring that compensatory or general
5943 damages be awarded in order to award punitive damages does not prohibit an award of a
5944 penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant
5945 either prior to or as part of a civil action.

5946 Section 149. Section [78B-9-104](#) is amended to read:

5947 **[78B-9-104. Grounds for relief -- Retroactivity of rule.](#)**

5948 (1) Unless precluded by Section [78B-9-106](#) or [78B-9-107](#), an individual who has been

5949 convicted and sentenced for a criminal offense may file an action in the district court of
5950 original jurisdiction for postconviction relief to vacate or modify the conviction or sentence
5951 upon the following grounds:

5952 (a) the conviction was obtained or the sentence was imposed in violation of the United
5953 States Constitution or Utah Constitution;

5954 (b) the conviction was obtained or the sentence was imposed under a statute that is in
5955 violation of the United States Constitution or Utah Constitution, or the conduct for which the
5956 petitioner was prosecuted is constitutionally protected;

5957 (c) the sentence was imposed or probation was revoked in violation of the controlling
5958 statutory provisions;

5959 (d) the petitioner had ineffective assistance of counsel in violation of the United States
5960 Constitution or Utah Constitution;

5961 (e) newly discovered material evidence exists that requires the court to vacate the
5962 conviction or sentence, because:

5963 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
5964 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
5965 postconviction proceeding, and the evidence could not have been discovered through the
5966 exercise of reasonable diligence;

5967 (ii) the material evidence is not merely cumulative of evidence that was known;

5968 (iii) the material evidence is not merely impeachment evidence; and

5969 (iv) viewed with all the other evidence, the newly discovered material evidence
5970 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the
5971 offense or subject to the sentence received;

5972 (f) the petitioner can prove that:

5973 (i) biological evidence, as that term is defined in Section [53-20-101](#), relevant to the
5974 petitioner's conviction was not preserved in accordance with Title 53, Chapter 20, Forensic
5975 Biological Evidence Preservation;

5976 (ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested
5977 previously; or

5978 (B) if the biological evidence described in Subsection (1)(f)(i) was tested previously,
5979 there is a material change in circumstance, including a scientific or technological advance, that

5980 would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i)
5981 would produce a favorable test result for the petitioner; and

5982 (iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for
5983 purposes of the petitioner's action under this section, when viewed with all the other evidence,
5984 demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

5985 (g) the petitioner can prove entitlement to relief under a rule announced by the United
5986 States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction
5987 and sentence became final on direct appeal, and that:

5988 (i) the rule was dictated by precedent existing at the time the petitioner's conviction or
5989 sentence became final; or

5990 (ii) the rule decriminalizes the conduct that comprises the elements of the crime for
5991 which the petitioner was convicted; or

5992 (h) the petitioner committed any of the following offenses while subject to force, fraud,
5993 or coercion, as defined in Section 76-5-308:

5994 (i) Section 58-37-8, possession of a controlled substance;

5995 (ii) Section 76-10-1304, aiding prostitution;

5996 (iii) Section 76-6-206, criminal trespass;

5997 (iv) Section 76-6-413, theft;

5998 (v) Section 76-6-502, possession of forged writing or device for writing;

5999 (vi) [~~Sections 76-6-602 through 76-6-608~~] any offense in Title 76, Chapter 6, Part 6,

6000 [~~retail theft~~] Retail Theft;

6001 (vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification
6002 document;

6003 (viii) Section 76-9-702, lewdness;

6004 (ix) Section 76-10-1302, prostitution; or

6005 (x) Section 76-10-1313, sexual solicitation.

6006 (2) The court may not grant relief from a conviction or sentence unless in light of the
6007 facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at
6008 trial or during sentencing:

6009 (a) the petitioner establishes that there would be a reasonable likelihood of a more
6010 favorable outcome; or

6011 (b) if the petitioner challenges the conviction or the sentence on grounds that the
6012 prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner
6013 establishes that the false testimony, in any reasonable likelihood, could have affected the
6014 judgment of the fact finder.

6015 (3) (a) The court may not grant relief from a conviction based on a claim that the
6016 petitioner is innocent of the crime for which convicted except as provided in Part 3,
6017 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

6018 (b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction
6019 Determination of Factual Innocence, of this chapter may not be filed as part of a petition under
6020 this part, but shall be filed separately and in conformity with the provisions of Part 3,
6021 Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

6022 Section 150. Section **80-6-610** is amended to read:

6023 **80-6-610. Property damage caused by a minor -- Liability of parent or guardian.**

6024 (1) A parent or guardian with legal custody of a minor is liable for damages sustained
6025 to property not to exceed \$2,000 when:

6026 (a) the minor intentionally damages, defaces, destroys, or takes the property of another;

6027 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
6028 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
6029 moving or standing; or

6030 (c) the minor intentionally and unlawfully tampers with the property of another and
6031 thereby recklessly endangers human life or recklessly causes or threatens a substantial
6032 interruption or impairment of any public utility service.

6033 (2) A parent or guardian with legal custody of a minor is liable for damages sustained
6034 to property not to exceed \$5,000 when the minor is adjudicated for an offense under Subsection

6035 (1):

6036 (a) for the benefit of, at the direction of, or in association with any criminal street gang
6037 as defined in Section [76-9-802](#); or

6038 (b) to gain recognition, acceptance, membership, or increased status with a criminal
6039 street gang.

6040 (3) A juvenile court may make an order for restitution under Subsection (1) or (2) to be
6041 paid by the minor's parent or guardian if the minor is adjudicated for an offense.

6042 (4) As used in this section, property damage described under Subsection (1)(a) or (c),
6043 or Subsection (2), includes graffiti, as defined in Section ~~[76-6-107]~~ 76-6-101.

6044 (5) A court may waive part or all of the liability for damages under this section by the
6045 minor's parent or guardian if, after the minor is adjudicated, the court finds, upon the record:

6046 (a) good cause; or

6047 (b) the parent or guardian:

6048 (i) made a reasonable effort to restrain the wrongful conduct; and

6049 (ii) reported the conduct to the property owner involved or the law enforcement agency
6050 having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

6051 (6) A report is not required under Subsection (5)(b) from a parent or guardian if the
6052 minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the
6053 property owner involved.

6054 (7) A conviction for criminal mischief under Section 76-6-106, property damage or
6055 destruction under Section 76-6-106.1, criminal trespass under Section 76-6-206, or an
6056 adjudication under Section 80-6-701 is not a condition precedent to a civil action authorized
6057 under Subsection (1) or (2).

6058 (8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or
6059 guardian made a reasonable effort to supervise and direct the minor, or, in the event the parent
6060 or guardian knew in advance of the possible taking, injury, or destruction by the minor, made a
6061 reasonable effort to restrain the minor.

6062 Section 151. Section **80-6-709** is amended to read:

6063 **80-6-709. Payment of fines, fees, restitution, or other costs -- Community or**
6064 **compensatory service -- Property damage -- Unpaid balances.**

6065 (1) (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile
6066 court may order a minor to:

6067 (i) pay a fine, fee, or other cost;

6068 (ii) pay restitution in accordance with Section 80-6-710; or

6069 (iii) complete community or compensatory service hours.

6070 (b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a
6071 juvenile probation officer may permit the minor to complete a work program in lieu of paying
6072 part or all of the restitution by the juvenile court.

6073 (ii) If the juvenile court orders the minor to complete community or compensatory
6074 service hours, a juvenile probation officer may permit the minor to complete a work program to
6075 help the minor complete the community or compensatory service hours.

6076 (c) The juvenile court may, through a juvenile probation officer, encourage the
6077 development of nonresidential employment or a work program to enable a minor to fulfill the
6078 minor's obligations under Subsection (1)(a).

6079 (d) Notwithstanding this section, a juvenile court may not place a minor on a ranch,
6080 forestry camp, or other residential work program for care or work.

6081 (2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to
6082 complete community or compensatory service hours, the juvenile court shall consider the
6083 dispositions collectively to ensure that an order:

6084 (a) is reasonable;

6085 (b) prioritizes restitution; and

6086 (c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account
6087 the minor's ability to pay the fine, fee, or other cost within the presumptive period under
6088 Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.

6089 (3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete
6090 community or compensatory service hours, the cumulative order shall be limited per criminal
6091 episode as follows:

6092 (i) for a minor under 16 years old at the time of adjudication, the juvenile court may
6093 impose up to \$190 or up to 24 hours of community or compensatory service; and

6094 (ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may
6095 impose up to \$280 or up to 36 hours of community or compensatory service.

6096 (b) The cumulative order under Subsection (3)(a) does not include restitution.

6097 (4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory
6098 service hours, the rate of conversion shall be no less than the minimum wage.

6099 (b) If the juvenile court orders a minor to complete community service, the
6100 presumptive service order shall include between five and 10 hours of service.

6101 (c) If a minor completes an approved substance use disorder prevention or treatment
6102 program or other court-ordered condition, the minor may be credited with compensatory
6103 service hours for the completion of the program or condition by the juvenile court.

6104 (5) (a) If a minor commits an offense involving the use of graffiti under Section
6105 [76-6-106](#), [76-6-106.1](#), or [76-6-206](#), the juvenile court may order the minor to clean up graffiti
6106 created by the minor or any other individual at a time and place within the jurisdiction of the
6107 juvenile court.

6108 (b) The minor may complete the order of the juvenile court under Subsection (5)(a) in
6109 the presence and under the direct supervision of the minor's parent, guardian, or custodian.

6110 (c) The minor's parent, guardian, or custodian shall report completion of the order to
6111 the juvenile court.

6112 (d) The juvenile court may also require the minor to perform other alternative forms of
6113 restitution or repair to the damaged property in accordance with Section [80-6-710](#).

6114 (6) (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders
6115 necessary for the collection of restitution and fines ordered under this section, including
6116 garnishments, wage withholdings, and executions.

6117 (b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile
6118 court orders a disposition that changes custody of a minor, including detention, secure care, or
6119 any other secure or nonsecure residential placement.

6120 (7) Any information necessary to collect unpaid fines, fees, assessments, or restitution
6121 may be forwarded to employers, financial institutions, law enforcement, constables, the Office
6122 of Recovery Services, or other agencies for purposes of enforcing an order under this section.

6123 (8) (a) If, before the entry of any order terminating the juvenile court's continuing
6124 jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution
6125 ordered by the juvenile court, the juvenile court shall:

6126 (i) record all pertinent information for the unpaid balance in the minor's file; and

6127 (ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution
6128 as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in
6129 the civil judgment.

6130 (b) The juvenile court may not transfer responsibility to collect unpaid fines, fees,
6131 surcharges, and restitution for a minor's case to the Office of State Debt Collection created in
6132 Section [63A-3-502](#).

6133 Section 152. **Repealer.**

6134 This bill repeals:

- 6135 Section **76-6-412**, Theft -- Classification of offenses -- Action for treble damages.
- 6136 Section **76-6-506.5**, Financial transaction card offenses -- Classification -- Multiple
- 6137 **violations.**
- 6138 Section **76-6-606**, Penalty.
- 6139 Section **76-6-701**, Computer Crimes Act -- Short title.
- 6140 Section **76-6-802**, Presumption of intent.
- 6141 Section **76-6-804**, "Book or other library materials" defined.
- 6142 Section **76-6-805**, Penalty.
- 6143 Section **76-6-903**, Penalties.
- 6144 Section **76-6-1004**, Presumptions and defenses.
- 6145 Section **76-6-1201**, Title.
- 6146 Section **76-6-1204**, Classification of offense.
- 6147 Section **76-6-1301**, Title.
- 6148 Section **76-6-1401**, Title.
- 6149 Section **76-6-1407**, Violation by dealer -- Penalty -- Local regulation not less
- 6150 **stringent.**
- 6151 Section **76-6a-1**, Short title.
- 6152 Section **76-6a-3**, Schemes prohibited -- Violation as deceptive consumer sales
- 6153 **practice -- Prosecution of civil violations.**
- 6154 Section **76-6a-4**, Operation as felony -- Participation as misdemeanor --
- 6155 **Investigation -- Prosecution.**
- 6156 Section **76-6a-5**, Plan provisions not constituting defenses.