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**GENDER AMENDMENTS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael S. Kennedy**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill defines "gender" for the Utah Code and amends and enacts provisions relating to gender.

**Highlighted Provisions:**

This bill:

- ▶ defines "gender" for the Utah Code;
- ▶ defines other terms;
- ▶ prohibits a student from using a gender-segregated public school bathroom that does not correspond to the student's phenotype;
- ▶ requires a school district or charter school board to provide reasonable bathroom accommodations upon request of certain students;
- ▶ requires a local school board or charter school governing board to establish a certain policy; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

**Utah Code Sections Affected:**

AMENDS:



- 28            **11-25-12**, as enacted by Laws of Utah 1977, Chapter 276
- 29            **13-7-1**, as last amended by Laws of Utah 2010, Chapter 378
- 30            **13-7-3**, as last amended by Laws of Utah 1973, Chapter 18
- 31            **17-28-2.6**, as last amended by Laws of Utah 2001, Chapter 73
- 32            **17-33-3**, as last amended by Laws of Utah 2001, Chapter 73
- 33            **26-1-7.5**, as last amended by Laws of Utah 2011, Chapter 297
- 34            **26-8a-501**, as enacted by Laws of Utah 1999, Chapter 141
- 35            **30-1-2**, as last amended by Laws of Utah 1999, Chapter 15
- 36            **30-3-10**, as last amended by Laws of Utah 2013, Chapter 22
- 37            **31A-22-405**, as last amended by Laws of Utah 2002, Chapter 308
- 38            **34A-5-104**, as last amended by Laws of Utah 2012, Chapter 369
- 39            **34A-5-106**, as last amended by Laws of Utah 2013, Chapter 278
- 40            **34A-5-107**, as last amended by Laws of Utah 2008, Chapter 382
- 41            **35A-8-703**, as renumbered and amended by Laws of Utah 2012, Chapter 212
- 42            **53-10-406**, as last amended by Laws of Utah 2010, Chapter 405
- 43            **53A-11-1304**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 44            **53A-15-205**, as last amended by Laws of Utah 2013, Chapter 167
- 45            **53B-13a-104**, as last amended by Laws of Utah 2011, Chapter 11
- 46            **58-31b-502**, as last amended by Laws of Utah 2012, Chapter 234
- 47            **67-19-3.1**, as last amended by Laws of Utah 2010, Chapter 249
- 48            **67-19-18**, as last amended by Laws of Utah 2010, Chapter 249
- 49            **68-3-12.5**, as last amended by Laws of Utah 2011, Chapter 366
- 50            **78A-6-505**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 51            **78B-14-311 (Superseded 07/01/15)**, as renumbered and amended by Laws of Utah
- 52            2008, Chapter 3
- 53            **78B-14-311 (Effective 07/01/15)**, as last amended by Laws of Utah 2011, Chapter 412

54 ENACTS:

- 55            **53A-11-1501**, Utah Code Annotated 1953

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

58            Section 1. Section **11-25-12** is amended to read:

59 **11-25-12. Equal opportunity requirements.**

60 The agency shall require that any residence which is rehabilitated with financing  
61 obtained under this part shall, until that financing is repaid, be open, upon sale or rental of any  
62 portion thereof, to all regardless of race, creed, color, [~~sex~~] gender, marital status, or national  
63 origin. The agency shall also require that contractors and subcontractors engaged in residential  
64 rehabilitation financed under this part shall provide equal opportunity for employment, without  
65 discrimination as to race, color, creed, [~~sex~~] gender, marital status, or national origin. All  
66 contracts and subcontracts for residential rehabilitation financed under this part shall be let  
67 without discrimination as to race, color, creed, [~~sex~~] gender, marital status, or national origin.

68 Section 2. Section 13-7-1 is amended to read:

69 **13-7-1. Policy and purposes of act.**

70 It is hereby declared that the practice of discrimination on the basis of race, color, [~~sex~~]  
71 gender, religion, ancestry, or national origin in business establishments or places of public  
72 accommodation or in enterprises regulated by the state endangers the health, safety, and general  
73 welfare of this state and its inhabitants; and that such discrimination in business establishments  
74 or places of public accommodation or in enterprises regulated by the state, violates the public  
75 policy of this state. It is the purpose of this act to assure all citizens full and equal availability  
76 of all goods, services and facilities offered by business establishments and places of public  
77 accommodation and enterprises regulated by the state without discrimination because of race,  
78 color, [~~sex~~] gender, religion, ancestry, or national origin. The rules of common law that  
79 statutes in derogation thereof shall be strictly construed has no application to this act. This act  
80 shall be liberally construed with a view to promote the policy and purposes of the act and to  
81 promote justice. The remedies provided herein are not exclusive but are in addition to any  
82 other remedies available at law or equity.

83 Section 3. Section 13-7-3 is amended to read:

84 **13-7-3. Equal right in business establishments, places of public accommodation,**  
85 **and enterprises regulated by the state.**

86 All persons within the jurisdiction of this state are free and equal and are entitled to full  
87 and equal accommodations, advantages, facilities, privileges, goods and services in all business  
88 establishments and in all places of public accommodation, and by all enterprises regulated by  
89 the state of every kind whatsoever, without discrimination on the basis of race, color, [~~sex~~]

90 gender, religion, ancestry or national origin. Nothing in this act shall be construed to deny any  
91 person the right to regulate the operation of a business establishment or place of public  
92 accommodation or an enterprise regulated by the state in a manner which applies uniformly to  
93 all persons without regard to race, color, [~~sex~~] gender, religion, ancestry, or national origin; or  
94 to deny any religious organization the right to regulate the operation and procedures of its  
95 establishments.

96 Section 4. Section 17-28-2.6 is amended to read:

97 **17-28-2.6. Merit principles.**

98 The County Fire Civil Service System shall be established and administered in a  
99 manner that will provide for the effective implementation of the following merit principles:

100 (1) recruiting, selecting, and advancing employees on the basis of their relative ability,  
101 knowledge, and skills, including open consideration of qualified applicants for initial  
102 appointment;

103 (2) provision of equitable and adequate job classification and compensation systems,  
104 including pay and benefits programs;

105 (3) training of employees as needed to assure high-quality performance;

106 (4) retention of employees on the basis of the adequacy of their performance and  
107 separation of employees whose inadequate performance cannot be corrected;

108 (5) fair treatment of applicants and employees in all aspects of personal administration  
109 without regard to race, color, religion, [~~sex~~] gender, national origin, political affiliation, age, or  
110 disability, and with proper regard for their privacy and constitutional rights as citizens;

111 (6) provision of information to employees regarding their political rights and  
112 prohibited practices under the Hatch Act; and

113 (7) provision of a formal procedure for processing the appeals and grievances of  
114 employees without discrimination, coercion, restraint, or reprisal.

115 Section 5. Section 17-33-3 is amended to read:

116 **17-33-3. Merit principles.**

117 It is the policy of this state that each county may establish a personnel system  
118 administered in a manner that will provide for the effective implementation of the following  
119 merit principles:

120 (1) recruiting, selecting, and advancing employees on the basis of their relative ability,

- 121 knowledge, and skills, including open consideration of qualified applicants for initial  
122 appointment;
- 123 (2) provision of equitable and adequate compensation;
- 124 (3) training of employees as needed to assure high-quality performance;
- 125 (4) retention of employees on the basis of the adequacy of their performance, and  
126 separation of employees whose inadequate performance cannot be corrected;
- 127 (5) fair treatment of applicants and employees in all aspects of personnel  
128 administration without regard to race, color, religion, [~~sex~~] gender, national origin, political  
129 affiliation, age, or disability, and with proper regard for their privacy and constitutional rights  
130 as citizens;
- 131 (6) provision of information to employees regarding their political rights and  
132 prohibited practices under the Hatch Act; and
- 133 (7) provision of a formal procedure for processing the appeals and grievances of  
134 employees without discrimination, coercion, restraint, or reprisal.

135 Section 6. Section **26-1-7.5** is amended to read:

136 **26-1-7.5. Health advisory council.**

- 137 (1) (a) There is created the Utah Health Advisory Council, comprised of nine persons  
138 appointed by the governor.
- 139 (b) The governor shall ensure that:
- 140 (i) members of the council:
- 141 (A) broadly represent the public interest;
- 142 (B) have an interest in or knowledge of public health, environmental health, health  
143 planning, health care financing, or health care delivery systems; and
- 144 (C) include health professionals;
- 145 (ii) the majority of the membership are nonhealth professionals;
- 146 (iii) no more than five persons are from the same political party; and
- 147 (iv) geography, [~~sex~~] gender, and ethnicity balance are considered when selecting the  
148 members.
- 149 (2) (a) Except as required by Subsection (2)(b), members of the council shall be  
150 appointed to four-year terms.
- 151 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the

152 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
153 council members are staggered so that approximately half of the council is appointed every two  
154 years.

155 (c) Terms of office for subsequent appointments shall commence on July 1 of the year  
156 in which the appointment occurs.

157 (3) (a) When a vacancy occurs in the membership for any reason, the replacement shall  
158 be appointed for the unexpired term.

159 (b) No person shall be appointed to the council for more than two consecutive terms.

160 (c) The chair of the council shall be appointed by the governor from the membership of  
161 the council.

162 (4) The council shall meet at least quarterly or more frequently as determined necessary  
163 by the chair. A quorum for conducting business shall consist of four members of the council.

164 (5) A member may not receive compensation or benefits for the member's service, but,  
165 at the executive director's discretion, may receive per diem and travel expenses in accordance  
166 with:

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

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

169 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
170 [63A-3-107](#).

171 (6) The council shall be empowered to advise the department on any subject deemed to  
172 be appropriate by the council except that the council may not become involved in  
173 administrative matters. The council shall also advise the department as requested by the  
174 executive director.

175 (7) The executive director shall ensure that the council has adequate staff support and  
176 shall provide any available information requested by the council necessary for their  
177 deliberations. The council shall observe confidential requirements placed on the department in  
178 the use of such information.

179 Section 7. Section **26-8a-501** is amended to read:

180 **26-8a-501. Discrimination.**

181 (1) No person licensed, certified, or designated pursuant to this chapter may  
182 discriminate in the provision of emergency medical services on the basis of race, [~~sex~~] gender,

183 color, creed, or prior inquiry as to ability to pay.

184 (2) This chapter does not authorize or require medical assistance or transportation over  
185 the objection of an individual on religious grounds.

186 Section 8. Section **30-1-2** is amended to read:

187 **30-1-2. Marriages prohibited and void.**

188 The following marriages are prohibited and declared void:

189 (1) when there is a husband or wife living, from whom the person marrying has not  
190 been divorced;

191 (2) when the male or female is under 18 years of age unless consent is obtained as  
192 provided in Section **30-1-9**;

193 (3) when the male or female is under 14 years of age or, beginning May 3, 1999, when  
194 the male or female is under 16 years of age at the time the parties attempt to enter into the  
195 marriage; however, exceptions may be made for a person 15 years of age, under conditions set  
196 in accordance with Section **30-1-9**;

197 (4) between a divorced person and any person other than the one from whom the  
198 divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until  
199 after the affirmance of the decree; and

200 (5) between persons of the same ~~[sex]~~ gender.

201 Section 9. Section **30-3-10** is amended to read:

202 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
203 **consideration.**

204 (1) If a husband and wife having minor children are separated, or their marriage is  
205 declared void or dissolved, the court shall make an order for the future care and custody of the  
206 minor children as it considers appropriate.

207 (a) In determining any form of custody, including a change in custody, the court shall  
208 consider the best interests of the child without preference for either the mother or father solely  
209 because of the ~~[biological sex]~~ gender of the parent and, among other factors the court finds  
210 relevant, the following:

211 (i) the past conduct and demonstrated moral standards of each of the parties;

212 (ii) which parent is most likely to act in the best interest of the child, including  
213 allowing the child frequent and continuing contact with the noncustodial parent;

214 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
215 and nature of the relationship between a parent and child; and

216 (iv) those factors outlined in Section 30-3-10.2.

217 (b) There shall be a rebuttable presumption that joint legal custody, as defined in  
218 Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

219 (i) domestic violence in the home or in the presence of the child;

220 (ii) special physical or mental needs of a parent or child, making joint legal custody  
221 unreasonable;

222 (iii) physical distance between the residences of the parents, making joint decision  
223 making impractical in certain circumstances; or

224 (iv) any other factor the court considers relevant including those listed in this section  
225 and Section 30-3-10.2.

226 (c) The person who desires joint legal custody shall file a proposed parenting plan in  
227 accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may  
228 be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of  
229 the child.

230 (d) The children may not be required by either party to testify unless the trier of fact  
231 determines that extenuating circumstances exist that would necessitate the testimony of the  
232 children be heard and there is no other reasonable method to present their testimony.

233 (e) The court may inquire of the children and take into consideration the children's  
234 desires regarding future custody or parent-time schedules, but the expressed desires are not  
235 controlling and the court may determine the children's custody or parent-time otherwise. The  
236 desires of a child 14 years of age or older shall be given added weight, but is not the single  
237 controlling factor.

238 (f) If interviews with the children are conducted by the court pursuant to Subsection  
239 (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be  
240 obtained but is not necessary if the court finds that an interview with the children is the only  
241 method to ascertain the child's desires regarding custody.

242 (2) In awarding custody, the court shall consider, among other factors the court finds  
243 relevant, which parent is most likely to act in the best interests of the child, including allowing  
244 the child frequent and continuing contact with the noncustodial parent as the court finds



245 appropriate.

246 (3) If the court finds that one parent does not desire custody of the child, the court shall  
247 take that evidence into consideration in determining whether to award custody to the other  
248 parent.

249 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a  
250 parent due to a disability, as defined in Section [57-21-2](#), in awarding custody or determining  
251 whether a substantial change has occurred for the purpose of modifying an award of custody.

252 (b) If a court takes a parent's disability into account in awarding custody or determining  
253 whether a substantial change has occurred for the purpose of modifying an award of custody,  
254 the parent with a disability may rebut any evidence, presumption, or inference arising from the  
255 disability by showing that:

256 (i) the disability does not significantly or substantially inhibit the parent's ability to  
257 provide for the physical and emotional needs of the child at issue; or

258 (ii) the parent with a disability has sufficient human, monetary, or other resources  
259 available to supplement the parent's ability to provide for the physical and emotional needs of  
260 the child at issue.

261 (c) Nothing in this section may be construed to apply to adoption proceedings under  
262 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

263 (5) This section establishes neither a preference nor a presumption for or against joint  
264 physical custody or sole physical custody, but allows the court and the family the widest  
265 discretion to choose a parenting plan that is in the best interest of the child.

266 Section 10. Section **31A-22-405** is amended to read:

267 **31A-22-405. Misstated age or gender.**

268 (1) For purposes of this section, "gender" is not as defined in Section [68-3-12.5](#).

269 ~~(1)~~ (2) Subject to Subsection ~~[(2)]~~ (3), if the age or gender of the person whose life is  
270 at risk is misstated in an application for a policy of life insurance, and the error is not adjusted  
271 during the person's lifetime, the amount payable under the policy is what the premium paid  
272 would have purchased if the age or gender had been stated correctly.

273 ~~[(3)]~~ (3) If the person whose life is at risk was, at the time the insurance was applied  
274 for, beyond the maximum age limit designated by the insurer, the insurer shall refund at least  
275 the amount of the premiums collected under the policy.

276 Section 11. Section **34A-5-104** is amended to read:

277 **34A-5-104. Powers.**

278 (1) (a) The commission has jurisdiction over the subject of employment practices and  
279 discrimination made unlawful by this chapter.

280 (b) The commission may adopt, publish, amend, and rescind rules, consistent with, and  
281 for the enforcement of this chapter.

282 (2) The division may:

283 (a) appoint and prescribe the duties of investigators and other employees and agents  
284 that it considers necessary for the enforcement of this chapter;

285 (b) receive, reject, investigate, and pass upon complaints alleging:

286 (i) discrimination in:

287 (A) employment;

288 (B) apprenticeship programs;

289 (C) on-the-job training programs; and

290 (D) vocational schools; or

291 (ii) the existence of a discriminatory or prohibited employment practice by:

292 (A) a person;

293 (B) an employer;

294 (C) an employment agency;

295 (D) a labor organization;

296 (E) the employees or members of an employment agency or labor organization;

297 (F) a joint apprenticeship committee; and

298 (G) vocational school;

299 (c) investigate and study the existence, character, causes, and extent of discrimination  
300 in employment, apprenticeship programs, on-the-job training programs, and vocational schools  
301 in this state by:

302 (i) employers;

303 (ii) employment agencies;

304 (iii) labor organizations;

305 (iv) joint apprenticeship committees; and

306 (v) vocational schools;

- 307 (d) formulate plans for the elimination of discrimination by educational or other  
308 means;
- 309 (e) hold hearings upon complaint made against:
- 310 (i) a person;
- 311 (ii) an employer;
- 312 (iii) an employment agency;
- 313 (iv) a labor organization;
- 314 (v) the employees or members of an employment agency or labor organization;
- 315 (vi) a joint apprenticeship committee; or
- 316 (vii) a vocational school;
- 317 (f) issue publications and reports of investigations and research that:
- 318 (i) promote good will among the various racial, religious, and ethnic groups of the  
319 state; and
- 320 (ii) minimize or eliminate discrimination in employment because of race, color, [~~sex~~]  
321 gender, religion, national origin, age, or disability;
- 322 (g) prepare and transmit to the governor, at least once each year, reports describing:
- 323 (i) its proceedings, investigations, and hearings;
- 324 (ii) the outcome of those hearings;
- 325 (iii) decisions the division has rendered; and
- 326 (iv) the other work performed by the division;
- 327 (h) recommend policies to the governor, and submit recommendation to employers,  
328 employment agencies, and labor organizations to implement those policies;
- 329 (i) recommend any legislation concerning discrimination because of race, [~~sex~~] gender,  
330 color, national origin, religion, age, or disability to the governor that it considers necessary; and
- 331 (j) within the limits of any appropriations made for its operation, cooperate with other  
332 agencies or organizations, both public and private, in the planning and conducting of  
333 educational programs designed to eliminate discriminatory practices prohibited under this  
334 chapter.
- 335 (3) The division shall investigate alleged discriminatory practices involving officers or  
336 employees of state government if requested to do so by the Career Service Review Office.
- 337 (4) (a) In any hearing held under this chapter, the division may:

338 (i) subpoena witnesses and compel their attendance at the hearing;  
339 (ii) administer oaths and take the testimony of any person under oath; and  
340 (iii) compel any person to produce for examination any books, papers, or other  
341 information relating to the matters raised by the complaint.

342 (b) The division director or a hearing examiner appointed by the division director may  
343 conduct hearings.

344 (c) If a witness fails or refuses to obey a subpoena issued by the division, the division  
345 may petition the district court to enforce the subpoena.

346 (d) In the event a witness asserts a privilege against self-incrimination, testimony and  
347 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of  
348 Immunity.

349 Section 12. Section **34A-5-106** is amended to read:

350 **34A-5-106. Discriminatory or prohibited employment practices -- Permitted**  
351 **practices.**

352 (1) It is a discriminatory or prohibited employment practice to take any action  
353 described in Subsections (1)(a) through (f).

354 (a) (i) An employer may not refuse to hire, promote, discharge, demote, or terminate  
355 any person, or to retaliate against, harass, or discriminate in matters of compensation or in  
356 terms, privileges, and conditions of employment against any person otherwise qualified,  
357 because of:

- 358 (A) race;
- 359 (B) color;
- 360 (C) [~~sex~~] gender;
- 361 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 362 (E) age, if the individual is 40 years of age or older;
- 363 (F) religion;
- 364 (G) national origin; or
- 365 (H) disability.

366 (ii) A person may not be considered "otherwise qualified," unless that person possesses  
367 the following required by an employer for any particular job, job classification, or position:

- 368 (A) education;

- 369 (B) training;
- 370 (C) ability, with or without reasonable accommodation;
- 371 (D) moral character;
- 372 (E) integrity;
- 373 (F) disposition to work;
- 374 (G) adherence to reasonable rules and regulations; and
- 375 (H) other job related qualifications required by an employer.
- 376 (iii) (A) As used in this chapter, "to discriminate in matters of compensation" means
- 377 the payment of differing wages or salaries to employees having substantially equal experience,
- 378 responsibilities, and skill for the particular job.
- 379 (B) Notwithstanding Subsection (1)(a)(iii)(A):
- 380 (I) nothing in this chapter prevents increases in pay as a result of longevity with the
- 381 employer, if the salary increases are uniformly applied and available to all employees on a
- 382 substantially proportional basis; and
- 383 (II) nothing in this section prohibits an employer and employee from agreeing to a rate
- 384 of pay or work schedule designed to protect the employee from loss of Social Security payment
- 385 or benefits if the employee is eligible for those payments.
- 386 (b) An employment agency may not:
- 387 (i) refuse to list and properly classify for employment, or refuse to refer an individual
- 388 for employment, in a known available job for which the individual is otherwise qualified,
- 389 because of:
- 390 (A) race;
- 391 (B) color;
- 392 (C) [~~sex~~] gender;
- 393 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 394 (E) religion;
- 395 (F) national origin;
- 396 (G) age, if the individual is 40 years of age or older; or
- 397 (H) disability; or
- 398 (ii) comply with a request from an employer for referral of applicants for employment
- 399 if the request indicates either directly or indirectly that the employer discriminates in

400 employment on account of:

- 401 (A) race;
- 402 (B) color;
- 403 (C) [~~sex~~] gender;
- 404 (D) pregnancy, childbirth, or pregnancy-related conditions;
- 405 (E) religion;
- 406 (F) national origin;
- 407 (G) age, if the individual is 40 years of age or older; or
- 408 (H) disability.

409 (c) A labor organization may not exclude any individual otherwise qualified from full  
410 membership rights in the labor organization, expel the individual from membership in the labor  
411 organization, or otherwise discriminate against or harass any of the labor organization's  
412 members in full employment of work opportunity, or representation, because of:

- 413 (i) race;
- 414 (ii) [~~sex~~] gender;
- 415 (iii) pregnancy, childbirth, or pregnancy-related conditions;
- 416 (iv) religion;
- 417 (v) national origin;
- 418 (vi) age, if the individual is 40 years of age or older; or
- 419 (vii) disability.

420 (d) Unless based upon a bona fide occupational qualification, or required by and given  
421 to an agency of government for security reasons, an employer, employment agency, or labor  
422 organization may not print, or circulate, or cause to be printed or circulated, any statement,  
423 advertisement, or publication, use any form of application for employment or membership, or  
424 make any inquiry in connection with prospective employment or membership that expresses,  
425 either directly or indirectly:

- 426 (i) any limitation, specification, or discrimination as to:
  - 427 (A) race;
  - 428 (B) color;
  - 429 (C) religion;
  - 430 (D) [~~sex~~] gender;

431 (E) pregnancy, childbirth, or pregnancy-related conditions;

432 (F) national origin;

433 (G) age, if the individual is 40 years of age or older; or

434 (H) disability; or

435 (ii) the intent to make any limitation, specification, or discrimination described in

436 Subsection (1)(d)(i).

437 (e) A person, whether or not an employer, an employment agency, a labor organization,

438 or the employees or members of an employer, employment agency, or labor organization, may

439 not:

440 (i) aid, incite, compel, or coerce the doing of an act defined in this section to be a

441 discriminatory or prohibited employment practice;

442 (ii) obstruct or prevent any person from complying with this chapter, or any order

443 issued under this chapter; or

444 (iii) attempt, either directly or indirectly, to commit any act prohibited in this section.

445 (f) (i) An employer, labor organization, joint apprenticeship committee, or vocational

446 school, providing, coordinating, or controlling apprenticeship programs, or providing,

447 coordinating, or controlling on-the-job-training programs, instruction, training, or retraining

448 programs may not:

449 (A) deny to, or withhold from, any qualified person, the right to be admitted to, or

450 participate in any apprenticeship training program, on-the-job-training program, or other

451 occupational instruction, training or retraining program because of:

452 (I) race;

453 (II) color;

454 (III) [~~sex~~] gender;

455 (IV) pregnancy, childbirth, or pregnancy-related conditions;

456 (V) religion;

457 (VI) national origin;

458 (VII) age, if the individual is 40 years of age or older; or

459 (VIII) disability;

460 (B) discriminate against or harass any qualified person in that person's pursuit of

461 programs described in Subsection (1)(f)(i)(A), or to discriminate against such a person in the

462 terms, conditions, or privileges of programs described in Subsection (1)(f)(i)(A), because of:

- 463 (I) race;
- 464 (II) color;
- 465 (III) [~~sex~~] gender;
- 466 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 467 (V) religion;
- 468 (VI) national origin;
- 469 (VII) age, if the individual is 40 years of age or older; or
- 470 (VIII) disability; or

471 (C) except as provided in Subsection (1)(f)(ii), print, publish, or cause to be printed or  
472 published, any notice or advertisement relating to employment by the employer, or membership  
473 in or any classification or referral for employment by a labor organization, or relating to any  
474 classification or referral for employment by an employment agency, indicating any preference,  
475 limitation, specification, or discrimination based on:

- 476 (I) race;
- 477 (II) color;
- 478 (III) [~~sex~~] gender;
- 479 (IV) pregnancy, childbirth, or pregnancy-related conditions;
- 480 (V) religion;
- 481 (VI) national origin;
- 482 (VII) age, if the individual is 40 years of age or older; or
- 483 (VIII) disability.

484 (ii) Notwithstanding Subsection (1)(f)(i)(C), if the following is a bona fide  
485 occupational qualification for employment, a notice or advertisement described in Subsection  
486 (1)(f)(i)(C) may indicate a preference, limitation, specification, or discrimination based on:

- 487 (A) race;
- 488 (B) color;
- 489 (C) religion;
- 490 (D) [~~sex~~] gender;
- 491 (E) pregnancy, childbirth, or pregnancy-related conditions;
- 492 (F) age;



493 (G) national origin; or

494 (H) disability.

495 (2) Nothing contained in Subsections (1)(a) through (1)(f) shall be construed to  
496 prevent:

497 (a) the termination of employment of an individual who, with or without reasonable  
498 accommodation, is physically, mentally, or emotionally unable to perform the duties required  
499 by that individual's employment;

500 (b) the variance of insurance premiums or coverage on account of age; or

501 (c) a restriction on the activities of individuals licensed by the liquor authority with  
502 respect to persons under 21 years of age.

503 (3) (a) It is not a discriminatory or prohibited employment practice:

504 (i) for an employer to hire and employ employees, for an employment agency to  
505 classify or refer for employment any individual, for a labor organization to classify its  
506 membership or to classify or refer for employment any individual or for an employer, labor  
507 organization, or joint labor-management committee controlling apprenticeship or other training  
508 or retraining programs to admit or employ any individual in any such program, on the basis of  
509 religion, [~~sex~~] gender, pregnancy, childbirth, or pregnancy-related conditions, age, national  
510 origin, or disability in those certain instances where religion, [~~sex~~] gender, pregnancy,  
511 childbirth, or pregnancy-related conditions, age, if the individual is 40 years of age or older,  
512 national origin, or disability is a bona fide occupational qualification reasonably necessary to  
513 the normal operation of that particular business or enterprise;

514 (ii) for a school, college, university, or other educational institution to hire and employ  
515 employees of a particular religion if:

516 (A) the school, college, university, or other educational institution is, in whole or in  
517 substantial part, owned, supported, controlled, or managed by a particular religious corporation,  
518 association, or society; or

519 (B) the curriculum of the school, college, university, or other educational institution is  
520 directed toward the propagation of a particular religion;

521 (iii) for an employer to give preference in employment to:

522 (A) the employer's:

523 (I) spouse;

524 (II) child; or

525 (III) son-in-law or daughter-in-law;

526 (B) any person for whom the employer is or would be liable to furnish financial  
527 support if those persons were unemployed;

528 (C) any person to whom the employer during the preceding six months has furnished  
529 more than one-half of total financial support regardless of whether or not the employer was or  
530 is legally obligated to furnish support; or

531 (D) any person whose education or training was substantially financed by the employer  
532 for a period of two years or more.

533 (b) Nothing in this chapter applies to any business or enterprise on or near an Indian  
534 reservation with respect to any publicly announced employment practice of the business or  
535 enterprise under which preferential treatment is given to any individual because that individual  
536 is a native American Indian living on or near an Indian reservation.

537 (c) Nothing in this chapter shall be interpreted to require any employer, employment  
538 agency, labor organization, vocational school, joint labor-management committee, or  
539 apprenticeship program subject to this chapter to grant preferential treatment to any individual  
540 or to any group because of the race, color, religion, [~~sex~~] gender, age, national origin, or  
541 disability of the individual or group on account of an imbalance which may exist with respect  
542 to the total number or percentage of persons of any race, color, religion, [~~sex~~] gender, age,  
543 national origin, or disability employed by any employer, referred or classified for employment  
544 by an employment agency or labor organization, admitted to membership or classified by any  
545 labor organization, or admitted to or employed in, any apprenticeship or other training  
546 program, in comparison with the total number or percentage of persons of that race, color,  
547 religion, [~~sex~~] gender, age, national origin, or disability in any community or county or in the  
548 available work force in any community or county.

549 (4) It is not a discriminatory or prohibited practice with respect to age to observe the  
550 terms of a bona fide seniority system or any bona fide employment benefit plan such as a  
551 retirement, pension, or insurance plan that is not a subterfuge to evade the purposes of this  
552 chapter, except that no such employee benefit plan shall excuse the failure to hire an individual.

553 (5) Notwithstanding Subsection (4), or any other statutory provision to the contrary, a  
554 person may not be subject to involuntary termination or retirement from employment on the

555 basis of age alone, if the individual is 40 years of age or older, except:

556 (a) under Subsection (6); and

557 (b) when age is a bona fide occupational qualification.

558 (6) Nothing in this section prohibits compulsory retirement of an employee who has  
559 attained at least 65 years of age, and who, for the two-year period immediately before  
560 retirement, is employed in a bona fide executive or a high policymaking position, if:

561 (a) that employee is entitled to an immediate nonforfeitable annual retirement benefit  
562 from the employee's employer's pension, profit-sharing, savings, or deferred compensation  
563 plan, or any combination of those plans; and

564 (b) the benefit described in Subsection (6)(a) equals, in the aggregate, at least \$44,000.

565 Section 13. Section **34A-5-107** is amended to read:

566 **34A-5-107. Procedure for aggrieved person to file claim -- Investigations --**

567 **Adjudicative proceedings -- Settlement -- Reconsideration -- Determination.**

568 (1) (a) Any person claiming to be aggrieved by a discriminatory or prohibited  
569 employment practice may, or that person's attorney or agent may, make, sign, and file with the  
570 division a request for agency action.

571 (b) Every request for agency action shall be verified under oath or affirmation.

572 (c) A request for agency action made under this section shall be filed within 180 days  
573 after the alleged discriminatory or prohibited employment practice occurred.

574 (d) The division may transfer a request for agency action filed with the division  
575 pursuant to this section to the federal Equal Employment Opportunity Commission in  
576 accordance with the provisions of any work-share agreement that is:

577 (i) between the division and the Equal Employment Opportunity Commission; and

578 (ii) in effect on the day on which the request for agency action is transferred.

579 (2) Any employer, labor organization, joint apprenticeship committee, or vocational  
580 school who has an employee or member who refuses or threatens to refuse to comply with this  
581 chapter may file with the division a request for agency action asking the division for assistance  
582 to obtain the employee's or member's compliance by conciliation or other remedial action.

583 (3) (a) Before a hearing is set or held as part of any adjudicative proceeding, the  
584 division shall promptly assign an investigator to attempt a settlement between the parties by  
585 conference, conciliation, or persuasion.

586 (b) If no settlement is reached, the investigator shall make a prompt impartial  
587 investigation of all allegations made in the request for agency action.

588 (c) The division and its staff, agents, and employees:

589 (i) shall conduct every investigation in fairness to all parties and agencies involved;  
590 and

591 (ii) may not attempt a settlement between the parties if it is clear that no discriminatory  
592 or prohibited employment practice has occurred.

593 (d) An aggrieved party may withdraw the request for agency action prior to the  
594 issuance of a final order.

595 (4) (a) If the initial attempts at settlement are unsuccessful, and the investigator  
596 uncovers insufficient evidence during the investigation to support the allegations of a  
597 discriminatory or prohibited employment practice set out in the request for agency action, the  
598 investigator shall formally report these findings to the director or the director's designee.

599 (b) Upon receipt of the investigator's report described in Subsection (4)(a), the director  
600 or the director's designee may issue a determination and order for dismissal of the adjudicative  
601 proceeding.

602 (c) A party may make a written request to the Division of Adjudication for an  
603 evidentiary hearing to review de novo the director's or the director's designee's determination  
604 and order within 30 days of the date the determination and order for dismissal is issued.

605 (d) If the director or the director's designee receives no timely request for a hearing, the  
606 determination and order issued by the director or the director's designee becomes the final order  
607 of the commission.

608 (5) (a) If the initial attempts at settlement are unsuccessful and the investigator  
609 uncovers sufficient evidence during the investigation to support the allegations of a  
610 discriminatory or prohibited employment practice set out in the request for agency action, the  
611 investigator shall formally report these findings to the director or the director's designee.

612 (b) (i) Upon receipt of the investigator's report described in Subsection (5)(a), the  
613 director or the director's designee may issue a determination and order based on the  
614 investigator's report.

615 (ii) A determination and order issued under this Subsection (5)(b) shall:

616 (A) direct the respondent to cease any discriminatory or prohibited employment

617 practice; and

618 (B) provide relief to the aggrieved party as the director or the director's designee  
619 determines is appropriate.

620 (c) A party may file a written request to the Division of Adjudication for an evidentiary  
621 hearing to review de novo the director's or the director's designee's determination and order  
622 within 30 days of the date the determination and order is issued.

623 (d) If the director or the director's designee receives no timely request for a hearing, the  
624 determination and order issued by the director or the director's designee in accordance with  
625 Subsection (5)(b) becomes the final order of the commission.

626 (6) In any adjudicative proceeding to review the director's or the director's designee's  
627 determination that a prohibited employment practice has occurred, the division shall present the  
628 factual and legal basis of the determination or order issued under Subsection (5).

629 (7) (a) Prior to commencement of an evidentiary hearing:

630 (i) the party filing the request for agency action may reasonably and fairly amend any  
631 allegation; and

632 (ii) the respondent may amend its answer.

633 (b) An amendment permitted under this Subsection (7) may be made:

634 (i) during or after a hearing; and

635 (ii) only with permission of the presiding officer.

636 (8) (a) If, upon all the evidence at a hearing, the presiding officer finds that a  
637 respondent has not engaged in a discriminatory or prohibited employment practice, the  
638 presiding officer shall issue an order dismissing the request for agency action containing the  
639 allegation of a discriminatory or prohibited employment practice.

640 (b) The presiding officer may order that the respondent be reimbursed by the  
641 complaining party for the respondent's attorneys' fees and costs.

642 (9) If upon all the evidence at the hearing, the presiding officer finds that a respondent  
643 has engaged in a discriminatory or prohibited employment practice, the presiding officer shall  
644 issue an order requiring the respondent to:

645 (a) cease any discriminatory or prohibited employment practice; and

646 (b) provide relief to the complaining party, including:

647 (i) reinstatement;

648 (ii) back pay and benefits;

649 (iii) attorneys' fees; and

650 (iv) costs.

651 (10) Conciliation between the parties is to be urged and facilitated at all stages of the  
652 adjudicative process.

653 (11) (a) Either party may file with the Division of Adjudication a written request for  
654 review before the commissioner or Appeals Board of the order issued by the presiding officer  
655 in accordance with:

656 (i) Section 63G-4-301; and

657 (ii) Chapter 1, Part 3, Adjudicative Proceedings.

658 (b) If there is no timely request for review, the order issued by the presiding officer  
659 becomes the final order of the commission.

660 (12) An order of the commission under Subsection (11)(a) is subject to judicial review  
661 as provided in:

662 (a) Section 63G-4-403; and

663 (b) Chapter 1, Part 3, Adjudicative Proceedings.

664 (13) The commission shall have authority to make rules concerning procedures under  
665 this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

666 (14) The commission and its staff may not divulge or make public any information  
667 gained from any investigation, settlement negotiation, or proceeding before the commission  
668 except as provided in Subsections (14)(a) through (d).

669 (a) Information used by the director or the director's designee in making any  
670 determination may be provided to all interested parties for the purpose of preparation for and  
671 participation in proceedings before the commission.

672 (b) General statistical information may be disclosed provided the identities of the  
673 individuals or parties are not disclosed.

674 (c) Information may be disclosed for inspection by the attorney general or other legal  
675 representatives of the state or the commission.

676 (d) Information may be disclosed for information and reporting requirements of the  
677 federal government.

678 (15) The procedures contained in this section are the exclusive remedy under state law

679 for employment discrimination based upon:

- 680 (a) race;
- 681 (b) color;
- 682 (c) [~~sex~~] gender;
- 683 (d) retaliation;
- 684 (e) pregnancy, childbirth, or pregnancy-related conditions;
- 685 (f) age;
- 686 (g) religion;
- 687 (h) national origin; or
- 688 (i) disability.

689 (16) (a) The commencement of an action under federal law for relief based upon any  
690 act prohibited by this chapter bars the commencement or continuation of any adjudicative  
691 proceeding before the commission in connection with the same claims under this chapter.

692 (b) The transfer of a request for agency action to the Equal Employment Opportunity  
693 Commission in accordance with Subsection (1)(d) is considered the commencement of an  
694 action under federal law for purposes of Subsection (16)(a).

695 (c) Nothing in this Subsection (16) is intended to alter, amend, modify, or impair the  
696 exclusive remedy provision set forth in Subsection (15).

697 Section 14. Section **35A-8-703** is amended to read:

698 **35A-8-703. Definitions.**

699 As used in this part the following words and terms have the following meanings, unless  
700 a different meaning clearly appears from the context:

701 (1) "Bonds," "notes," and "other obligations" mean any bonds, notes, debentures,  
702 interim certificates, or other evidences of financial indebtedness of the corporation authorized  
703 to be issued under the provisions of this part.

704 (2) "Construction loan" means a short-term advance of money for the purpose of  
705 constructing residential housing for low and moderate income persons.

706 (3) "Corporation" means the Utah Housing Corporation created by Section [35A-8-704](#),  
707 which, prior to July 1, 2001, was named the Utah Housing Finance Agency.

708 (4) "Employee of the corporation" means an individual who is employed by the  
709 corporation but who is not a trustee of the corporation.

- 710 (5) "Financial assistance" includes:
- 711 (a) a loan, whether interest or noninterest bearing, secured or unsecured;
- 712 (b) a loan that converts to a grant upon the occurrence of specified conditions;
- 713 (c) a development loan;
- 714 (d) a grant;
- 715 (e) an award;
- 716 (f) a subsidy;
- 717 (g) a guarantee;
- 718 (h) a warranty;
- 719 (i) a lease;
- 720 (j) a payment on behalf of a borrower of an amount usually paid by a borrower,
- 721 including a down payment;
- 722 (k) any other form of financial assistance that helps provide affordable housing for low
- 723 and moderate income persons; or
- 724 (l) any combination of Subsections (5)(a) through (k).
- 725 (6) "Housing development" means a residential housing project, which includes
- 726 residential housing for low and moderate income persons.
- 727 (7) "Housing sponsor" includes a person who constructs, develops, rehabilitates,
- 728 purchases, or owns a housing development that is or will be subject to legally enforceable
- 729 restrictive covenants that require the housing development to provide, at least in part,
- 730 residential housing to low and moderate income persons, including a local public body, a
- 731 nonprofit, limited profit, or for profit corporation, a limited partnership, a limited liability
- 732 company, a joint venture, a subsidiary of the corporation, or any subsidiary of the subsidiary, a
- 733 cooperative, a mutual housing organization, or any other type of entity or arrangement that
- 734 helps provide affordable housing for low and moderate income persons.
- 735 (8) "Interest rate contract" means interest rate exchange contracts, interest rate floor
- 736 contracts, interest rate ceiling contracts, and other similar contracts authorized in a resolution
- 737 or policy adopted or approved by the trustees.
- 738 (9) "Local public body" means the state, a municipality, county, district, or other
- 739 subdivision or instrumentality of the state, including a redevelopment agency and a housing
- 740 authority created under Part 4, Housing Authorities.



741 (10) "Low and moderate income persons" means persons, irrespective of race, religion,  
742 creed, national origin, or [~~sex~~] gender, as determined by the corporation to require such  
743 assistance as is made available by this part on account of insufficient personal or family income  
744 taking into consideration factors, including:

- 745 (a) the amount of income that persons and families have available for housing needs;
- 746 (b) the size of family;
- 747 (c) whether a person is a single head of household;
- 748 (d) the cost and condition of available residential housing; and
- 749 (e) the ability of persons and families to compete successfully in the normal private  
750 housing market and to pay the amounts at which private enterprise is providing decent, safe,  
751 and sanitary housing.

752 (11) "Mortgage" means a mortgage, deed of trust, or other instrument securing a  
753 mortgage loan and constituting a lien on real property (the property being held in fee simple or  
754 on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of  
755 not less than the term for repayment of the mortgage loan secured by the mortgage) improved  
756 or to be improved by residential housing, creating a lien which may be first priority or  
757 subordinate.

758 (12) "Mortgage lender" means a bank, trust company, savings and loan association,  
759 credit union, mortgage banker, or other financial institution authorized to transact business in  
760 the state, a local public body, or any other entity, profit or nonprofit, that makes mortgage  
761 loans.

762 (13) "Mortgage loan" means a loan secured by a mortgage, which loan may bear  
763 interest at either a fixed or variable rate or which may be noninterest bearing, the proceeds of  
764 which are used for the purpose of financing the construction, development, rehabilitation, or  
765 purchase of residential housing for low and moderate income persons, including low and  
766 moderate income persons who:

- 767 (a) are first-time homebuyers;
- 768 (b) are single heads of household;
- 769 (c) are elderly;
- 770 (d) are homeless; or
- 771 (e) have a disability.

772 (14) "Rehabilitation" includes the reconstruction, rehabilitation, improvement, and  
773 repair of residential housing.

774 (15) "Residential housing" means a specific work or improvement within the state  
775 undertaken primarily to provide dwelling accommodations, including land, buildings, and  
776 improvements to land and buildings, whether in one to four family units or multifamily units,  
777 and other incidental or appurtenant nonhousing facilities, or as otherwise specified by the  
778 agency.

779 (16) "State" means the state of Utah.

780 (17) "State housing credit ceiling" means the amount specified in Subsection  
781 42(h)(3)(C) of the Internal Revenue Code for each calendar year.

782 Section 15. Section **53-10-406** is amended to read:

783 **53-10-406. DNA specimen analysis -- Bureau responsibilities.**

784 (1) The bureau shall:

785 (a) administer and oversee the DNA specimen collection process;

786 (b) store all DNA specimens received and other physical evidence obtained from  
787 analysis of those specimens;

788 (c) analyze the specimens to establish the genetic profile of the donor or to otherwise  
789 determine the identity of persons or contract with other qualified public or private laboratories  
790 to conduct the analysis;

791 (d) maintain a criminal identification data base containing information derived from  
792 DNA analysis;

793 (e) utilize the specimens to create statistical population frequency data bases, provided  
794 that genetic profiles or other information in a population frequency data base may not be  
795 identified with specific individuals;

796 (f) ensure that the DNA identification system does not provide information allowing  
797 prediction of genetic disease or predisposition to illness;

798 (g) ensure that only DNA markers routinely used or accepted in the field of forensic  
799 science are used to establish the [~~gender~~] sex and unique individual identification of the donor;

800 (h) utilize only those DNA analysis procedures that are consistent with, and do not  
801 exceed, procedures established and used by the Federal Bureau of Investigation for the forensic  
802 analysis of DNA;

803 (i) destroy a DNA specimen obtained under this part if criminal charges have not been  
804 filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c);  
805 and

806 (j) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
807 Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA  
808 specimens and for storing and destroying DNA specimens and other physical evidence and  
809 criminal identification information obtained from the analysis.

810 (2) Procedures for DNA analysis may include all techniques which the Department of  
811 Public Safety determines are accurate and reliable in establishing identity, including but not  
812 limited to, analysis of DNA, antigen antibodies, polymorphic enzymes, or polymorphic  
813 proteins.

814 (3) (a) In accordance with Section 63G-2-305, all DNA specimens received shall be  
815 classified as protected.

816 (b) The Department of Public Safety may not transfer or disclose any DNA specimen,  
817 physical evidence, or criminal identification information obtained, stored, or maintained under  
818 this section, except under its provisions.

819 (4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if  
820 it determines that there is a reasonable likelihood that the inspection would prejudice a pending  
821 criminal investigation.

822 (5) The department shall adopt procedures governing the inspection of records, DNA  
823 specimens, and challenges to the accuracy of records. The procedures shall accommodate the  
824 need to preserve the materials from contamination and destruction.

825 (6) A person whose DNA specimen has been obtained under this part may, personally  
826 or through a legal representative, submit to the court a motion for a court order requiring the  
827 destruction of the person's DNA specimen and any criminal identification record created in  
828 connection with that specimen if:

829 (a) (i) a final judgment reverses the conviction, judgment, or order that created an  
830 obligation to provide a DNA specimen; or

831 (ii) all charges arising from the same criminal episode for which the DNA specimen  
832 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of  
833 dismissal or acquittal; and

834 (b) the department determines that the person has not otherwise become obligated to  
835 submit a DNA specimen as a result of any separate conviction or juvenile adjudication for any  
836 offense listed in Subsection 53-10-403(2).

837 (7) A court order issued under Subsection (6) may be accompanied by a written notice  
838 to the person advising that state law provides for expungement of criminal charges if the charge  
839 is resolved by a final judgment of dismissal or acquittal.

840 (8) Upon receipt of a court order for destruction pursuant to Subsection (6) and receipt  
841 of a certified copy of the court order reversing the conviction, judgment, or order, a certified  
842 copy of a court order to set aside the conviction, or a certified copy of the dismissal or acquittal  
843 of the charge regarding which the person was arrested, the Department of Public Safety shall  
844 destroy any specimen received from the person, any physical evidence obtained from that  
845 specimen, and any criminal identification records pertaining to the person, unless prohibited  
846 under Subsection (6)(b).

847 (9) The department is not required to destroy any item of physical evidence obtained  
848 from a DNA specimen if evidence relating to another person subject to the provisions of  
849 Sections 53-10-404 and 53-10-405 would as a result be destroyed.

850 (10) A DNA specimen, physical evidence, or criminal identification record may not be  
851 affected by an order to set aside a conviction, except under the provisions of this section.

852 (11) If funding is not available for analysis of any of the DNA specimens collected  
853 under this part, the bureau shall store the collected specimens until funding is made available  
854 for analysis through state or federal funds.

855 (12) (a) (i) A person who, due to the person's employment or authority, has possession  
856 of or access to individually identifiable DNA information contained in the state criminal  
857 identification database or the state DNA specimen repository may not willfully disclose the  
858 information in any manner to any individual, agency, or entity that is not entitled under this  
859 part to receive the information.

860 (ii) A person may not willfully obtain individually identifiable DNA information from  
861 the state criminal identification database or the state DNA repository other than as authorized  
862 by this part.

863 (iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain  
864 any information other than as required under this part.

865 (iv) A person may not willfully fail to destroy or fail to ensure the destruction of a  
866 DNA specimen when destruction is required by this part or by court order.

867 (b) (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third  
868 degree felony.

869 (ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.  
870 Section 16. Section **53A-11-1304** is amended to read:

871 **53A-11-1304. Admissibility of evidence in civil and criminal actions.**

872 (1) Evidence relating to violations of this part which is seized by school authorities  
873 acting alone, on their own authority, and not in conjunction with or at the behest of law  
874 enforcement authorities is admissible in civil and criminal actions.

875 (2) A search under this section must be based on at least a reasonable belief that the  
876 search will turn up evidence of a violation of this part. The measures adopted for the search  
877 must be reasonably related to the objectives of the search and not excessively intrusive in light  
878 of the circumstances, including the age and [~~sex~~] gender of the person involved and the nature  
879 of the infraction.

880 Section 17. Section **53A-11-1501** is enacted to read:

881 **Part 15. Student Accommodations**

882 **53A-11-1501. Gender-segregated bathrooms in public schools.**

883 (1) (a) "Bathroom" means a room intended for more than one occupant at a time that:

884 (i) contains a toilet or a urinal; or

885 (ii) is used by occupants to undress and dress.

886 (b) "Gender identity" means an individual's own opinion of whether the individual is:

887 (i) male;

888 (ii) female;

889 (iii) neither male nor female;

890 (iv) both male and female; or

891 (v) another designation.

892 (2) A student may not use a public school's gender-segregated bathroom if the  
893 bathroom does not correspond to the student's gender.

894 (3) A school district or charter school shall make available to a student reasonable  
895 alternate bathroom accommodations if:

896 (a) the student's consistently-asserted gender identity does not strictly correspond to the  
897 student's gender; and

898 (b) the student requests alternate bathroom accommodations.

899 (4) A local school board or charter school governing board shall establish a policy in  
900 accordance with this section.

901 Section 18. Section **53A-15-205** is amended to read:

902 **53A-15-205. Disability Determination Services Advisory Council -- Membership**  
903 **-- Duties -- Requirements for DDDS.**

904 (1) As used in this section, "council" means the Disability Determination Services  
905 Advisory Council created in Subsection (2).

906 (2) There is created the Disability Determination Services Advisory Council to act as  
907 an advisory council to the State Board of Education regarding the Division of Disability  
908 Determination Services (DDDS) established under Chapter 24, Part 5, Division of Disability  
909 Determination Services.

910 (3) The council is composed of the following members:

911 (a) the administrator of DDDS;

912 (b) a representative of the United States Department of Health and Human Services,  
913 Social Security Administration, appointed by the board; and

914 (c) nine persons, appointed by the board in accordance with Subsections (5) and (6),  
915 who represent a cross section of:

916 (i) persons with disabilities;

917 (ii) advocates for persons with disabilities;

918 (iii) health care providers;

919 (iv) representatives of allied state and local agencies; and

920 (v) representatives of the general public.

921 (4) The members appointed under Subsections (3)(a) and (3)(b) serve as nonvoting  
922 members of the council.

923 (5) In appointing the members described in Subsection (3)(c), the board shall:

924 (a) solicit nominations from organizations and agencies that represent the interests of  
925 members described in that subsection; and

926 (b) make every effort to create a balance in terms of geography, [~~sex~~] gender, race,

927 ethnicity, and type of both mental and physical disabilities.

928 (6) (a) In making initial appointments of members described in Subsection (3)(c), the  
929 board shall appoint three members for two-year terms, three members for four-year terms, and  
930 three members for six-year terms. All subsequent appointments are for four years.

931 (b) The board shall fill any vacancy that occurs on the council for any reason by  
932 appointing a person for the unexpired term of the vacated member.

933 (c) Council members are eligible for one reappointment and serve until their successors  
934 are appointed.

935 (7) Five voting members of the council constitute a quorum. The action of a majority  
936 of a quorum represents the action of the council.

937 (8) Members of the council serve without compensation but may be reimbursed for  
938 expenses incurred in the performance of their official duties.

939 (9) (a) The council shall annually elect a chairperson from among the membership  
940 described, and shall adopt bylaws governing its activities.

941 (b) The chairperson shall set the meeting agenda.

942 (10) The council shall:

943 (a) advise DDDS and the Social Security Administration regarding its practices and  
944 policies on the determination of claims for Social Security disability benefits;

945 (b) participate in the development of new internal practices and procedures of DDDS  
946 and policies of the Social Security Administration regarding the evaluation of disability claims;

947 (c) recommend changes to practices and policies to ensure that DDDS is responsive to  
948 individuals with a disability;

949 (d) review the DDDS budget to ensure that it is adequate to effectively evaluate  
950 disability claims and to meet the needs of persons with disabilities who have claims pending  
951 with DDDS; and

952 (e) review and recommend changes to policies and practices of allied state and federal  
953 agencies, health care providers, and private community organizations.

954 (11) The council shall annually report to the board regarding its activities.

955 (12) (a) To assist the council in its duties, DDDS shall provide the necessary staff  
956 assistance to enable the council to make timely and effective recommendations.

957 (b) Staff assistance may include:

- 958 (i) distributing meeting agendas;
- 959 (ii) advising the chairpersons of the council regarding relevant items for council  
960 discussion; and
- 961 (iii) providing reports, documents, budgets, memorandums, statutes, and regulations  
962 regarding the management of DDDS.
- 963 (c) Staff assistance shall include maintaining minutes.

964 Section 19. Section **53B-13a-104** is amended to read:

965 **53B-13a-104. Guidelines for administration of the program.**

- 966 (1) The board shall use the guidelines set forth in this section to develop and  
967 administer the program.
- 968 (2) (a) The board shall allocate money appropriated for the program to institutions to  
969 provide for either need-based grants or need-based work-study stipends, giving strong  
970 emphasis to need-based work-study stipends.
- 971 (b) Need-based grants or need-based work-study stipends are the only forms of student  
972 financial assistance for which program money may be used.
- 973 (c) The board may not use program money for administrative costs or overhead.
- 974 (d) An institution may not use more than 3% of its program money for administrative  
975 costs or overhead.
- 976 (3) The board shall design the program to utilize a packaging approach that ensures  
977 that institutions combine loans, grants, employment, and family and individual contributions  
978 toward financing the cost of attendance at a postsecondary institution.
- 979 (4) The board shall:
  - 980 (a) use an appropriate need analysis system to determine a student's financial need for  
981 the purpose of awarding a program grant or work-study stipend; and
  - 982 (b) base the criteria for awarding program funds to an institution or eligible student on  
983 assisting only the most financially needy students.
- 984 (5) The total sum of a program grant, a work-study stipend, other financial aid from  
985 any source, and the expected family and personal contribution, may not exceed the cost of  
986 attendance for an eligible student at an institution for a fiscal year.
- 987 (6) The board shall establish annually the minimum and maximum amounts for a  
988 program grant and a work-study stipend for the fiscal year.



989 (7) An institution shall award a program grant or work-study stipend on an annual basis  
990 but distribute the money one quarter or semester at a time, with continuing awards contingent  
991 upon the eligible student maintaining satisfactory academic progress as defined by the  
992 institution in published policies or rules.

993 (8) An institution shall award all program money without regard to an applicant's race,  
994 creed, color, religion, [~~sex~~] gender, or ancestry.

995 (9) Students receiving financial assistance under the program are required to apply the  
996 money toward the cost of attendance at the institution attended, as established pursuant to  
997 board rules.

998 (10) The board shall adopt policies to implement this chapter and to ensure sound  
999 fiduciary administration of program money to accomplish program objectives.

1000 (11) The board may require a participation agreement from an eligible postsecondary  
1001 institution, which shall include an agreement to:

1002 (a) provide information needed by the board to administer the program;

1003 (b) comply with program rules;

1004 (c) submit annual reports as required by the board; and

1005 (d) cooperate in program reviews and financial audits as the board may determine to be  
1006 necessary.

1007 (12) The board shall annually report program outcomes to the governor and the  
1008 Legislature's Higher Education Appropriations Subcommittee, including:

1009 (a) utilization of program money, including the:

1010 (i) number of program recipients at each institution; and

1011 (ii) average amount of financial assistance provided;

1012 (b) benefits in fulfillment of the purposes established for the program; and

1013 (c) any recommendations for program modification, including recommended funding  
1014 levels.

1015 (13) The board shall regularly provide information to students on professional training  
1016 and degree programs available in the state through online career and educational exploration  
1017 tools.

1018 Section 20. Section **58-31b-502** is amended to read:

1019 **58-31b-502. Unprofessional conduct.**

1020 "Unprofessional conduct" includes:

1021 (1) failure to safeguard a patient's right to privacy as to the patient's person, condition,  
1022 diagnosis, personal effects, or any other matter about which the licensee is privileged to know  
1023 because of the licensee's or person with a certification's position or practice as a nurse or  
1024 practice as a medication aide certified;

1025 (2) failure to provide nursing service or service as a medication aide certified in a  
1026 manner that demonstrates respect for the patient's human dignity and unique personal character  
1027 and needs without regard to the patient's race, religion, ethnic background, socioeconomic  
1028 status, age, [~~sex~~] gender, or the nature of the patient's health problem;

1029 (3) engaging in sexual relations with a patient during any:

1030 (a) period when a generally recognized professional relationship exists between the  
1031 person licensed or certified under this chapter and patient; or

1032 (b) extended period when a patient has reasonable cause to believe a professional  
1033 relationship exists between the person licensed or certified under the provisions of this chapter  
1034 and the patient;

1035 (4) (a) as a result of any circumstance under Subsection (3), exploiting or using  
1036 information about a patient or exploiting the licensee's or the person with a certification's  
1037 professional relationship between the licensee or holder of a certification under this chapter and  
1038 the patient; or

1039 (b) exploiting the patient by use of the licensee's or person with a certification's  
1040 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

1041 (5) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

1042 (6) unauthorized taking or personal use of nursing supplies from an employer;

1043 (7) unauthorized taking or personal use of a patient's personal property;

1044 (8) knowingly entering into any medical record any false or misleading information or  
1045 altering a medical record in any way for the purpose of concealing an act, omission, or record  
1046 of events, medical condition, or any other circumstance related to the patient and the medical or  
1047 nursing care provided;

1048 (9) unlawful or inappropriate delegation of nursing care;

1049 (10) failure to exercise appropriate supervision of persons providing patient care  
1050 services under supervision of the licensed nurse;

1051 (11) employing or aiding and abetting the employment of an unqualified or unlicensed  
1052 person to practice as a nurse;

1053 (12) failure to file or record any medical report as required by law, impeding or  
1054 obstructing the filing or recording of such a report, or inducing another to fail to file or record  
1055 such a report;

1056 (13) breach of a statutory, common law, regulatory, or ethical requirement of  
1057 confidentiality with respect to a person who is a patient, unless ordered by a court;

1058 (14) failure to pay a penalty imposed by the division;

1059 (15) prescribing a schedule II-III controlled substance without a consulting physician or  
1060 outside of a consultation and referral plan;

1061 (16) violating Section 58-31b-801; and

1062 (17) violating the dispensing requirements of Section 58-17b-309 or 58-17b-309.5, if  
1063 applicable.

1064 Section 21. Section 67-19-3.1 is amended to read:

1065 **67-19-3.1. Principles guiding interpretation of chapter and adoption of rules.**

1066 (1) The department shall establish a career service system designed in a manner that  
1067 will provide for the effective implementation of the following merit principles:

1068 (a) recruiting, selecting, and advancing employees on the basis of their relative ability,  
1069 knowledge, and skills, including open consideration of qualified applicants for initial  
1070 appointment;

1071 (b) providing for equitable and competitive compensation;

1072 (c) training employees as needed to assure high-quality performance;

1073 (d) retaining employees on the basis of the adequacy of their performance and  
1074 separating employees whose inadequate performance cannot be corrected;

1075 (e) fair treatment of applicants and employees in all aspects of human resource  
1076 administration without regard to race, color, religion, [~~sex~~] gender, national origin, political  
1077 affiliation, age, or disability, and with proper regard for their privacy and constitutional rights  
1078 as citizens;

1079 (f) providing information to employees regarding their political rights and the  
1080 prohibited practices under the Hatch Act; and

1081 (g) providing a formal procedure for advancing grievances of employees:

1082 (i) without discrimination, coercion, restraint, or reprisal; and  
1083 (ii) in a manner that is fair, expeditious, and inexpensive for the employee and the  
1084 agency.

1085 (2) The principles in Subsection (1) shall govern interpretation and implementation of  
1086 this chapter.

1087 Section 22. Section **67-19-18** is amended to read:

1088 **67-19-18. Dismissals and demotions -- Grounds -- Disciplinary action --**  
1089 **Procedure -- Reductions in force.**

1090 (1) A career service employee may be dismissed or demoted:

1091 (a) to advance the good of the public service; or

1092 (b) for just causes, including inefficiency, incompetency, failure to maintain skills or  
1093 adequate performance levels, insubordination, disloyalty to the orders of a superior,  
1094 misfeasance, malfeasance, or nonfeasance in office.

1095 (2) An employee may not be dismissed because of race, [~~sex~~] gender, age, disability,  
1096 national origin, religion, political affiliation, or other nonmerit factor including the exercise of  
1097 rights under this chapter.

1098 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1099 executive director shall establish rules governing the procedural and documentary requirements  
1100 of disciplinary dismissals and demotions.

1101 (4) If an agency head finds that a career service employee is charged with aggravated  
1102 misconduct or that retention of a career service employee would endanger the peace and safety  
1103 of others or pose a grave threat to the public interest, the employee may be suspended pending  
1104 the administrative appeal to the department head as provided in Subsection (5).

1105 (5) (a) A career service employee may not be demoted or dismissed unless the  
1106 department head or designated representative has complied with this subsection.

1107 (b) The department head or designated representative notifies the employee in writing  
1108 of the reasons for the dismissal or demotion.

1109 (c) The employee has no less than five working days to reply and have the reply  
1110 considered by the department head.

1111 (d) The employee has an opportunity to be heard by the department head or designated  
1112 representative.

- 1113 (e) Following the hearing, the employee may be dismissed or demoted if the  
1114 department head finds adequate cause or reason.
- 1115 (6) (a) Reductions in force required by inadequate funds, change of workload, or lack  
1116 of work are governed by retention points established by the executive director.
- 1117 (b) Under those circumstances:
- 1118 (i) The agency head shall designate the category of work to be eliminated, subject to  
1119 review by the executive director.
- 1120 (ii) Temporary and probationary employees shall be separated before any career service  
1121 employee.
- 1122 (iii) (A) When more than one career service employee is affected, the employees shall  
1123 be separated in the order of their retention points, the employee with the lowest points to be  
1124 discharged first.
- 1125 (B) Retention points for each career service employee shall be computed according to  
1126 rules established by the executive director, allowing appropriate consideration for proficiency  
1127 and seniority in state government, including any active duty military service fulfilled  
1128 subsequent to original state appointment.
- 1129 (c) (i) A career service employee who is separated in a reduction in force under this  
1130 section shall be given preferential consideration when applying for a career service position.
- 1131 (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former  
1132 career service employee accepts a career service position.
- 1133 (iii) The executive director shall make rules in accordance with Title 63G, Chapter 3,  
1134 Utah Administrative Rulemaking Act, concerning the manner of granting preferential  
1135 consideration under Subsection (6)(c)(i).
- 1136 (d) (i) An employee separated due to a reduction in force may appeal to the department  
1137 head for an administrative review.
- 1138 (ii) The notice of appeal must be submitted within 20 working days after the  
1139 employee's receipt of written notification of separation.
- 1140 (iii) The employee may appeal the decision of the department head according to the  
1141 grievance and appeals procedure of this chapter and Chapter 19a, Grievance Procedures.  
1142 Section 23. Section **68-3-12.5** is amended to read:  
1143 **68-3-12.5. Definitions for Utah Code.**

- 1144 (1) The definitions listed in this section apply to the Utah Code, unless:
- 1145 (a) the definition is inconsistent with the manifest intent of the Legislature or repugnant
- 1146 to the context of the statute; or
- 1147 (b) a different definition is expressly provided for the respective title, chapter, part,
- 1148 section, or subsection.
- 1149 (2) "Adjudicative proceeding" means:
- 1150 (a) an action by a board, commission, department, officer, or other administrative unit
- 1151 of the state that determines the legal rights, duties, privileges, immunities, or other legal
- 1152 interests of one or more identifiable persons, including an action to grant, deny, revoke,
- 1153 suspend, modify, annul, withdraw, or amend an authority, right, or license; and
- 1154 (b) judicial review of an action described in Subsection (2)(a).
- 1155 (3) "Administrator" includes "executor" when the subject matter justifies the use.
- 1156 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,
- 1157 commission, committee, or council that:
- 1158 (a) is created by, and whose duties are provided by, statute or executive order;
- 1159 (b) performs its duties only under the supervision of another person as provided by
- 1160 statute; and
- 1161 (c) provides advice and makes recommendations to another person that makes policy
- 1162 for the benefit of the general public.
- 1163 (5) "County executive" means:
- 1164 (a) the county commission, in the county commission or expanded county commission
- 1165 form of government established under Title 17, Chapter 52, Changing Forms of County
- 1166 Government;
- 1167 (b) the county executive, in the county executive-council optional form of government
- 1168 authorized by Section [17-52-504](#); or
- 1169 (c) the county manager, in the council-manager optional form of government
- 1170 authorized by Section [17-52-505](#).
- 1171 (6) "County legislative body" means:
- 1172 (a) the county commission, in the county commission or expanded county commission
- 1173 form of government established under Title 17, Chapter 52, Changing Forms of County
- 1174 Government;

1175 (b) the county council, in the county executive-council optional form of government  
1176 authorized by Section [17-52-504](#); and

1177 (c) the county council, in the council-manager optional form of government authorized  
1178 by Section [17-52-505](#).

1179 (7) "Depose" means to make a written statement made under oath or affirmation.

1180 (8) "Executor" includes "administrator" when the subject matter justifies the use.

1181 (9) (a) "Gender" means the either male or female phenotype designation of an  
1182 individual as documented by:

1183 (i) the individual's birth certificate, if the individual has not obtained a designation  
1184 under Subsection (9)(a)(ii); or

1185 (ii) a signed, written document from a physician, as defined in Section [58-67-102](#), that,  
1186 based on a physical examination of the individual's genitalia, designates the individual  
1187 phenotypically as either male or female, if:

1188 (A) the individual does not have a birth certificate that designates the individual as  
1189 either male or female; or

1190 (B) the document conflicts with the individual's birth certificate.

1191 (b) "Gender" does not mean an individual's own opinion of whether the individual is:

1192 (i) male;

1193 (ii) female;

1194 (iii) neither male nor female;

1195 (iv) both male and female; or

1196 (v) another designation.

1197 (c) "Gender" is defined for the purposes of state law only and does not apply to federal  
1198 law.

1199 ~~[(9)]~~ (10) "Guardian" includes a person who:

1200 (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary  
1201 or court appointment; or

1202 (b) is appointed by a court to manage the estate of a minor or incapacitated person.

1203 ~~[(10)]~~ (11) "Highway" includes:

1204 (a) a public bridge;

1205 (b) a county way;

- 1206 (c) a county road;
- 1207 (d) a common road; and
- 1208 (e) a state road.
- 1209 ~~[(11)]~~ (12) "Intellectual disability" means a significant, subaverage general intellectual
- 1210 functioning that:
  - 1211 (a) exists concurrently with deficits in adaptive behavior; and
  - 1212 (b) is manifested during the developmental period as defined in the current edition of
  - 1213 the Diagnostic and Statistical Manual of Mental Disorders, published by the American
  - 1214 Psychiatric Association.
- 1215 ~~[(12)]~~ (13) "Intermediate care facility for people with an intellectual disability" means
- 1216 an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social
- 1217 Security Act.
- 1218 ~~[(13)]~~ (14) "Land" includes:
  - 1219 (a) land;
  - 1220 (b) a tenement;
  - 1221 (c) a hereditament;
  - 1222 (d) a water right;
  - 1223 (e) a possessory right; and
  - 1224 (f) a claim.
- 1225 ~~[(14)]~~ (15) "Month" means a calendar month, unless otherwise expressed.
- 1226 ~~[(15)]~~ (16) "Oath" includes "affirmation."
- 1227 ~~[(16)]~~ (17) "Person" means:
  - 1228 (a) an individual;
  - 1229 (b) an association;
  - 1230 (c) an institution;
  - 1231 (d) a corporation;
  - 1232 (e) a company;
  - 1233 (f) a trust;
  - 1234 (g) a limited liability company;
  - 1235 (h) a partnership;
  - 1236 (i) a political subdivision;



- 1237 (j) a government office, department, division, bureau, or other body of government;  
1238 and
- 1239 (k) any other organization or entity.
- 1240 ~~[(17)]~~ (18) "Personal property" includes:
- 1241 (a) money;
- 1242 (b) goods;
- 1243 (c) chattels;
- 1244 (d) effects;
- 1245 (e) evidences of a right in action;
- 1246 (f) a written instrument by which a pecuniary obligation, right, or title to property is  
1247 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- 1248 (g) a right or interest in an item described in Subsections ~~[(17)]~~ (18)(a) through (f).
- 1249 ~~[(18)]~~ (19) "Personal representative," "executor," and "administrator" include:
- 1250 (a) an executor;
- 1251 (b) an administrator;
- 1252 (c) a successor personal representative;
- 1253 (d) a special administrator; and
- 1254 (e) a person who performs substantially the same function as a person described in  
1255 Subsections ~~[(18)]~~ (19)(a) through (d) under the law governing the person's status.
- 1256 ~~[(19)]~~ (20) "Policy board," "policy commission," or "policy council" means a board,  
1257 commission, or council that:
- 1258 (a) is authorized to make policy for the benefit of the general public;
- 1259 (b) is created by, and whose duties are provided by, the constitution or statute; and
- 1260 (c) performs its duties according to its own rules without supervision other than under  
1261 the general control of another person as provided by statute.
- 1262 ~~[(20)]~~ (21) "Population" is shown by the most recent state or national census, unless  
1263 expressly provided otherwise.
- 1264 ~~[(21)]~~ (22) "Process" means a writ or summons issued in the course of a judicial  
1265 proceeding.
- 1266 ~~[(22)]~~ (23) "Property" includes both real and personal property.
- 1267 ~~[(23)]~~ (24) "Real estate" or "real property" includes:

- 1268 (a) land;
- 1269 (b) a tenement;
- 1270 (c) a hereditament;
- 1271 (d) a water right;
- 1272 (e) a possessory right; and
- 1273 (f) a claim.

1274 [~~24~~] (25) "Review board," "review commission," and "review council" mean a board,  
1275 commission, committee, or council that:

- 1276 (a) is authorized to approve policy made for the benefit of the general public by another  
1277 body or person;
- 1278 (b) is created by, and whose duties are provided by, statute; and
- 1279 (c) performs its duties according to its own rules without supervision other than under  
1280 the general control of another person as provided by statute.

1281 [~~25~~] (26) "Road" includes:

- 1282 (a) a public bridge;
- 1283 (b) a county way;
- 1284 (c) a county road;
- 1285 (d) a common road; and
- 1286 (e) a state road.

1287 [~~26~~] (27) "Signature" includes a name, mark, or sign written with the intent to  
1288 authenticate an instrument or writing.

1289 [~~27~~] (28) "State," when applied to the different parts of the United States, includes a  
1290 state, district, or territory of the United States.

1291 [~~28~~] (29) "Swear" includes "affirm."

1292 [~~29~~] (30) "Testify" means to make an oral statement under oath or affirmation.

1293 [~~30~~] (31) "United States" includes each state, district, and territory of the United  
1294 States of America.

1295 [~~31~~] (32) "Utah Code" means the 1953 recodification of the Utah Code, as amended,  
1296 unless the text expressly references a portion of the 1953 recodification of the Utah Code as it  
1297 existed:

- 1298 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

- 1299 (b) (i) after the day described in Subsection [~~(31)~~] (32)(a); and  
 1300 (ii) before the most recent amendment to the referenced portion of the 1953  
 1301 recodification of the Utah Code.
- 1302 [~~(32)~~] (33) "Vessel," when used with reference to shipping, includes a steamboat, canal  
 1303 boat, and every structure adapted to be navigated from place to place.
- 1304 [~~(33)~~] (34) "Will" includes a codicil.
- 1305 [~~(34)~~] (35) "Writ" means an order or precept in writing, issued in the name of:  
 1306 (a) the state;  
 1307 (b) a court; or  
 1308 (c) a judicial officer.
- 1309 [~~(35)~~] (36) "Writing" includes:  
 1310 (a) printing;  
 1311 (b) handwriting; and  
 1312 (c) information stored in an electronic or other medium if the information is retrievable  
 1313 in a perceivable format.
- 1314 Section 24. Section **78A-6-505** is amended to read:  
 1315 **78A-6-505. Contents of petition.**
- 1316 (1) The petition for termination of parental rights shall include, to the best information  
 1317 or belief of the petitioner:  
 1318 (a) the name and place of residence of the petitioner;  
 1319 (b) the name, [~~sex~~] gender, date and place of birth, and residence of the child;  
 1320 (c) the relationship of the petitioner to the child;  
 1321 (d) the names, addresses, and dates of birth of the parents, if known;  
 1322 (e) the name and address of the person having legal custody or guardianship, or acting  
 1323 in loco parentis to the child, or the organization or agency having legal custody or providing  
 1324 care for the child;  
 1325 (f) the grounds on which termination of parental rights is sought, in accordance with  
 1326 Section **78A-6-507**; and  
 1327 (g) the names and addresses of the persons or the authorized agency to whom legal  
 1328 custody or guardianship of the child might be transferred.
- 1329 (2) A copy of any relinquishment or consent, if any, previously executed by the parent

1330 or parents shall be attached to the petition.

1331 Section 25. Section **78B-14-311 (Superseded 07/01/15)** is amended to read:

1332 **78B-14-311 (Superseded 07/01/15). Pleadings and accompanying documents.**

1333 (1) In a proceeding under this chapter, a petitioner seeking to establish a support order,  
1334 to determine parentage, or to register and modify a support order of another state must file a  
1335 petition. Unless otherwise ordered under Section **78B-14-312**, the petition or accompanying  
1336 documents must provide, so far as known, the name, residential address, and Social Security  
1337 numbers of the obligor and the obligee or the parent and alleged parent, and the name, [~~sex~~  
1338 gender, residential address, Social Security number, and date of birth of each child for whose  
1339 benefit support is sought or whose parentage is to be determined. Unless filed at the time of  
1340 registration, the petition must be accompanied by a copy of any support order known to have  
1341 been issued by another tribunal. The petition may include any other information that may  
1342 assist in locating or identifying the respondent.

1343 (2) The petition must specify the relief sought. The petition and accompanying  
1344 documents must conform substantially with the requirements imposed by the forms mandated  
1345 by federal law for use in cases filed by a support-enforcement agency.

1346 Section 26. Section **78B-14-311 (Effective 07/01/15)** is amended to read:

1347 **78B-14-311 (Effective 07/01/15). Pleadings and accompanying documents.**

1348 (1) In a proceeding under this chapter, a petitioner seeking to establish a support order,  
1349 to determine parentage of a child, or to register and modify a support order of a tribunal of  
1350 another state or a foreign country shall file a petition. Unless otherwise ordered under Section  
1351 **78B-14-312**, the petition or accompanying documents shall provide, so far as known, the name,  
1352 residential address, and Social Security numbers of the obligor and the obligee or the parent  
1353 and alleged parent, and the name, [~~sex~~ gender, residential address, Social Security number,  
1354 and date of birth of each child for whose benefit support is sought or whose parentage is to be  
1355 determined. Unless filed at the time of registration, the petition shall be accompanied by a  
1356 copy of any support order known to have been issued by another tribunal. The petition may  
1357 include any other information that may assist in locating or identifying the respondent.

1358 (2) The petition shall specify the relief sought. The petition and accompanying  
1359 documents shall conform substantially with the requirements imposed by the forms mandated  
1360 by federal law for use in cases filed by a support enforcement agency.

1361 Section 27. **Effective date.**

1362 (1) Except as provided in Subsection (2), this bill takes effect on May 13, 2014.

1363 (2) The actions affecting Section [78B-14-311](#) (Effective 07/01/15) take effect on July

1364 1, 2015.

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**Legislative Review Note**  
as of 1-28-14 5:22 PM

**Office of Legislative Research and General Counsel**