

Adult Probation and Parole Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson S. Burton

LONG TITLE**General Description:**

This bill amends provisions related to the Division of Adult Probation and Parole within the Department of Corrections.

Highlighted Provisions:

This bill:

- establishes the Division of Adult Probation and Parole in the code;
- amends provisions throughout the code regarding the responsibility of the Department of Corrections to supervise individuals on probation or parole; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-53-106, as enacted by Laws of Utah 2018, Chapter 252

17-55-201, as last amended by Laws of Utah 2024, Chapter 187

41-6a-507, as last amended by Laws of Utah 2021, Chapter 342

53-10-209, as renumbered and amended by Laws of Utah 1998, Chapter 263

53-10-404, as last amended by Laws of Utah 2024, Chapter 234

53-13-103, as last amended by Laws of Utah 2024, Chapter 80

53B-35-202, as last amended by Laws of Utah 2024, Chapter 144

58-37f-301, as last amended by Laws of Utah 2023, Chapter 329

58-50-10, as last amended by Laws of Utah 2021, Chapter 260

59-27-105, as last amended by Laws of Utah 2013, Chapter 400

63A-16-1002, as last amended by Laws of Utah 2024, Chapter 467

63A-17-512, as last amended by Laws of Utah 2024, Chapter 80

63B-12-301, as last amended by Laws of Utah 2023, Chapter 369

32 **63M-7-404.3**, as enacted by Laws of Utah 2024, Chapter 197
33 **63M-7-1002**, as enacted by Laws of Utah 2024, Chapter 160
34 **64-13-6**, as last amended by Laws of Utah 2024, Chapters 144, 208
35 **64-13-14.5**, as last amended by Laws of Utah 2024, Chapters 96, 187 and 208
36 **64-13-21**, as last amended by Laws of Utah 2024, Chapters 208, 434
37 **64-13-26**, as last amended by Laws of Utah 2022, Chapter 187
38 **64-13e-102**, as last amended by Laws of Utah 2024, Chapter 467
39 **76-3-202**, as last amended by Laws of Utah 2024, Chapter 208
40 **76-3-409**, as last amended by Laws of Utah 1985, Chapter 212
41 **77-2a-2**, as last amended by Laws of Utah 2024, Chapter 208
42 **77-2a-3**, as last amended by Laws of Utah 2024, Chapter 180
43 **77-16a-103**, as last amended by Laws of Utah 2024, Chapter 177
44 **77-16a-205**, as last amended by Laws of Utah 2023, Chapter 184
45 **77-18-102**, as last amended by Laws of Utah 2024, Chapters 245, 434
46 **77-18-105**, as last amended by Laws of Utah 2024, Chapters 187, 208
47 **77-18-107**, as enacted by Laws of Utah 2021, Chapter 260
48 **77-18-108**, as last amended by Laws of Utah 2024, Chapter 208
49 **77-18-109**, as enacted by Laws of Utah 2021, Chapter 260
50 **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16
51 **77-20-204**, as last amended by Laws of Utah 2024, Chapter 16
52 **77-27-10**, as last amended by Laws of Utah 2024, Chapter 208
53 **77-27-10.5**, as last amended by Laws of Utah 2023, Chapter 184
54 **77-27-11**, as last amended by Laws of Utah 2024, Chapter 208
55 **77-32b-102**, as last amended by Laws of Utah 2024, Chapter 389
56 **77-36-5.1**, as last amended by Laws of Utah 2021, Chapter 159
57 **77-38-3**, as last amended by Laws of Utah 2024, Chapter 240
58 **77-38-611**, as last amended by Laws of Utah 2023, Chapter 237
59 **77-38b-102**, as last amended by Laws of Utah 2024, Chapter 330
60 **77-38b-304**, as last amended by Laws of Utah 2023, Chapter 113
61 **77-38b-401**, as renumbered and amended by Laws of Utah 2021, Chapter 260
62 **77-40a-205**, as enacted by Laws of Utah 2024, Chapter 180
63 **77-40a-305**, as last amended by Laws of Utah 2024, Chapter 180
64 **77-41-104**, as last amended by Laws of Utah 2023, Chapter 128
65 **77-41-105**, as last amended by Laws of Utah 2024, Chapter 234

66 **78B-7-807**, as enacted by Laws of Utah 2020, Chapter 142

67 ENACTS:

68 **64-14-101**, Utah Code Annotated 1953

69 **64-14-201**, Utah Code Annotated 1953

70 **64-14-202**, Utah Code Annotated 1953

71 **64-14-203**, Utah Code Annotated 1953

72 RENUMBERS AND AMENDS:

73 **64-14-204**, (Renumbered from 64-13-21, as last amended by Laws of Utah 2024,
74 Chapter 16)

75 **64-14-205**, (Renumbered from 64-13-29, as last amended by Laws of Utah 2024,
76 Chapter 16)

77 **64-14-301**, (Renumbered from 64-13g-101, as enacted by Laws of Utah 2022,
78 Chapter 393)

79 **64-14-302**, (Renumbered from 64-13g-102, as last amended by Laws of Utah 2024,
80 Chapter 208)

81 **64-14-303**, (Renumbered from 64-13g-103, as enacted by Laws of Utah 2022,
82 Chapter 393)

83 REPEALS:

84 **64-13-21.2**, as last amended by Laws of Utah 2010, Chapter 391

85

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

87 Section 1. Section **13-53-106** is amended to read:

88 **13-53-106 . Disclosure to participants.**

89 (1) Before accepting a participant, a residential, vocational and life skills program shall
90 provide to the prospective participant a written disclosure.

91 (2) The written disclosure shall include:

92 (a) a statement that the program is a registered residential, vocational and life skills
93 program, but that the residential, vocational and life skills program is not endorsed by
94 the state or the division;

95 (b) a statement that the prospective participant's continuation in the program is voluntary
96 and that a participant may leave at any time;

97 (c) the conditions under which a participant is removed from the residential, vocational
98 and life skills program or required to leave a program facility;

99 (d) a statement that the residential, vocational and life skills program will contact the

100 Division of Adult Probation and Parole created in Section 64-14-202, if required by
 101 law; and

102 (e) a description of:

103 (i) the lodging, food, clothing, and other resources that are available to a participant;

104 (ii) the nature and scope of the residential, vocational and life skills program,
 105 including any activities or work that a participant is required to perform;

106 (iii) the scope and substance of peer-led activities;

107 (iv) the types of vocational training available to a participant, including the
 108 limitations on availability;

109 (v) the nature and extent of possible exposure to profanity, accusation, confrontation,
 110 nonphysical threats, or nonphysical corrective interaction;

111 (vi) the terms of any prohibition from contact with a participant's family, friends, or
 112 associates; and

113 (vii) any crimes committed within the previous two years at the residential,
 114 vocational and life skills program facility or at a vocational training entity
 115 affiliated with the residential, vocational and life skills program.

116 Section 2. Section **17-55-201** is amended to read:

117 **17-55-201 . Criminal justice coordinating councils -- Creation -- Strategic plan --**
 118 **Reporting requirements.**

119 (1)(a) Beginning January 1, 2023, a county shall:

120 (i) create a criminal justice coordinating council; or

121 (ii) jointly with another county or counties, create a criminal justice coordinating
 122 council.

123 (b) The purpose of a council is to coordinate and improve components of the criminal
 124 justice system in the county or counties.

125 (2)(a) A council shall include:

126 (i) one county commissioner or county council member;

127 (ii) the county sheriff or the sheriff's designee;

128 (iii) one chief of police of a municipality within the county or the chief's designee;

129 (iv) the county attorney or the attorney's designee;

130 (v) one public defender or attorney who provides public defense within the county;

131 (vi) one district court judge;

132 (vii) one justice court judge;

133 (viii) one representative from the Division of Adult Probation and Parole [~~within the~~

- 134 Department of Corrections] created in Section 64-14-202;
135 (ix) one representative from the local mental health authority within the county; and
136 (x) one individual who is:
137 (A) a crime victim; or
138 (B) a victim advocate, as defined in Section 77-38-403.
- 139 (b) A council may include:
140 (i) an individual representing:
141 (A) local government;
142 (B) human services programs;
143 (C) higher education;
144 (D) peer support services;
145 (E) workforce services;
146 (F) local housing services;
147 (G) mental health or substance use disorder providers;
148 (H) a health care organization within the county;
149 (I) a local homeless council;
150 (J) family counseling and support groups; or
151 (K) organizations that work with families of incarcerated individuals; or
152 (ii) an individual with lived experiences in the criminal justice system.
- 153 (3)(a) A member who is an elected county official shall serve as chair of the council.
154 (b) The council shall elect the member to serve as chair under Subsection (3)(a).
- 155 (4)(a) A council shall develop and implement a strategic plan for the county's or
156 counties' criminal justice system that includes:
157 (i) mapping of all systems, resources, assets, and services within the county's or
158 counties' criminal justice system;
159 (ii) a plan for data sharing across the county's or counties' criminal justice system;
160 (iii) recidivism reduction objectives; and
161 (iv) community reintegration goals.
- 162 (b) The commission may assist a council in the development of a strategic plan.
- 163 (5) As part of the council's duties described in Subsection (4)(a)(i), the council shall prepare
164 a list of private probation providers for a court to provide to defendants as described in
165 Section 77-18-105.
- 166 (6) Before November 30 of each year, a council shall provide a written report to the
167 commission regarding:

- 168 (a) the implementation of a strategic plan described in Subsection (4); and
169 (b) any data on the impact of the council on the criminal justice system in the county or
170 counties.

171 Section 3. Section **41-6a-507** is amended to read:

172 **41-6a-507 . Supervised probation for certain driving under the influence**
173 **violations.**

174 (1) If supervised probation is ordered under Section 41-6a-505 or 41-6a-517:

- 175 (a) the court shall specify the period of the probation;
176 (b) the person shall pay all of the costs of the probation; and
177 (c) the court may order any other conditions of the probation.

178 (2)(a) Subject to Subsection (2)(b), the court shall provide the probation described in
179 this section by contract with a probation monitoring agency or a private probation
180 provider.

181 (b) If a court determines that a person is subject to supervised probation provided by the
182 Division of Adult Probation and Parole created in Section 64-14-202 for an offense
183 other than the offense for which probation is ordered under Section 41-6a-505 or
184 41-6a-517, the court may order supervised probation to be provided by the Division
185 of Adult Probation and Parole.

186 (3) The probation provider described in Subsection (2) shall monitor the person's
187 compliance with all conditions of the person's sentence, conditions of probation, and
188 court orders received under this part and shall notify the court of any failure to comply
189 with or complete that sentence or those conditions or orders.

190 (4)(a) The court may waive all or part of the costs associated with probation if the
191 person is determined to be indigent by the court.

192 (b) The probation provider described in Subsection (2) shall cover the costs of waivers
193 by the court under Subsection (4)(a).

194 Section 4. Section **53-10-209** is amended to read:

195 **53-10-209 . Penal institutions and state hospital to supply information.**

196 (1) The warden of the state prison, keeper of any jail or correctional institution, and
197 superintendent of the state hospital shall forward to the division:

- 198 (a) the fingerprints and recent photographs of all persons confined in each institution
199 under criminal commitment;
200 (b) information relating to the parole, termination or expiration of sentence, or any other
201 release of each person from confinement during the preceding month; and

- 202 (c) a photograph taken near the time of release.
- 203 (2) The [~~adult probation and parole section of the Department of Corrections~~] Division of
204 Adult Probation and Parole created in Section 64-14-202 shall furnish to the division:
- 205 (a) information relating to the revocation or termination of probation or parole; and
206 (b) upon request, the names, fingerprints, photographs, and other data.
- 207 (3) The chair of the Board of Pardons and Parole shall provide to the division information
208 regarding the issuance, recall, cancellation, or modification of any warrant issued by
209 members of the Board of Pardons and Parole, under Section 77-27-11, within one day of
210 issuance.
- 211 (4) Information provided to the division under this section shall be on forms designated by
212 the division.

213 Section 5. Section **53-10-404** is amended to read:

214 **53-10-404 . DNA specimen analysis -- Requirement to obtain the specimen.**

- 215 (1) As used in this section, "person" means a person or minor described in Section
216 53-10-403.
- 217 (2)(a) A person under Section 53-10-403 or any person required to register as a sex
218 offender, kidnap offender, or child abuse offender under Title 77, Chapter 41, Sex,
219 Kidnap, and Child Abuse Offender Registry, shall provide a DNA specimen and shall
220 reimburse the agency responsible for obtaining the DNA specimen \$150 for the cost
221 of obtaining the DNA specimen unless:
- 222 (i) the person was booked under Section 53-10-403 and is not required to reimburse
223 the agency under Section 53-10-404.5; or
224 (ii) the agency determines the person lacks the ability to pay.
- 225 (b)(i)(A) The responsible agencies shall establish guidelines and procedures for
226 determining if the person is able to pay the fee.
- 227 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's
228 obligation to determine an inmate's ability to pay.
- 229 (ii) An agency's guidelines and procedures may provide for the assessment of \$150
230 on the inmate's county trust fund account and may allow a negative balance in the
231 account until the \$150 is paid in full.
- 232 (3)(a)(i) All fees collected under Subsection (2) shall be deposited into the DNA
233 Specimen Restricted Account created in Section 53-10-407, except that the
234 agency collecting the fee may retain not more than \$25 per individual specimen
235 for the costs of obtaining the saliva DNA specimen.

- 236 (ii) The agency collecting the \$150 fee may not retain from each separate fee more
237 than \$25, and no amount of the \$150 fee may be credited to any other fee or
238 agency obligation.
- 239 (b) The responsible agency shall determine the method of collecting the DNA specimen.
240 Unless the responsible agency determines there are substantial reasons for using a
241 different method of collection or the person refuses to cooperate with the collection,
242 the preferred method of collection shall be obtaining a saliva specimen.
- 243 (c) The responsible agency may use reasonable force, as established by its guidelines
244 and procedures, to collect the DNA sample if the person refuses to cooperate with the
245 collection.
- 246 (d) If the judgment places the person on probation, the person shall submit to the
247 obtaining of a DNA specimen as a condition of the probation.
- 248 (e)(i) Under this section a person is required to provide one DNA specimen and pay
249 the collection fee as required under this section.
- 250 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
251 previously provided is not adequate for analysis.
- 252 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
253 collected under this section.
- 254 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
255 any outstanding amount of a fee due under this section from any person who owes
256 any portion of the fee and deposit the amount in the DNA Specimen Restricted
257 Account created in Section 53-10-407.
- 258 (4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as
259 possible and transferred to the Department of Public Safety:
- 260 (i) after a conviction or an adjudication by the juvenile court;
- 261 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
262 person for any offense under Subsection 53-10-403(1)(c); and
- 263 (iii) on and after January 1, 2015, after the booking of a person for any felony
264 offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 265 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may
266 cause a DNA specimen to be obtained and transferred to the Department of Public
267 Safety after the booking of a person for any felony offense, as provided under
268 Subsection 53-10-403(1)(d)(i).
- 269 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate

- 270 for analysis, the agency shall, as soon as possible:
- 271 (i) obtain and transmit an additional DNA specimen; or
- 272 (ii) request that another agency that has direct access to the person and that is
- 273 authorized to collect DNA specimens under this section collect the necessary
- 274 second DNA specimen and transmit it to the Department of Public Safety.
- 275 (d) Each agency that is responsible for collecting DNA specimens under this section
- 276 shall establish:
- 277 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
- 278 obtains; and
- 279 (ii) a procedure to account for the management of all fees it collects under this
- 280 section.
- 281 (5)(a) The Department of Corrections is the responsible agency whenever the person is
- 282 committed to the custody of or is under the supervision of the [~~Department of~~
- 283 ~~Corrections~~] Division of Adult Probation and Parole created in Section 64-14-202.
- 284 (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal
- 285 custody of the Division of Juvenile Justice and Youth Services upon an adjudication,
- 286 the juvenile court is the responsible agency regarding the collection of a DNA
- 287 specimen from the minor.
- 288 (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of
- 289 the Division of Juvenile Justice and Youth Services upon an adjudication, the
- 290 Division of Juvenile Justice and Youth Services is the responsible agency regarding
- 291 the collection of a DNA specimen from the minor.
- 292 (d) The sheriff operating a county jail is the responsible agency regarding the collection
- 293 of DNA specimens from persons who:
- 294 (i) have pled guilty to or have been convicted of an offense listed under Subsection
- 295 53-10-403(2) but who have not been committed to the custody of the Department
- 296 of Corrections or are not under the supervision of the [~~Department of Corrections~~]
- 297 Division of Adult Probation and Parole created in Section 64-14-202;
- 298 (ii) are incarcerated in the county jail:
- 299 (A) as a condition of probation for a felony offense; or
- 300 (B) for a misdemeanor offense for which collection of a DNA specimen is
- 301 required;
- 302 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county
- 303 jail for any offense under Subsection 53-10-403(1)(c); and

- 304 (iv) are booked at the county jail:
- 305 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
- 306 offense on or after May 13, 2014, through December 31, 2014, under
- 307 Subsection 53-10-404(4)(b); or
- 308 (B) on or after January 1, 2015, for any felony offense.
- 309 (e) Each agency required to collect a DNA specimen under this section shall:
- 310 (i) designate employees to obtain the saliva DNA specimens required under this
- 311 section; and
- 312 (ii) ensure that employees designated to collect the DNA specimens receive
- 313 appropriate training and that the specimens are obtained in accordance with
- 314 generally accepted protocol.
- 315 (6)(a) As used in this Subsection (6), "department" means the Department of
- 316 Corrections.
- 317 (b) Priority of obtaining DNA specimens by the department is:
- 318 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the
- 319 custody of or under the supervision of the department before these persons are
- 320 released from incarceration, parole, or probation, if their release date is prior to
- 321 that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004;
- 322 and
- 323 (ii) second, the department shall obtain DNA specimens from persons who are
- 324 committed to the custody of the department or who are placed under the
- 325 supervision of the department after July 1, 2002, within 120 days after the
- 326 commitment, if possible, but not later than prior to release from incarceration if
- 327 the person is imprisoned, or prior to the termination of probation if the person is
- 328 placed on probation.
- 329 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
- 330 is:
- 331 (i) first, persons on probation;
- 332 (ii) second, persons on parole; and
- 333 (iii) third, incarcerated persons.
- 334 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
- 335 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains
- 336 DNA specimens from persons in the custody of or under the supervision of the
- 337 Department of Corrections as of July 1, 2002, prior to their release.

- 338 (7)(a) As used in this Subsection (7):
- 339 (i) "Court" means the juvenile court.
- 340 (ii) "Division" means the Division of Juvenile Justice and Youth Services.
- 341 (b) Priority of obtaining DNA specimens by the court from minors under Section
- 342 53-10-403 whose cases are under the jurisdiction of the court but who are not in the
- 343 legal custody of the division shall be:
- 344 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under
- 345 the court's jurisdiction, before the court's jurisdiction over the minors' cases
- 346 terminates; and
- 347 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction
- 348 of the court after July 1, 2002, within 120 days of the minor's case being found to
- 349 be within the court's jurisdiction, if possible, but no later than before the court's
- 350 jurisdiction over the minor's case terminates.
- 351 (c) Priority of obtaining DNA specimens by the division from minors under Section
- 352 53-10-403 who are committed to the legal custody of the division shall be:
- 353 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
- 354 division's legal custody and who have not previously provided a DNA specimen
- 355 under this section, before termination of the division's legal custody of these
- 356 minors; and
- 357 (ii) second, to obtain specimens from minors who are placed in the legal custody of
- 358 the division after July 1, 2002, within 120 days of the minor's being placed in the
- 359 custody of the division, if possible, but no later than before the termination of the
- 360 court's jurisdiction over the minor's case.
- 361 (8)(a) The Department of Corrections, the juvenile court, the Division of Juvenile
- 362 Justice and Youth Services, and all law enforcement agencies in the state shall by
- 363 policy establish procedures for obtaining saliva DNA specimens, and shall provide
- 364 training for employees designated to collect saliva DNA specimens.
- 365 (b)(i) The department may designate correctional officers, including those employed
- 366 by the ~~[adult probation and parole section of the department]~~ Division of Adult
- 367 Probation and Parole created in Section 64-14-202, to obtain the saliva DNA
- 368 specimens required under this section.
- 369 (ii) The department shall ensure that the designated employees receive appropriate
- 370 training and that the specimens are obtained in accordance with accepted protocol.
- 371 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

372 Section 6. Section **53-13-103** is amended to read:

373 **53-13-103 . Law enforcement officer.**

374 (1)(a) "Law enforcement officer" means a sworn and certified peace officer:

375 (i) who is an employee of a law enforcement agency; and

376 (ii) whose primary and principal duties consist of the prevention and detection of
377 crime and the enforcement of criminal statutes or ordinances of this state or any of
378 its political subdivisions.

379 (b) "Law enforcement officer" includes the following:

380 (i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county,
381 city, or town;

382 (ii) the commissioner of public safety and any member of the Department of Public
383 Safety certified as a peace officer;

384 (iii) all individuals specified in Section 79-2-704;

385 (iv) a police officer employed by a state institution of higher education;

386 (v) investigators for the Motor Vehicle Enforcement Division;

387 (vi) investigators for the Department of Insurance, Fraud Division;

388 (vii) special agents or investigators employed by the attorney general, district
389 attorneys, and county attorneys;

390 (viii) employees of the Department of Natural Resources designated as peace officers
391 by law;

392 (ix) school district police officers as designated by the board of education for the
393 school district;

394 (x) the executive director of the Department of Corrections and any correctional
395 enforcement or investigative officer designated by the executive director and
396 approved by the commissioner of public safety and certified by the division;

397 (xi) correctional enforcement, investigative, or ~~adult probation and parole~~ Division
398 of Adult Probation and Parole officers employed by the Department of
399 Corrections serving on or before July 1, 1993;

400 (xii) members of a law enforcement agency established by a private college or
401 university if the agency is certified by the commissioner under [Title 53,]Chapter
402 19, Certification of Private Law Enforcement Agency;

403 (xiii) airport police officers of any airport owned or operated by the state or any of its
404 political subdivisions; and

405 (xiv) transit police officers designated under Section 17B-2a-822.

- 406 (2) Law enforcement officers may serve criminal process and arrest violators of any law of
407 this state and have the right to require aid in executing their lawful duties.
- 408 (3)(a) A law enforcement officer has statewide full-spectrum peace officer authority,
409 but the authority extends to other counties, cities, or towns only when the officer is
410 acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law
411 enforcement officer is employed by the state.
- 412 (b)(i) A local law enforcement agency may limit the jurisdiction in which its law
413 enforcement officers may exercise their peace officer authority to a certain
414 geographic area.
- 415 (ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise
416 authority outside of the limited geographic area, pursuant to Title 77, Chapter 9,
417 Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense
418 that occurred within the limited geographic area.
- 419 (c) The authority of law enforcement officers employed by the Department of
420 Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State
421 Prison.
- 422 (4) A law enforcement officer shall, prior to exercising peace officer authority:
- 423 (a)(i) have satisfactorily completed the requirements of Section 53-6-205; or
424 (ii) have met the waiver requirements in Section 53-6-206; and
- 425 (b) have satisfactorily completed annual certified training of at least 40 hours per year as
426 directed by the director of the division, with the advice and consent of the council.
- 427 Section 7. Section **53B-35-202** is amended to read:
- 428 **53B-35-202 . Council duties -- Reporting.**
- 429 (1) The council shall:
- 430 (a) coordinate, facilitate, and support higher education delivered in the state's
431 correctional facilities, including the county jails under contract with the Department
432 of Corrections to house inmates, to prepare incarcerated individuals for integration
433 and productive employment upon release;
- 434 (b) explore and provide recommendations to the board and the Department of
435 Corrections for the efficient and effective delivery of higher education programs to
436 incarcerated individuals, including:
- 437 (i) evidence-based practices and technologies;
- 438 (ii) methods of maximizing and facilitating incarcerated individuals' access to
439 educational programs;

- 440 (iii) methods of supporting and facilitating timely completion of courses, certificates,
441 and degrees;
- 442 (iv) methods of emphasizing educational programs that:
443 (A) align with current and future workforce demands of the state;
444 (B) lead to occupations that are accessible to released incarcerated individuals;
445 (C) provide sustainable wages following release; and
446 (D) maximize accessibility and timely completion during incarceration;
- 447 (v) use of cross-institutional application of coursework toward certificates and
448 degrees;
- 449 (vi) use of coursework that encourages personal and civic development; and
450 (vii) methods of leveraging innovative course delivery, including technology
451 resources;
- 452 (c) explore methods and make recommendations for the collection and analysis of
453 critical data regarding:
454 (i) enrollment and completion of postsecondary education courses, certificate
455 programs, credentials, and degree programs;
456 (ii) federal and state student aid awarded to incarcerated individuals;
457 (iii) costs of postsecondary education in prison, including any recommendations for
458 continued improvement; and
459 (iv) outcomes of formerly incarcerated individuals who participated in postsecondary
460 programming during incarceration if the individual is under the supervision of the [
461 ~~Department of Corrections~~] Division of Adult Probation and Parole created in
462 Section 64-14-202, including recidivism, employment, and post-release
463 postsecondary education engagement; and
- 464 (d) recommend requests for legislative appropriations to the board to support the
465 purposes and objectives of the council.
- 466 (2) The council shall annually report regarding the council's plans and programs, the
467 number of enrollees served, and the number of enrollees receiving degrees and
468 certificates to:
469 (a) the board;
470 (b) before the committee's November interim committee meeting, the Education Interim
471 Committee; and
472 (c) at least 30 days before the beginning of the annual legislative session, the Higher
473 Education Appropriations Subcommittee.

474 Section 8. Section **58-37f-301** is amended to read:

475 **58-37f-301 . Access to database.**

476 (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
477 Administrative Rulemaking Act, to:

478 (a) effectively enforce the limitations on access to the database as described in this part;
479 and

480 (b) establish standards and procedures to ensure accurate identification of individuals
481 requesting information or receiving information without request from the database.

482 (2) The division shall make information in the database and information obtained from
483 other state or federal prescription monitoring programs by means of the database
484 available only to the following individuals, in accordance with the requirements of this
485 chapter and division rules:

486 (a)(i) personnel of the division specifically assigned to conduct investigations related
487 to controlled substance laws under the jurisdiction of the division; and

488 (ii) the following law enforcement officers, but the division may only provide
489 nonidentifying information, limited to gender, year of birth, and postal ZIP code,
490 regarding individuals for whom a controlled substance has been prescribed or to
491 whom a controlled substance has been dispensed:

492 (A) a law enforcement agency officer who is engaged in a joint investigation with
493 the division; and

494 (B) a law enforcement agency officer to whom the division has referred a
495 suspected criminal violation of controlled substance laws;

496 (b) authorized division personnel engaged in analysis of controlled substance
497 prescription information as a part of the assigned duties and responsibilities of their
498 employment;

499 (c) a board member if:

500 (i) the board member is assigned to monitor a licensee on probation; and

501 (ii) the board member is limited to obtaining information from the database regarding
502 the specific licensee on probation;

503 (d) a person the division authorizes to obtain that information on behalf of the Utah
504 Professionals Health Program established in Subsection 58-4a-103(1) if:

505 (i) the person the division authorizes is limited to obtaining information from the
506 database regarding the person whose conduct is the subject of the division's
507 consideration; and

- 508 (ii) the conduct that is the subject of the division's consideration includes a violation
509 or a potential violation of Chapter 37, Utah Controlled Substances Act, or another
510 relevant violation or potential violation under this title;
- 511 (e) in accordance with a written agreement entered into with the department, employees
512 of the Department of Health and Human Services:
- 513 (i) whom the director of the Department of Health and Human Services assigns to
514 conduct scientific studies regarding the use or abuse of controlled substances, if
515 the identity of the individuals and pharmacies in the database are confidential and
516 are not disclosed in any manner to any individual who is not directly involved in
517 the scientific studies;
- 518 (ii) when the information is requested by the Department of Health and Human
519 Services in relation to a person or provider whom the Department of Health and
520 Human Services suspects may be improperly obtaining or providing a controlled
521 substance; or
- 522 (iii) in the medical examiner's office;
- 523 (f) in accordance with a written agreement entered into with the department, a designee
524 of the director of the Department of Health and Human Services, who is not an
525 employee of the Department of Health and Human Services, whom the director of the
526 Department of Health and Human Services assigns to conduct scientific studies
527 regarding the use or abuse of controlled substances pursuant to an application process
528 established in rule by the Department of Health and Human Services, if:
- 529 (i) the designee provides explicit information to the Department of Health and
530 Human Services regarding the purpose of the scientific studies;
- 531 (ii) the scientific studies to be conducted by the designee:
- 532 (A) fit within the responsibilities of the Department of Health and Human
533 Services for health and welfare;
- 534 (B) are reviewed and approved by an Institutional Review Board that is approved
535 for human subject research by the United States Department of Health and
536 Human Services;
- 537 (C) are not conducted for profit or commercial gain; and
- 538 (D) are conducted in a research facility, as defined by division rule, that is
539 associated with a university or college accredited by one or more regional or
540 national accrediting agencies recognized by the United States Department of
541 Education;

- 542 (iii) the designee protects the information as a business associate of the Department
543 of Health and Human Services; and
- 544 (iv) the identity of the prescribers, patients, and pharmacies in the database are
545 de-identified, confidential, and not disclosed in any manner to the designee or to
546 any individual who is not directly involved in the scientific studies;
- 547 (g) in accordance with a written agreement entered into with the department and the
548 Department of Health and Human Services, authorized employees of a managed care
549 organization, as defined in 42 C.F.R. Sec. 438, if:
- 550 (i) the managed care organization contracts with the Department of Health and
551 Human Services under the provisions of Section 26B-3-202 and the contract
552 includes provisions that:
- 553 (A) require a managed care organization employee who will have access to
554 information from the database to submit to a criminal background check; and
- 555 (B) limit the authorized employee of the managed care organization to requesting
556 either the division or the Department of Health and Human Services to conduct
557 a search of the database regarding a specific Medicaid enrollee and to report
558 the results of the search to the authorized employee; and
- 559 (ii) the information is requested by an authorized employee of the managed care
560 organization in relation to a person who is enrolled in the Medicaid program with
561 the managed care organization, and the managed care organization suspects the
562 person may be improperly obtaining or providing a controlled substance;
- 563 (h) a licensed practitioner having authority to prescribe controlled substances, to the
564 extent the information:
- 565 (i)(A) relates specifically to a current or prospective patient of the practitioner;
566 and
- 567 (B) is provided to or sought by the practitioner for the purpose of:
- 568 (I) prescribing or considering prescribing any controlled substance to the
569 current or prospective patient;
- 570 (II) diagnosing the current or prospective patient;
- 571 (III) providing medical treatment or medical advice to the current or
572 prospective patient; or
- 573 (IV) determining whether the current or prospective patient:
- 574 (Aa) is attempting to fraudulently obtain a controlled substance from the
575 practitioner; or

- 576 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a
577 controlled substance from the practitioner;
- 578 (ii)(A) relates specifically to a former patient of the practitioner; and
579 (B) is provided to or sought by the practitioner for the purpose of determining
580 whether the former patient has fraudulently obtained, or has attempted to
581 fraudulently obtain, a controlled substance from the practitioner;
- 582 (iii) relates specifically to an individual who has access to the practitioner's Drug
583 Enforcement Administration identification number, and the practitioner suspects
584 that the individual may have used the practitioner's Drug Enforcement
585 Administration identification number to fraudulently acquire or prescribe a
586 controlled substance;
- 587 (iv) relates to the practitioner's own prescribing practices, except when specifically
588 prohibited by the division by administrative rule;
- 589 (v) relates to the use of the controlled substance database by an employee of the
590 practitioner, described in Subsection (2)(i); or
591 (vi) relates to any use of the practitioner's Drug Enforcement Administration
592 identification number to obtain, attempt to obtain, prescribe, or attempt to
593 prescribe, a controlled substance;
- 594 (i) in accordance with Subsection (3)(a), an employee of a practitioner described in
595 Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:
596 (i) the employee is designated by the practitioner as an individual authorized to
597 access the information on behalf of the practitioner;
598 (ii) the practitioner provides written notice to the division of the identity of the
599 employee; and
600 (iii) the division:
601 (A) grants the employee access to the database; and
602 (B) provides the employee with a password that is unique to that employee to
603 access the database in order to permit the division to comply with the
604 requirements of Subsection 58-37f-203(7) with respect to the employee;
- 605 (j) an employee of the same business that employs a licensed practitioner under
606 Subsection (2)(h) if:
607 (i) the employee is designated by the practitioner as an individual authorized to
608 access the information on behalf of the practitioner;
609 (ii) the practitioner and the employing business provide written notice to the division

- 610 of the identity of the designated employee; and
- 611 (iii) the division:
- 612 (A) grants the employee access to the database; and
- 613 (B) provides the employee with a password that is unique to that employee to
- 614 access the database in order to permit the division to comply with the
- 615 requirements of Subsection 58-37f-203(7) with respect to the employee;
- 616 (k) a licensed pharmacist having authority to dispense a controlled substance, or a
- 617 licensed pharmacy intern or pharmacy technician working under the general
- 618 supervision of a licensed pharmacist, to the extent the information is provided or
- 619 sought for the purpose of:
- 620 (i) dispensing or considering dispensing any controlled substance;
- 621 (ii) determining whether a person:
- 622 (A) is attempting to fraudulently obtain a controlled substance from the pharmacy,
- 623 practitioner, or health care facility; or
- 624 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled
- 625 substance from the pharmacy, practitioner, or health care facility;
- 626 (iii) reporting to the controlled substance database; or
- 627 (iv) verifying the accuracy of the data submitted to the controlled substance database
- 628 on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or
- 629 pharmacy technician is employed;
- 630 (l) pursuant to a valid search warrant, federal, state, and local law enforcement officers
- 631 and state and local prosecutors who are engaged in an investigation related to:
- 632 (i) one or more controlled substances; and
- 633 (ii) a specific person who is a subject of the investigation;
- 634 (m) subject to Subsection (7), a probation or parole officer, employed by the [
635 ~~Department of Corrections]~~ Division of Adult Probation and Parole created in Section
636 64-14-202 or by a political subdivision, to gain access to database information
637 necessary for the officer's supervision of a specific probationer or parolee who is
638 under the officer's direct supervision;
- 639 (n) employees of the Office of Internal Audit within the Department of Health and
640 Human Services who are engaged in their specified duty of ensuring Medicaid
641 program integrity under Section 26B-3-104;
- 642 (o) a mental health therapist, if:
- 643 (i) the information relates to a patient who is:

- 644 (A) enrolled in a licensed substance abuse treatment program; and
645 (B) receiving treatment from, or under the direction of, the mental health therapist
646 as part of the patient's participation in the licensed substance abuse treatment
647 program described in Subsection (2)(o)(i)(A);
- 648 (ii) the information is sought for the purpose of determining whether the patient is
649 using a controlled substance while the patient is enrolled in the licensed substance
650 abuse treatment program described in Subsection (2)(o)(i)(A); and
- 651 (iii) the licensed substance abuse treatment program described in Subsection
652 (2)(o)(i)(A) is associated with a practitioner who:
- 653 (A) is a physician, a physician assistant, an advance practice registered nurse, or a
654 pharmacist; and
- 655 (B) is available to consult with the mental health therapist regarding the
656 information obtained by the mental health therapist, under this Subsection
657 (2)(o), from the database;
- 658 (p) an individual who is the recipient of a controlled substance prescription entered into
659 the database, upon providing evidence satisfactory to the division that the individual
660 requesting the information is in fact the individual about whom the data entry was
661 made;
- 662 (q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the
663 persons and entities that have requested or received any information from the
664 database regarding the individual, except if the individual's record is subject to a
665 pending or current investigation as authorized under this Subsection (2);
- 666 (r) the inspector general, or a designee of the inspector general, of the Office of
667 Inspector General of Medicaid Services, for the purpose of fulfilling the duties
668 described in Title 63A, Chapter 13, Part 2, Office and Powers;
- 669 (s) the following licensed physicians for the purpose of reviewing and offering an
670 opinion on an individual's request for workers' compensation benefits under Title
671 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah
672 Occupational Disease Act:
- 673 (i) a member of the medical panel described in Section 34A-2-601;
- 674 (ii) a physician employed as medical director for a licensed workers' compensation
675 insurer or an approved self-insured employer; or
- 676 (iii) a physician offering a second opinion regarding treatment;
- 677 (t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a

- 678 specific fatality due to opioid use and recommending policies to reduce the frequency
679 of opioid use fatalities;
- 680 (u) a licensed pharmacist who is authorized by a managed care organization as defined
681 in Section 31A-1-301 to access the information on behalf of the managed care
682 organization, if:
- 683 (i) the managed care organization believes that an enrollee of the managed care
684 organization has obtained or provided a controlled substance in violation of a
685 medication management program contract between the enrollee and the managed
686 care organization; and
- 687 (ii) the managed care organization included a description of the medication
688 management program in the enrollee's outline of coverage described in Subsection
689 31A-22-605(7); and
- 690 (v) the Utah Medicaid Fraud Control Unit of the attorney general's office for the purpose
691 of investigating active cases, in exercising the unit's authority to investigate and
692 prosecute Medicaid fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec.
693 1396b(q).
- 694 (3)(a) A practitioner described in Subsection (2)(h) may designate one or more
695 employees to access information from the database under Subsection (2)(i), (2)(j), or
696 (4)(c).
- 697 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
698 Administrative Rulemaking Act, to:
- 699 (i) establish background check procedures to determine whether an employee
700 designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the
701 database;
- 702 (ii) establish the information to be provided by an emergency department employee
703 under Subsection (4); and
- 704 (iii) facilitate providing controlled substance prescription information to a third party
705 under Subsection (5).
- 706 (c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or
707 (4)(c) access to the database, unless the division determines, based on a background
708 check, that the employee poses a security risk to the information contained in the
709 database.
- 710 (4)(a) An individual who is employed in the emergency department of a hospital may
711 exercise access to the database under this Subsection (4) on behalf of a licensed

- 712 practitioner if the individual is designated under Subsection (4)(c) and the licensed
713 practitioner:
- 714 (i) is employed or privileged to work in the emergency department;
 - 715 (ii) is treating an emergency department patient for an emergency medical condition;
 - 716 and
 - 717 (iii) requests that an individual employed in the emergency department and
718 designated under Subsection (4)(c) obtain information regarding the patient from
719 the database as needed in the course of treatment.
- 720 (b) The emergency department employee obtaining information from the database shall,
721 when gaining access to the database, provide to the database the name and any
722 additional identifiers regarding the requesting practitioner as required by division
723 administrative rule established under Subsection (3)(b).
- 724 (c) An individual employed in the emergency department under this Subsection (4) may
725 obtain information from the database as provided in Subsection (4)(a) if:
- 726 (i) the employee is designated by the hospital as an individual authorized to access
727 the information on behalf of the emergency department practitioner;
 - 728 (ii) the hospital operating the emergency department provide written notice to the
729 division of the identity of the designated employee; and
 - 730 (iii) the division:
 - 731 (A) grants the employee access to the database; and
 - 732 (B) provides the employee with a password that is unique to that employee to
733 access the database.
- 734 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a
735 practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to
736 pay for the costs incurred by the division to conduct the background check and make
737 the determination described in Subsection (3)(b).
- 738 (5)(a)(i) An individual may request that the division provide the information under
739 Subsection (5)(b) to a third party who is designated by the individual each time a
740 controlled substance prescription for the individual is dispensed.
- 741 (ii) The division shall upon receipt of the request under this Subsection (5)(a) advise
742 the individual in writing that the individual may direct the division to discontinue
743 providing the information to a third party and that notice of the individual's
744 direction to discontinue will be provided to the third party.
- 745 (b) The information the division shall provide under Subsection (5)(a) is:

- 746 (i) the fact a controlled substance has been dispensed to the individual, but without
747 identifying the controlled substance; and
748 (ii) the date the controlled substance was dispensed.
- 749 (c)(i) An individual who has made a request under Subsection (5)(a) may direct that
750 the division discontinue providing information to the third party.
751 (ii) The division shall:
752 (A) notify the third party that the individual has directed the division to no longer
753 provide information to the third party; and
754 (B) discontinue providing information to the third party.
- 755 (6)(a) An individual who is granted access to the database based on the fact that the
756 individual is a licensed practitioner or a mental health therapist shall be denied access
757 to the database when the individual is no longer licensed.
758 (b) An individual who is granted access to the database based on the fact that the
759 individual is a designated employee of a licensed practitioner shall be denied access
760 to the database when the practitioner is no longer licensed.
- 761 (7) A probation or parole officer is not required to obtain a search warrant to access the
762 database in accordance with Subsection (2)(m).
- 763 (8) The division shall review and adjust the database programming which automatically
764 logs off an individual who is granted access to the database under Subsections (2)(h),
765 (2)(i), (2)(j), and (4)(c) to maximize the following objectives:
766 (a) to protect patient privacy;
767 (b) to reduce inappropriate access; and
768 (c) to make the database more useful and helpful to a person accessing the database
769 under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations
770 such as an emergency department.
- 771 (9) Any person who knowingly and intentionally accesses the database without express
772 authorization under this section is guilty of a class A misdemeanor.

773 Section 9. Section **58-50-10** is amended to read:

774 **58-50-10 . Exceptions from licensure.**

775 In addition to the exemptions from licensure in Section 58-1-307, the following persons
776 may engage in probation supervision services subject to the stated circumstances and
777 limitations without being licensed under this chapter:

- 778 (1) [employees] an employee of the [Department of Corrections] Division of Adult Probation
779 and Parole created in Section 64-14-202 while the employee is performing probation

780 services as part of ~~[their]~~ the employee's normal duties and responsibilities;
 781 (2) ~~[members-]~~ a member of the armed forces and ~~[employees, agents]~~ an employee, agent,
 782 or ~~[representatives]~~ representative of the federal government while acting in ~~[their]~~ the
 783 member's, employee's, agent's, or representative's official capacity; and
 784 ~~[(3) agencies of local government in accordance with Section 77-18-105.]~~
 785 (3) an agency of a local government in accordance with Section 77-18-105.

786 Section 10. Section **59-27-105** is amended to read:

787 **59-27-105 . Sexually Explicit Business and Escort Service Fund -- Administrative**
 788 **charge.**

- 789 (1) There is created an expendable special revenue fund called the "Sexually Explicit
 790 Business and Escort Service Fund."
- 791 (2)(a) Except as provided in Subsection (3), the fund consists of all amounts collected
 792 by the commission under this chapter.
- 793 (b)(i) The money in the fund shall be invested by the state treasurer pursuant to Title
 794 51, Chapter 7, State Money Management Act.
- 795 (ii) All interest or other earnings derived from the fund money shall be deposited in
 796 the fund.
- 797 (3) Notwithstanding any other provision of this chapter, the commission shall retain and
 798 deposit an administrative charge in accordance with Section 59-1-306 from the revenues
 799 the commission collects from a tax under this chapter.
- 800 (4)(a) Fund money shall be used as provided in this Subsection (4).
- 801 (b) The Department of Corrections shall use 60% of the money in the fund, in addition
 802 to existing budgets, to provide treatment services to nonworking or indigent adults
 803 who:
- 804 (i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual
 805 Offenses; and
- 806 (ii) are not currently confined or incarcerated in a jail or prison.
- 807 (c) The Division of Adult Probation and Parole ~~[section of the Department of Corrections]~~
 808 created in Section 64-14-202 shall use 15% of the money in the fund to provide
 809 outpatient treatment services to individuals who:
- 810 (i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual
 811 Offenses; and
- 812 (ii) are not currently confined or incarcerated in a jail or prison.
- 813 (d) The Department of Corrections shall use 10% of the money in the fund, in addition

814 to existing budgets, to implement treatment programs for juveniles who have been
815 convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

816 (e) The attorney general shall use 15% of the money in the fund to provide funding for
817 any task force:

818 (i) administered through the Office of the Attorney General; and

819 (ii) that investigates and prosecutes individuals who use the Internet to commit
820 crimes against children.

821 Section 11. Section **63A-16-1002** is amended to read:

822 **63A-16-1002 . Public safety portal.**

823 (1) The commission shall oversee the creation and management of a public safety portal for
824 information and data required to be reported to the commission and accessible to all
825 criminal justice agencies in the state.

826 (2) The division shall assist with the development and management of the public safety
827 portal.

828 (3) The division, in collaboration with the commission, shall create:

829 (a) master standards and formats for information submitted to the public safety portal;

830 (b) a gateway, bridge, website, or other method for reporting entities to provide the
831 information;

832 (c) a master data management index or system to assist in the retrieval of information
833 from the public safety portal;

834 (d) a protocol for accessing information in the public safety portal that complies with
835 state privacy regulations; and

836 (e) a protocol for real-time audit capability of all data accessed from the public safety
837 portal by participating data source, data use entities, and regulators.

838 (4) The public safety portal shall be the repository for the statutorily required data described
839 in:

840 (a) Section 13-53-111, recidivism reporting requirements;

841 (b) Section 17-22-32, county jail reporting requirements;

842 (c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

843 (d) Section 26B-1-427, Alcohol Abuse Tracking Committee;

844 (e) Section 41-6a-511, courts to collect and maintain data;

845 (f) Section 53-25-301, reporting requirements for reverse-location warrants;

846 (g) Section 53-25-202, sexual assault offense reporting requirements for law
847 enforcement agencies;

- 848 (h) Section 53E-3-516, school disciplinary and law enforcement action report;
- 849 (i) Section 53-25-501, reporting requirements for seized firearms;
- 850 (j) Section 63M-7-214, law enforcement agency grant reporting;
- 851 (k) Section 63M-7-216, prosecutorial data collection;
- 852 (l) Section 63M-7-220, domestic violence data collection;
- 853 (m) Section [~~64-13-21~~] 64-14-204, supervision of sentenced offenders placed in
- 854 community;
- 855 (n) Section 64-13-25, standards for programs;
- 856 (o) Section 64-13-45, department reporting requirements;
- 857 (p) Section 64-13e-104, county correctional facility reimbursement program for state
- 858 probationary inmates and state parole inmates;
- 859 (q) Section 77-7-8.5, use of tactical groups;
- 860 (r) Section 77-11b-404, forfeiture reporting requirements;
- 861 (s) Section 77-20-103, release data requirements;
- 862 (t) Section 77-22-2.5, court orders for criminal investigations;
- 863 (u) Section 78A-2-109.5, court data collection on criminal cases;
- 864 (v) Section 80-6-104, data collection on offenses committed by minors; and
- 865 (w) any other statutes which require the collection of specific data and the reporting of
- 866 that data to the commission.
- 867 (5) Before October 1, 2025, the commission shall report all data collected to the Law
- 868 Enforcement and Criminal Justice Interim Committee.
- 869 (6) The commission may:
- 870 (a) enter into contracts with private or governmental entities to assist entities in
- 871 complying with the data reporting requirements of Subsection (4); and
- 872 (b) adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 873 rules to administer this section, including establishing requirements and procedures
- 874 for collecting the data described in Subsection (4).
- 875 Section 12. Section **63A-17-512** is amended to read:
- 876 **63A-17-512 . Leave of absence with pay for employees with a disability who are**
- 877 **covered under other civil service systems.**
- 878 (1) As used in this section:
- 879 (a) "Eligible officer" means a person who qualifies for a benefit under this section.
- 880 (b)(i) "Law enforcement officer" means a sworn and certified peace officer who is an
- 881 employee of a law enforcement agency that is part of or administered by the state,

882 and whose primary and principal duties consist of the prevention and detection of
883 crime and the enforcement of criminal statutes of this state.

884 (ii) "Law enforcement officer" specifically includes the following:

885 (A) the commissioner of public safety and any member of the Department of
886 Public Safety certified as a peace officer;

887 (B) investigators for the Motor Vehicle Enforcement Division;

888 (C) special agents or investigators employed by the attorney general;

889 (D) employees of the Department of Natural Resources designated as peace
890 officers by law;

891 (E) the executive director of the Department of Corrections and any correctional
892 enforcement or investigative officer designated by the executive director and
893 approved by the commissioner of public safety and certified by the division;
894 and

895 (F) correctional enforcement, investigative, or [~~adult probation and parole officers~~]
896 Division of Adult Probation and Parole officers employed by the Department
897 of Corrections serving on or before July 1, 1993.

898 (c) "State correctional officer" means a correctional officer as defined in Section
899 53-13-104 who is employed by the Department of Corrections.

900 (2)(a) A law enforcement officer or state correctional officer who is injured in the
901 course of employment shall be given a leave of absence with 100% of the officer's
902 regular monthly salary and benefits during the period the employee has a temporary
903 disability.

904 (b) The benefit provided under Subsection (2)(a):

905 (i) shall be offset as provided under Subsection (4); and

906 (ii) may not exceed 100% of the officer's regular monthly salary and benefits,
907 including all offsets required under Subsection (4).

908 (3)(a) A law enforcement officer or state correctional officer who has a total disability
909 as defined in Section 49-21-102, shall be given a leave of absence with 100% of the
910 officer's regular monthly salary and benefits until the officer is eligible for an
911 unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act,
912 or reaches the retirement age of 62 years, whichever occurs first, if:

913 (i) the disability is a result of an injury sustained while in the lawful discharge of the
914 officer's duties; and

915 (ii) the injury is the result of:

- 916 (A) a criminal act upon the officer; or
917 (B) an aircraft, vehicle, or vessel accident and the officer was not negligent in
918 causing the accident.
- 919 (b) The benefit provided under Subsection (3)(a):
920 (i) shall be offset as provided under Subsection (4); and
921 (ii) may not exceed 100% of the officer's regular monthly salary and benefits,
922 including all offsets required under Subsection (4).
- 923 (4)(a) The agency shall reduce or require the reimbursement of the monthly benefit
924 provided under this section by any amount received by, or payable to, the eligible
925 officer for the same period of time during which the eligible officer is entitled to
926 receive a monthly disability benefit under this section.
- 927 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
928 division shall make rules establishing policies and procedures for the reductions
929 required under Subsection (4)(a).
- 930 Section 13. Section **63B-12-301** is amended to read:
931 **63B-12-301 . Other capital facilities authorizations.**
- 932 (1) It is the intent of the Legislature that:
933 (a) Utah State University use institutional funds to plan, design, and construct an
934 addition to the Laboratory Research Center under the direction of the director of the
935 Division of Facilities Construction and Management unless supervisory authority has
936 been delegated;
937 (b) no state funds be used for any portion of this project; and
938 (c) the university may request state funds for operations and maintenance to the extent
939 that the university is able to demonstrate to the Board of Regents that the facility
940 meets approved academic and training purposes under Board of Regents policy R710.
- 941 (2) It is the intent of the Legislature that:
942 (a) Utah State University use institutional funds to plan, design, and construct an
943 addition to the Biology/Natural Resources Building under the direction of the director
944 of the Division of Facilities Construction and Management unless supervisory
945 authority has been delegated;
946 (b) no state funds be used for any portion of this project; and
947 (c) the university may request state funds for operations and maintenance to the extent
948 that the university is able to demonstrate to the Board of Regents that the facility
949 meets approved academic and training purposes under Board of Regents policy R710.

- 950 (3) It is the intent of the Legislature that:
- 951 (a) Snow College use grants and loans from the Community Impact Board together with
 952 other institutional funds to plan, design, and construct an addition to the Activities
 953 Center under the direction of the director of the Division of Facilities Construction
 954 and Management unless supervisory authority has been delegated;
- 955 (b) no state funds be used for any portion of this project;
- 956 (c) before proceeding with the project, the Board of Regents and the Division of
 957 Facilities Construction and Management review and approve the scope and funding
 958 of the project; and
- 959 (d) the college may request state funds for operations and maintenance to the extent that
 960 the college is able to demonstrate to the Board of Regents that the facility meets
 961 approved academic and training purposes under Board of Regents policy R710.
- 962 (4)(a) It is the intent of the Legislature that the Division of Facilities Construction and
 963 Management sell the state's interest in the Iron County Correction Facility to Iron
 964 County for \$2,000,000 according to the terms specified in this Subsection (4).
- 965 (b) Iron County will pay the state \$1,550,000 in cash.
- 966 (c) To pay the \$450,000 balance of the purchase price, Iron County will:
- 967 (i) provide office space for the Department [~~of Corrections' Adult Probation and~~
 968 ~~Parole~~] of Corrections in the Iron County Correction Facility for 10 years at no
 969 cost to the state of Utah, at an estimated value of \$45,000 per year for a total
 970 10-year value of \$450,000; and
- 971 (ii) contract with the Department of Corrections to house 15 state prisoners in the
 972 Iron County Correctional Facility for at least five years.
- 973 (d)(i) The Department of Corrections shall select the 15 prisoners to house at the
 974 Iron County Correctional Facility from beds currently under contract in other
 975 counties.
- 976 (ii) Nothing in this section may be construed to authorize or require the Department
 977 of Corrections to increase the number of prisoners currently housed in county
 978 correctional facilities on state contract.
- 979 (e) If the [~~Department of Corrections'~~] Division of Adult Probation and Parole created in
 980 Section 64-14-202 chooses[~~, for whatever reason,~~] not to use the office space offered
 981 by Iron County, Iron County is not liable for, and need not pay, the state the value of
 982 that estimated rent.
- 983 Section 14. Section **63M-7-404.3** is amended to read:

984 **63M-7-404.3 . Adult sentencing and supervision length guidelines.**

985 (1) The sentencing commission shall establish and maintain adult sentencing and
986 supervision length guidelines regarding:

987 (a) the sentencing and release of offenders in order to:

988 (i) accept public comment;

989 (ii) relate sentencing practices and correctional resources;

990 (iii) increase equity in sentencing;

991 (iv) better define responsibility in sentencing; and

992 (v) enhance the discretion of the sentencing court while preserving the role of the
993 Board of Pardons and Parole;

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

995 (i) accept public comment;

996 (ii) increase equity in criminal supervision lengths;

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

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

999 (v) relate the length of supervision to the amount of time an offender has remained
1000 under supervision in the community; and

1001 (vi) enhance the discretion of the sentencing court while preserving the role of the
1002 Board of Pardons and Parole; and

1003 (c) appropriate, evidence-based probation and parole supervision policies and services
1004 that assist offenders in successfully completing supervision and reduce incarceration
1005 rates from community supervision programs while ensuring public safety, including:

1006 (i) treatment and intervention completion determinations based on individualized
1007 case action plans;

1008 (ii) measured and consistent processes for addressing violations of conditions of
1009 supervision;

1010 (iii) processes that include using positive reinforcement to recognize an offender's
1011 progress in supervision;

1012 (iv) engaging with social services agencies and other stakeholders who provide
1013 services that meet the needs of an offender; and

1014 (v) identifying community violations that may not warrant revocation of probation or
1015 parole.

1016 (2)(a) Before July 1, 2024, the sentencing commission shall revise and review the adult
1017 sentencing and supervision length guidelines to reflect appropriate penalties for the

- 1018 following offenses:
- 1019 (i) an interlock restricted driver operating a vehicle without an ignition interlock
1020 system, Section 41-6a-518.2[:] ;
- 1021 (ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and
1022 (iii) negligently operating a vehicle resulting in death, Section 76-5-207.
- 1023 (b) The guidelines under Subsection (2)(a) shall consider the following:
- 1024 (i) the current sentencing requirements for driving under the influence of alcohol,
1025 drugs, or a combination of both as identified in Section 41-6a-505 when injury or
1026 death do not result;
- 1027 (ii) the degree of injury and the number of victims suffering injury or death as a result
1028 of the offense;
- 1029 (iii) the offender's number of previous convictions for driving under the influence
1030 related offenses as defined in Subsection 41-6a-501(2)(a); and
- 1031 (iv) whether the offense amounts to extreme DUI, as that term is defined in Section
1032 41-6a-501.
- 1033 (3) On or before October 31, 2024, the sentencing commission shall review and revise the
1034 supervision tools in the adult sentencing and supervision length guidelines to:
- 1035 (a) recommend appropriate sanctions for an individual who violates probation or parole
1036 by:
- 1037 (i) committing a felony offense, a misdemeanor offense described in Title 76,
1038 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving
1039 under the influence described in Section 41-6a-502;
- 1040 (ii) possessing a dangerous weapon; or
- 1041 (iii) willfully refusing to participate in treatment ordered by the court or the Board of
1042 Pardons and Parole; and
- 1043 (b) recommend appropriate incentives for an individual on probation or parole that:
- 1044 (i) completes all conditions of probation or parole; or
1045 (ii) maintains eligible employment as defined in Section ~~[64-13g-101]~~ 64-14-301.
- 1046 (4) The sentencing commission shall establish guidelines in the adult sentencing and
1047 supervision length guidelines that recommend an enhanced sentence that a court or the
1048 Board of Pardons and Parole should consider when determining the period in which a
1049 habitual offender, as defined in Section 77-18-102, will be incarcerated.
- 1050 (5) The sentencing commission shall modify:
- 1051 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the

1052 purposes of protecting the public and ensuring efficient use of state funds; and
1053 (b) the criminal history score in the adult sentencing and supervision length guidelines to
1054 reduce recidivism, including factors in an offender's criminal history that are relevant
1055 to the accurate determination of an individual's risk of offending again.

1056 Section 15. Section **63M-7-1002** is amended to read:

1057 **63M-7-1002 . Victim rights committee for each judicial district -- Members --**

1058 **Terms.**

- 1059 (1) There is created a victim rights committee in each judicial district of this state.
1060 (2) The Victim Services Commission shall appoint a chair to serve on each committee.
1061 (3) The chair shall appoint, with the Victim Services Commission's consent, the following
1062 individuals to serve on each committee:
- 1063 (a) a county or district attorney within the judicial district, or the county or district
1064 attorney's designee;
 - 1065 (b) a municipal attorney within the judicial district, or the municipal attorney's designee;
 - 1066 (c) a sheriff within the judicial district, or the sheriff's designee;
 - 1067 (d) a chief of police within the judicial district, or the chief of police's designee;
 - 1068 (e) a representative of the Division of Adult Probation and Parole [~~within the~~
1069 ~~Department of Corrections~~] created in Section 64-14-202;
 - 1070 (f) a victim advocate; and
 - 1071 (g) any other representative as appropriate.
- 1072 (4) A member is:
- 1073 (a) appointed to serve a four-year term; and
 - 1074 (b) eligible for reappointment.
- 1075 (5) When a vacancy occurs in the membership of a committee for any reason, the
1076 replacement shall be appointed for the remainder of the unexpired term.
- 1077 (6) A member may not receive compensation or benefits for the member's service, but a
1078 member may receive per diem and travel expenses in accordance with:
- 1079 (a) Section 63A-3-106;
 - 1080 (b) Section 63A-3-107; and
 - 1081 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1082 63A-3-107.

1083 Section 16. Section **64-13-6** is amended to read:

1084 **64-13-6 . Department duties.**

- 1085 (1) The department shall:

- 1086 (a) protect the public through institutional care and confinement, and supervision in the
1087 community of offenders where appropriate;
- 1088 (b) implement court-ordered punishment of offenders;
- 1089 (c) provide evidence-based and evidence-informed program opportunities for offenders
1090 designed to reduce offenders' criminogenic and recidivism risks, including
1091 behavioral, cognitive, educational, and career-readiness program opportunities;
- 1092 (d) ensure that offender participation in all program opportunities described in
1093 Subsection (1)(c) is voluntary;
- 1094 (e) where appropriate, utilize offender volunteers as mentors in the program
1095 opportunities described in Subsection (1)(c);
- 1096 (f) provide treatment for sex offenders who are found to be treatable based upon criteria
1097 developed by the department;
- 1098 (g) provide the results of ongoing clinical assessment of sex offenders and objective
1099 diagnostic testing to sentencing and release authorities;
- 1100 (h) manage programs that take into account the needs and interests of victims, where
1101 reasonable;
- 1102 (i) through the Division of Adult Probation and Parole created in Section 64-14-202,
1103 supervise probationers and parolees as directed by statute and implemented by the
1104 courts and the Board of Pardons and Parole;
- 1105 (j) subject to Subsection [~~(3)~~] (2), investigate criminal conduct involving offenders
1106 incarcerated in a state correctional facility;
- 1107 (k) cooperate and exchange information with other state, local, and federal law
1108 enforcement agencies to achieve greater success in prevention and detection of crime
1109 and apprehension of criminals;
- 1110 (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
1111 Offender Supervision;
- 1112 (m) establish a case action plan based on appropriate validated risk, needs, and
1113 responsivity assessments for each offender as follows:
- 1114 (i)(A) if an offender is to be supervised in the community, the department shall
1115 establish a case action plan for the offender no later than 60 days after the day
1116 on which the department's community supervision of the offender begins; and
1117 (B) if the offender is committed to the custody of the department, the department
1118 shall establish a case action plan for the offender no later than 90 days after the
1119 day on which the offender is committed to the custody of the department;

- 1120 (ii) each case action plan shall:
- 1121 (A) integrate an individualized, evidence-based, and evidence-informed treatment
- 1122 and program plan with clearly defined completion requirements; and
- 1123 (B) require that a case manager will:
- 1124 (I) ensure that an assessment of the education level, occupational interests, and
- 1125 aptitudes of the inmate has been completed;
- 1126 (II) refer the inmate to a higher education student advisor at an institution
- 1127 offering programs consistent with the inmate's interests and aptitudes for
- 1128 advisement on educational preferences and plans;
- 1129 (III) incorporate the inmate's interests, aptitudes, and student advisement into
- 1130 an education plan consistent with the guidance provided by the Higher
- 1131 Education and Corrections Council created in Section 53B-35-201; and
- 1132 (IV) refer the inmate to the student advisor at the institution called for in the
- 1133 case action plan for guidance and assistance with the education process;
- 1134 (iii) the department shall share each newly established case action plan with the
- 1135 sentencing and release authority within 30 days after the day on which the case
- 1136 action plan is established; and
- 1137 (iv) the department shall share any changes to a case action plan, including any
- 1138 change in an offender's risk assessment, with the sentencing and release authority
- 1139 within 30 days after the day of the change;
- 1140 (n) ensure that an inmate has reasonable access to legal research;
- 1141 (o) ensure that any training or certification required of a public official or public
- 1142 employee, as those terms are defined in Section 63G-22-102, complies with Title
- 1143 63G, Chapter 22, State Training and Certification Requirements, if the training or
- 1144 certification is required:
- 1145 (i) under this title;
- 1146 (ii) by the department; or
- 1147 (iii) by an agency or division within the department;
- 1148 (p) when reporting on statewide recidivism, include the metrics and requirements
- 1149 described in Section 63M-7-102;
- 1150 (q) create a reentry division that focuses on the successful reentry of inmates into the
- 1151 community;
- 1152 (r) coordinate with the Board of Pardons and Parole regarding inmate records that are
- 1153 necessary for the Board of Pardons and Parole to make necessary determinations

- 1154 regarding an inmate; and
- 1155 (s) ensure that inmate records regarding discipline, programs, and other relevant metrics
- 1156 are:
- 1157 (i) complete and updated in a timely manner; and
- 1158 (ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.
- 1159 [~~(2)~~ The department may in the course of supervising probationers and parolees:]
- 1160 [(a) respond to an individual's violation of one or more terms of the probation or parole
- 1161 in accordance with the graduated and evidence-based processes established by the
- 1162 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;
- 1163 and]
- 1164 [(b) upon approval by the court or the Board of Pardons and Parole, impose as a
- 1165 sanction for an individual's violation of the terms of probation or parole a period of
- 1166 incarceration of not more than three consecutive days and not more than a total of
- 1167 five days within a period of 30 days.]
- 1168 [~~(3)~~ (2)(a) By following the procedures in Subsection [~~(3)~~(b)] (2)(b), the department
- 1169 may investigate the following occurrences at state correctional facilities:
- 1170 (i) criminal conduct of departmental employees;
- 1171 (ii) felony crimes resulting in serious bodily injury;
- 1172 (iii) death of any person; or
- 1173 (iv) aggravated kidnaping.
- 1174 (b) Before investigating any occurrence specified in Subsection [~~(3)~~(a)] (2)(a), the
- 1175 department shall:
- 1176 (i) notify the sheriff or other appropriate law enforcement agency promptly after
- 1177 ascertaining facts sufficient to believe an occurrence specified in Subsection [~~(3)~~(a)]
- 1178 (2)(a) has occurred; and
- 1179 (ii) obtain consent of the sheriff or other appropriate law enforcement agency to
- 1180 conduct an investigation involving an occurrence specified in Subsection [~~(3)~~(a)]
- 1181 (2)(a).
- 1182 [~~(4)~~ (3)] Upon request, the department shall provide copies of investigative reports of
- 1183 criminal conduct to the sheriff or other appropriate law enforcement agencies.
- 1184 [~~(5)~~ (4)](a) The executive director of the department, or the executive director's designee
- 1185 if the designee possesses expertise in correctional programming, shall consult at least
- 1186 annually with cognitive and career-readiness staff experts from the Utah system of
- 1187 higher education and the State Board of Education to review the department's

- 1188 evidence-based and evidence-informed treatment and program opportunities.
- 1189 (b) Beginning in the 2022 interim, the department shall provide an annual report to the
 1190 Law Enforcement and Criminal Justice Interim Committee regarding:
- 1191 (i) the department's implementation of and offender participation in evidence-based
 1192 and evidence-informed treatment and program opportunities designed to reduce
 1193 the criminogenic and recidivism risks of offenders over time; and
- 1194 (ii) the progress of the department's implementation of the inmate program
 1195 requirements described in Section 64-13-50.
- 1196 ~~[(6)]~~ (5)(a) As used in this Subsection ~~[(6)]~~ (5):
- 1197 (i) "Accounts receivable" means any amount owed by an offender arising from a
 1198 criminal judgment that has not been paid.
- 1199 (ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,
 1200 surcharges, costs, interest, penalties, restitution to victims, third-party claims,
 1201 claims, reimbursement of a reward, and damages that an offender is ordered to
 1202 pay.
- 1203 (b) The department shall collect and disburse, with any interest and any other costs
 1204 assessed under Section ~~[64-13-21]~~ 64-14-204, an accounts receivable for an offender
 1205 during:
- 1206 (i) the parole period and any extension of that period in accordance with Subsection [
 1207 ~~(6)(e)]~~ (5)(c); and
- 1208 (ii) the probation period for which the court orders supervised probation and any
 1209 extension of that period by the department in accordance with Subsection
 1210 77-18-105(7).
- 1211 (c)(i) If an offender has an unpaid balance of the offender's accounts receivable at
 1212 the time that the offender's sentence expires or terminates, the department shall be
 1213 referred to the sentencing court for the sentencing court to enter a civil judgment
 1214 of restitution and a civil accounts receivable as described in Section 77-18-114.
- 1215 (ii) If the board makes an order for restitution within 60 days from the day on which
 1216 the offender's sentence expires or terminates, the board shall refer the order for
 1217 restitution to the sentencing court to be entered as a civil judgment of restitution as
 1218 described in Section 77-18-114.
- 1219 (d) This Subsection ~~[(6)]~~ (5) only applies to offenders sentenced before July 1, 2021.
 1220 Section 17. Section **64-13-14.5** is amended to read:
 1221 **64-13-14.5 . Limits of confinement place -- Release status -- Work release.**

- 1222 (1) The department may extend the limits of the place of confinement of an inmate when, as
 1223 established by department policies and procedures, there is cause to believe the inmate
 1224 will honor the trust, by authorizing the inmate under prescribed conditions:
- 1225 (a) to leave temporarily for purposes specified by department policies and procedures to
 1226 visit specifically designated places for a period not to exceed 30 days;
- 1227 (b) to participate in a voluntary training program in the community while housed at a
 1228 correctional facility or to work at paid employment;
- 1229 (c) to be housed in a nonsecure community correctional center operated by the
 1230 department; or
- 1231 (d) to be housed in any other facility under contract with the department.
- 1232 (2)(a) The department shall establish rules governing offenders on release status.
- 1233 (b) A copy of the rules established under Subsection (2)(a) shall be furnished to the
 1234 offender and to any employer or other person participating in the offender's release
 1235 program.
- 1236 (c) Any employer or other participating person shall agree in writing to abide by the
 1237 rules established under Subsection (2)(a) and to notify the department of the
 1238 offender's discharge or other release from a release program activity, or of any
 1239 violation of the rules governing release status.
- 1240 (3) The willful failure of an inmate to remain within the extended limits of his confinement
 1241 or to return within the time prescribed to an institution or facility designated by the
 1242 department is an escape from custody.
- 1243 (4) If an offender is arrested for the commission of a crime, the arresting authority shall
 1244 immediately notify the department of the arrest.
- 1245 (5) The department may impose appropriate sanctions pursuant to Section [~~64-13-21~~]
 1246 64-14-204 upon offenders who violate the adult sentencing and supervision length
 1247 guidelines, as defined in Section 63M-7-401.1, including prosecution for escape under
 1248 Section 76-8-309 or 76-8-309.3 and for [~~unauthorized absence~~] absconding from
 1249 supervision.
- 1250 (6) An inmate who is housed at a nonsecure correctional facility and on work release may
 1251 not be required to work for less than the current federally established minimum wage, or
 1252 under substandard working conditions.

1253 Section 18. Section **64-13-21** is amended to read:

1254 **64-13-21 . Supervision of sentenced offenders placed in community --**

1255 **Rulemaking -- POST certified parole or probation officers and peace officers -- Duties --**

1256 **Supervision fee.**

1257 (1)(a) The department, except as otherwise provided by law, shall supervise a sentenced
1258 offender placed in the community if the offender:

1259 (i)(A) is placed on probation by a court;

1260 (B) is released on parole by the Board of Pardons and Parole; or

1261 (C) is accepted for supervision under the terms of the Interstate Compact for the
1262 Supervision of Parolees and Probationers; and

1263 (ii) has been convicted of:

1264 (A) a felony;

1265 (B) a class A misdemeanor when an element of the offense is the use or attempted
1266 use of physical force against an individual or property; or

1267 (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the
1268 department is ordered by a court to supervise the offender under Section
1269 77-18-105.

1270 (b) If a sentenced offender participates in substance use treatment or a residential,
1271 vocational and life skills program, as defined in Section 13-53-102, while under
1272 supervision on probation or parole, the department shall monitor the offender's
1273 compliance with and completion of the treatment or program.

1274 (c) The department shall establish standards for:

1275 (i) the supervision of offenders in accordance with the adult sentencing and
1276 supervision length guidelines, as defined in Section 63M-7-401.1, giving priority,
1277 based on available resources, to felony offenders and offenders sentenced under
1278 Subsection 58-37-8 (2)(b)(ii); and

1279 (ii) the monitoring described in Subsection (1)(b).

1280 (2) The department shall apply the graduated and evidence-based responses established in
1281 the adult sentencing and supervision length guidelines, as defined in Section
1282 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation
1283 of the terms of probation or parole, including:

1284 (a) sanctions to be used in response to a violation of the terms of probation or parole; and

1285 (b) requesting approval from the court or Board of Pardons and Parole to impose a
1286 sanction for an individual's violation of the terms of probation or parole, for a period
1287 of incarceration of not more than three consecutive days and not more than a total of
1288 six days within a period of 30 days.

1289 (3) The department shall implement a program of graduated incentives as established in the

- 1290 adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1
1291 to facilitate the department's prompt and appropriate response to an offender's:
- 1292 (a) compliance with the terms of probation or parole; or
 - 1293 (b) positive conduct that exceeds those terms.
- 1294 (4)(a) The department shall, in collaboration with the State Commission on Criminal
1295 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create
1296 standards and procedures for the collection of information, including cost savings
1297 related to recidivism reduction and the reduction in the number of inmates, related to
1298 the use of the graduated and evidence-based responses and graduated incentives, and
1299 offenders' outcomes.
- 1300 (b) The collected information shall be provided to the State Commission on Criminal
1301 and Juvenile Justice not less frequently than annually on or before August 31.
- 1302 (5) Employees of the department who are POST certified as law enforcement officers or
1303 correctional officers and who are designated as parole and probation officers by the
1304 executive director have the following duties:
- 1305 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
1306 with the conditions of the parole or probation agreement;
 - 1307 (b) investigating or apprehending any offender who has escaped from the custody of the
1308 department or absconded from supervision;
 - 1309 (c) supervising any offender during transportation; or
 - 1310 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 1311 (6)(a)(i) A monthly supervision fee of \$30 shall be collected from each offender on
1312 probation or parole.
- 1313 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the
1314 department upon a showing by the offender that imposition would create a
1315 substantial hardship or if the offender owes restitution to a victim.
- 1316 (b)(i) The department shall make rules in accordance with Title 63G, Chapter 3,
1317 Utah Administrative Rulemaking Act, specifying the criteria for suspension or
1318 waiver of the supervision fee and the circumstances under which an offender may
1319 request a hearing.
- 1320 (ii) In determining whether the imposition of the supervision fee would constitute a
1321 substantial hardship, the department shall consider the financial resources of the
1322 offender and the burden that the fee would impose, with regard to the offender's
1323 other obligations.

- 1324 (7)(a) For offenders placed on probation under Section 77-18-105 or parole under
1325 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019,
1326 the department shall establish a program allowing an offender to earn a reduction
1327 credit of 30 days from the offender's period of probation or parole for each month the
1328 offender complies with the terms of the offender's probation or parole agreement,
1329 including the case action plan.
- 1330 (b)(i) For offenders placed on probation under Section 77-18-105 or parole under
1331 Section 76-3-202 on or after July 1, 2026, the department shall establish a
1332 program, consistent with the adult sentencing and supervision length guidelines,
1333 as defined in Section 63M-7-401.1, to provide incentives for an offender that
1334 maintains eligible employment, as defined in Section [~~64-13g-101~~] 64-14-301.
- 1335 (ii) The program under Subsection (7)(b)(i) may include a credit towards the
1336 reduction of the length of supervision for an offender at a rate of up to 30 days for
1337 each month that the offender maintains eligible employment, as defined in Section [~~64-13g-101~~] 64-14-301.
1338
- 1339 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for
1340 termination of supervision under the program described in this Subsection (7)(b) if
1341 the court, or the Board of Pardons and Parole, finds that:
1342 (A) the offender presents a substantial risk to public safety;
1343 (B) termination would prevent the offender from completing risk reduction
1344 programming or treatment; or
1345 (C) the eligibility criteria for termination of supervision, as established in the adult
1346 sentencing and supervision length guidelines, as defined in Section
1347 63M-7-401.1, have not been met.
- 1348 (iv) This Subsection (7)(b) does not prohibit the department, or another supervision
1349 services provider, from requesting termination of supervision based on the
1350 eligibility criteria in the adult sentencing and supervision length guidelines, as
1351 defined in Section 63M-7-401.1.
- 1352 (c) The department shall:
1353 (i) maintain a record of credits earned by an offender under this Subsection (7); and
1354 (ii) request from the court or the Board of Pardons and Parole the termination of
1355 probation or parole not fewer than 30 days prior to the termination date that
1356 reflects the credits earned under this Subsection (7).
- 1357 (d) This Subsection (7) does not prohibit the department from requesting a termination

1358 date earlier than the termination date established by earned credits under Subsection
1359 (7)(c).

1360 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation
1361 or parole upon completion of the period of probation or parole accrued by time
1362 served and credits earned under this Subsection (7) unless the court or the Board of
1363 Pardons and Parole finds that termination would interrupt the completion of a
1364 necessary treatment program, in which case the termination of probation or parole
1365 shall occur when the treatment program is completed.

1366 (f) The department shall report annually to the State Commission on Criminal and
1367 Juvenile Justice on or before August 31:

1368 (i) the number of offenders who have earned probation or parole credits under this
1369 Subsection (7) in one or more months of the preceding fiscal year and the
1370 percentage of the offenders on probation or parole during that time that this
1371 number represents;

1372 (ii) the average number of credits earned by those offenders who earned credits;

1373 (iii) the number of offenders who earned credits by county of residence while on
1374 probation or parole;

1375 (iv) the cost savings associated with sentencing reform programs and practices; and

1376 (v) a description of how the savings will be invested in treatment and
1377 early-intervention programs and practices at the county and state levels.

1378 Section 19. Section **64-13-26** is amended to read:

1379 **64-13-26 . Private providers of services.**

1380 (1) Subject to Subsection [~~64-13-21(1)(b)~~] 64-14-204(1)(b), the department may contract
1381 with a private provider or another agency for the provision of care, treatment, and
1382 supervision of an offender committed to the care and custody of the department.

1383 (2)(a) The department shall:

1384 (i) establish standards for the operation of the programs;

1385 (ii) establish standards under Section 64-13-25 regarding program standards; and

1386 (iii) annually review the programs for compliance.

1387 (b) The reviews described in Subsection (2)(a) shall be classified as confidential internal
1388 working papers.

1389 (c) Access to records regarding the reviews is available upon the discretion of the
1390 executive director or the governor, or upon court order.

1391 Section 20. Section **64-13e-102** is amended to read:

1392 **64-13e-102 . Definitions.**

1393 As used in this chapter:

1394 (1) "Alternative treatment program" means:

1395 (a) an evidence-based cognitive behavioral therapy program; or

1396 (b) a certificate-based program provided by:

1397 (i) an institution of higher education described in Subsection 53B-1-102(1)(b); or

1398 (ii) a degree-granting institution acting in the degree-granting institution's technical
1399 education role described in Section 53B-2a-201.

1400 (2) "Board" means the Board of Pardons and Parole.

1401 (3) "Commission" means the State Commission on Criminal and Juvenile Justice, created in
1402 Section 63M-7-201.1403 (4)(a) "Condition of probation day" means a day spent by a state probationary inmate in
1404 a county correctional facility as a condition of probation.1405 (b) "Condition of probation day" includes a day spent by a state probationary inmate in a
1406 county correctional facility:

1407 (i) after the date of sentencing;

1408 (ii) before the date of sentencing, if a court orders that the state probationary inmate
1409 shall receive credit for time served in a county correctional facility before the date
1410 of sentencing;

1411 (iii) as a condition of an original order of probation; and

1412 (iv) as a condition of a new order of probation after a prior revocation of probation.

1413 (c) "Condition of probation day" does not include a day spent by a state probationary
1414 inmate in a county correctional facility:

1415 (i) as a probation sanction day;

1416 (ii) after the state probationary inmate has spent 365 consecutive days in a county
1417 correctional facility for a single order of probation;1418 (iii) as a condition of a plea in abeyance agreement if a conviction has not been
1419 entered;1420 (iv) on a hold instituted by the federal Immigration and Customs Enforcement
1421 Agency of the United States Department of Homeland Security; or

1422 (v) after the termination of probation if the state probationary inmate is:

1423 (A) sentenced to prison; or

1424 (B) eligible for release.

1425 (5) "Department" means the Department of Corrections, created in Section 64-13-2.

- 1426 (6) "Division" means the Division of Finance, created in Section 63A-3-101.
- 1427 (7)(a) "Eligible bed day" means a day spent by a state probationary inmate or a state
1428 parole inmate in a county correctional facility that is eligible for reimbursement
1429 under Section 64-13e-104.
- 1430 (b) "Eligible bed day" includes:
- 1431 (i) a condition of probation day;
- 1432 (ii) a parole hold day;
- 1433 (iii) a parole sanction day; and
- 1434 (iv) a probation sanction day.
- 1435 (8)(a) "Parole hold day" means a day spent in a county correctional facility by a state
1436 parole inmate under Subsection 64-13-29(3) based on a suspected violation of the
1437 state parole inmate's terms of parole.
- 1438 (b) "Parole hold day" does not include a day spent in a county correctional facility by a
1439 state parole inmate:
- 1440 (i) after the state parole inmate has spent 72 hours, excluding weekends and holidays,
1441 for a single suspected violation of the state parole inmate's terms of parole; or
- 1442 (ii) as a parole sanction day.
- 1443 (9)(a) "Parole sanction day" means a day spent in a county correctional facility by a
1444 state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the
1445 state parole inmate's terms of parole.
- 1446 (b) "Parole sanction day" includes not more than three consecutive days and not more
1447 than a total of [~~five~~] six days within a period of 30 days for each sanction.
- 1448 (c) "Parole sanction day" does not include a parole hold day.
- 1449 (10)(a) "Probation sanction day" means a day spent in a county correctional facility by a
1450 state probationary inmate as a sanction under Subsection 64-13-6(2) based on a
1451 violation of the state probationary inmate's terms of probation.
- 1452 (b) "Probation sanction day" includes not more than three consecutive days and not more
1453 than a total of [~~five~~] six days within a period of 30 days for each sanction.
- 1454 (c) "Probation sanction day" does not include:
- 1455 (i) a condition of probation day; or
- 1456 (ii) a day spent in a county correctional facility by a state probationary inmate under
1457 Subsection [~~64-13-29(3)~~] 64-14-205(3) based on a suspected violation of the state
1458 probationary inmate's terms of probation.
- 1459 (11) "State daily incarceration rate" means the average daily incarceration rate, calculated

- 1460 by the department based on the previous three fiscal years, that reflects the following
 1461 expenses incurred by the department for housing an inmate:
- 1462 (a) executive overhead;
 - 1463 (b) administrative overhead;
 - 1464 (c) transportation overhead;
 - 1465 (d) division overhead; and
 - 1466 (e) motor pool expenses.
- 1467 (12) "State inmate" means an individual, other than a state probationary inmate or state
 1468 parole inmate, who is committed to the custody of the department.
- 1469 (13) "State parole inmate" means an individual who is:
- 1470 (a) on parole, as defined in Section 77-27-1; and
 - 1471 (b) housed in a county correctional facility for a reason related to the individual's parole.
- 1472 (14) "State probationary inmate" means a felony probationer sentenced to time in a county
 1473 correctional facility under Subsection 77-18-105(6).
- 1474 (15) "Treatment program" means:
- 1475 (a) an alcohol treatment program;
 - 1476 (b) a substance abuse treatment program;
 - 1477 (c) a sex offender treatment program; or
 - 1478 (d) an alternative treatment program.

1479 Section 21. Section **64-14-101** is enacted to read:

1480

CHAPTER 14. ADULT PROBATION AND PAROLE

1481

Part 1. General Provisions

64-14-101 . Definitions.

1483 As used in this chapter:

- 1484 (1) "Department" means the same as that term is defined in Section 64-13-1.
- 1485 (2) "Division" means the Division of Adult Probation and Parole created in Section
 1486 64-14-202.
- 1487 (3) "Executive director" means the same as that term is defined in Section 64-13-1.
- 1488 (4) "Inmate" means the same as that term is defined in Section 64-13-1.
- 1489 (5) "Offender" means the same as that term is defined in Section 64-13-1.
- 1490 (6) "Recidivism" means the same as that term is defined in Section 64-13-1.

1491 Section 22. Section **64-14-201** is enacted to read:

1492

Part 2. Division of Adult Probation and Parole

1493 **64-14-201 . Definitions.**

1494 Reserved.

1495 Section 23. Section **64-14-202** is enacted to read:

1496 **64-14-202 . Creation of division -- Appointment of director.**

1497 (1) There is created within the department the Division of Adult Probation and Parole.

1498 (2) The executive director shall appoint a director of the Division of Adult Probation and
 1499 Parole who shall manage, direct, and supervise the Division of Adult Probation and
 1500 Parole.

1501 Section 24. Section **64-14-203** is enacted to read:

1502 **64-14-203 . Duties of division.**

1503 (1) The division shall:

1504 (a) assist the department in fulfilling the department's duty to supervise, as described in
 1505 Subsection 64-13-6(1)(i), probationers and parolees as directed by statute and
 1506 implemented by the courts and the Board of Pardons and Parole;

1507 (b) comply with the requirements described in this part;

1508 (c) supply the information described in Section 53-10-209 that is required to be
 1509 submitted to the Criminal Investigations and Technical Services Division created in
 1510 Subsection 53-10-103(2);

1511 (d) comply with the use of funds requirement for outpatient treatment services for those
 1512 convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, as
 1513 described in Subsection 59-27-105(4)(c);

1514 (e) monitor the status of an offender with a mental condition who has been placed on
 1515 parole as described in Subsection 77-16a-205(4);

1516 (f) comply with the requirements described in Title 77, Chapter 18, The Judgment;

1517 (g) notify the Board of Pardons and Parole of any alleged violation of a Board of
 1518 Pardons and Parole's order to an individual on parole as described in Subsection
 1519 77-27-10.5(5);

1520 (h) for an individual who is on probation for a domestic violence offense that the
 1521 division is supervising, report to the court and notify the victim of the domestic
 1522 violence offense if the individual fails to comply with any condition imposed by the
 1523 court or commits a violation of a sentencing protective order as required by
 1524 Subsection 77-36-5.1(4);

- 1525 (i) comply with the notice requirement to a prosecuting agency described in Subsection
 1526 77-38-3(6) if the division is the moving party on a motion for modification of any
 1527 determination made at any of the criminal justice hearings provided in Subsections
 1528 77-38-2(5)(a) through (g);
- 1529 (j) collect restitution information in preparing a presentence investigation report as
 1530 described in Section 77-38b-203;
- 1531 (k) for an individual under supervision by the division who violates a sentencing
 1532 protective order issued under Title 78B, Chapter 7, Part 8, Criminal Protective Orders,
 1533 report the violation to the court and notify the victim protected by the order of the
 1534 violation as required by Section 78B-7-807; and
- 1535 (l) comply with any other requirement established by applicable statute or regulation or
 1536 a directive from the executive director.
- 1537 (2) The division may, in the course of supervising individuals on probation and parole:
- 1538 (a) respond to an individual's violation of one or more terms of the probation or parole in
 1539 accordance with the graduated and evidence-based processes established by the adult
 1540 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and
- 1541 (b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction
 1542 for an individual's violation of the terms of probation or parole a period of
 1543 incarceration of not more than three consecutive days and not more than a total of six
 1544 days within a period of 30 days.

1545 Section 25. Section **64-14-204**, which is renumbered from Section 64-13-21 is renumbered
 1546 and amended to read:

1547 **~~[64-13-21]~~ 64-14-204 . Supervision of sentenced offenders placed in community --**
 1548 **Rulemaking -- POST certified parole or probation officers and peace officers -- Duties --**
 1549 **Supervision fee.**

1550 (1)(a) The [department] division, except as otherwise provided by law, shall supervise a
 1551 sentenced offender placed in the community if the offender:

1552 (i)(A) is placed on probation by a court;

1553 (B) is released on parole by the Board of Pardons and Parole; or

1554 (C) is accepted for supervision under the terms of the Interstate Compact for the
 1555 Supervision of Parolees and Probationers; and

1556 (ii) has been convicted of:

1557 (A) a felony;

1558 (B) a class A misdemeanor when an element of the offense is the use or attempted

- 1559 use of physical force against an individual or property; or
- 1560 (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the [
1561 department] division is ordered by a court to supervise the offender under
1562 Section 77-18-105.
- 1563 (b) If a sentenced offender participates in substance use treatment or a residential,
1564 vocational and life skills program, as defined in Section 13-53-102, while under
1565 supervision on probation or parole, the [department] division shall monitor the
1566 offender's compliance with and completion of the treatment or program.
- 1567 (c) The department shall establish standards for:
- 1568 (i) the supervision of offenders in accordance with sentencing guidelines and
1569 supervision length guidelines, including the graduated and evidence-based
1570 responses, established by the Utah Sentencing Commission, giving priority, based
1571 on available resources, to felony offenders and offenders sentenced under
1572 Subsection 58-37-8 (2)(b)(ii); and
- 1573 (ii) the monitoring described in Subsection (1)(b).
- 1574 (2) The [department] division shall apply the graduated and evidence-based responses
1575 established by the Utah Sentencing Commission to facilitate a prompt and appropriate
1576 response to an individual's violation of the terms of probation or parole, including:
- 1577 (a) sanctions to be used in response to a violation of the terms of probation or parole; and
1578 (b) requesting approval from the court or Board of Pardons and Parole to impose a
1579 sanction for an individual's violation of the terms of probation or parole, for a period
1580 of incarceration of not more than three consecutive days and not more than a total of
1581 six days within a period of 30 days.
- 1582 (3) The [department] division shall implement a program of graduated incentives as
1583 established by the Utah Sentencing Commission to facilitate the department's prompt
1584 and appropriate response to an offender's:
- 1585 (a) compliance with the terms of probation or parole; or
1586 (b) positive conduct that exceeds those terms.
- 1587 (4)(a) The department shall, in collaboration with the State Commission on Criminal
1588 and Juvenile Justice and the Division of Substance Abuse and Mental Health, create
1589 standards and procedures for the collection of information, including cost savings
1590 related to recidivism reduction and the reduction in the number of inmates, related to
1591 the use of the graduated and evidence-based responses and graduated incentives, and
1592 offenders' outcomes.

- 1593 (b) The collected information shall be provided to the State Commission on Criminal
1594 and Juvenile Justice not less frequently than annually on or before August 31.
- 1595 (5) Employees of the [department] division who are POST certified as law enforcement
1596 officers or correctional officers and who are designated as parole and probation officers
1597 by the executive director have the following duties:
- 1598 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
1599 with the conditions of the parole or probation agreement;
- 1600 (b) investigating or apprehending any offender who has escaped from the custody of the
1601 department or absconded from supervision by the division;
- 1602 (c) supervising any offender during transportation; or
- 1603 (d) collecting DNA specimens when the specimens are required under Section 53-10-404.
- 1604 (6)(a)(i) A monthly supervision fee of \$30 shall be collected from each offender on
1605 probation or parole.
- 1606 (ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the [
1607 department] division upon a showing by the offender that imposition would create
1608 a substantial hardship or if the offender owes restitution to a victim.
- 1609 (b)(i) The department shall make rules in accordance with Title 63G, Chapter 3,
1610 Utah Administrative Rulemaking Act, specifying the criteria for suspension or
1611 waiver of the supervision fee and the circumstances under which an offender may
1612 request a hearing.
- 1613 (ii) In determining whether the imposition of the supervision fee would constitute a
1614 substantial hardship, the [department] division shall consider the financial
1615 resources of the offender and the burden that the fee would impose, with regard to
1616 the offender's other obligations.
- 1617 (c) The division shall deposit money received from the monthly supervision fee
1618 established in this Subsection (6) in the General Fund as a parole and probation
1619 dedicated credit to be used to cover costs incurred in the collection of the fee and in
1620 the development of offender supervision programs.
- 1621 (7)(a) For offenders placed on probation under Section 77-18-105 or parole under
1622 Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019,
1623 the [department] division shall establish a program allowing an offender to earn
1624 credits for the offender's compliance with the terms of the offender's probation or
1625 parole, which shall be applied to reducing the period of probation or parole as
1626 provided in this Subsection (7).

- 1627 (b) The program shall provide that an offender earns a reduction credit of 30 days from
 1628 the offender's period of probation or parole for each month the offender completes
 1629 without any violation of the terms of the offender's probation or parole agreement,
 1630 including the case action plan.
- 1631 (c) The [department] division shall maintain a record of credits earned by an offender
 1632 under this Subsection (7) and shall request from the court or the Board of Pardons
 1633 and Parole the termination of probation or parole not fewer than 30 days prior to the
 1634 termination date that reflects the credits earned under this Subsection (7).
- 1635 (d) This Subsection (7) does not prohibit the [department] division from requesting a
 1636 termination date earlier than the termination date established by earned credits under
 1637 Subsection (7)(c).
- 1638 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation
 1639 or parole upon completion of the period of probation or parole accrued by time
 1640 served and credits earned under this Subsection (7) unless the court or the Board of
 1641 Pardons and Parole finds that termination would interrupt the completion of a
 1642 necessary treatment program, in which case the termination of probation or parole
 1643 shall occur when the treatment program is completed.
- 1644 (f) The department shall report annually to the State Commission on Criminal and
 1645 Juvenile Justice on or before August 31:
- 1646 (i) the number of offenders who have earned probation or parole credits under this
 1647 Subsection (7) in one or more months of the preceding fiscal year and the
 1648 percentage of the offenders on probation or parole during that time that this
 1649 number represents;
- 1650 (ii) the average number of credits earned by those offenders who earned credits;
- 1651 (iii) the number of offenders who earned credits by county of residence while on
 1652 probation or parole;
- 1653 (iv) the cost savings associated with sentencing reform programs and practices; and
- 1654 (v) a description of how the savings will be invested in treatment and
 1655 early-intervention programs and practices at the county and state levels.

1656 Section 26. Section **64-14-205**, which is renumbered from Section 64-13-29 is renumbered
 1657 and amended to read:

1658 **[64-13-29] 64-14-205 . Violation of parole or probation -- Detention -- Hearing.**

1659 (1) As used in this section:

1660 (a) "72-hour hold" means a directive from the department:

- 1661 (i) prohibiting the release of a parolee or probationer from correctional custody who
1662 has entered correctional custody due to a violation of a condition of parole or
1663 probation; and
- 1664 (ii) lasting for a maximum of 72 hours, excluding weekends or holidays, from the
1665 time the parolee or probationer entered correctional custody.
- 1666 (b) "Correctional custody" means when a parolee or probationer is physically detained in
1667 a county jail or a correctional facility operated by the department.
- 1668 (c) "Parolee" means an individual on parole under the supervision of the [department]
1669 division.
- 1670 (d) "Probationer" means an individual on probation under the supervision of the [
1671 department] division.
- 1672 (e)(i) "Qualifying domestic violence offense" means the same as that term is defined
1673 in Subsection 77-36-1.1(4).
- 1674 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
1675 described in Section 76-6-106.
- 1676 (f) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 1677 (2) The [department] division shall ensure that the court is notified of violations of the terms
1678 and conditions of probation in the case of probationers under the supervision of the [
1679 department] division or the Board of Pardons and Parole in the case of parolees under the [
1680 department's] division's supervision when:
- 1681 (a) incarceration is recommended as a sanction;
- 1682 (b) the [department] division determines that a graduated and evidence-based response is
1683 not an appropriate response to the violation and recommends revocation of probation
1684 or parole; or
- 1685 (c) there is probable cause that the conduct that led to a violation of parole or probation
1686 is:
- 1687 (i) a violent felony; or
- 1688 (ii) a qualifying domestic violence offense.
- 1689 (3) The [department] division:
- 1690 (a) may place a 72-hour hold on a parolee or probationer if there is probable cause to
1691 believe that the parolee or probationer has committed a violation other than a violent
1692 felony or qualifying domestic violence offense; and
- 1693 (b) shall place a 72-hour hold on a parolee or probationer if there is probable cause to
1694 believe that the parolee or probationer has committed a violent felony or qualifying

1695 domestic violence offense.

- 1696 (4)(a) The [department] division may not detain, or have a county jail detain, a
 1697 probationer or parolee for longer than 72 hours without a warrant or order issued by
 1698 the court or Board of Pardons and Parole.
- 1699 (b) To obtain a warrant or order to detain a probationer or parolee for longer than 72
 1700 hours, the [department] division shall seek the warrant or order from the court for a
 1701 probationer or the Board of Pardons and Parole for a parolee.
- 1702 (c) The [department] division may decline to seek a warrant or order under Subsection
 1703 (4)(b) for a probationer or parolee subject to a 72-hour hold and remove the 72-hour
 1704 hold.

1705 (5) This section does not require the [department] division to release a probationer or
 1706 parolee who is being held for something other than a probation or parole violation,
 1707 including a warrant issued for new criminal conduct or a new conviction where the [
 1708 individual] probationer or parolee is sentenced to incarceration.

1709 (6) The department may make rules as necessary, in accordance with Title 63G, Chapter 3,
 1710 Utah Administrative Rulemaking Act, for the division to implement this section~~[in~~
 1711 ~~accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act].~~

1712 Section 27. Section **64-14-301**, which is renumbered from Section 64-13g-101 is renumbered
 1712 and amended to read:

1714 **Part 3. Adult Probation and Parole Employment Incentive Program**

1715 **~~[64-13g-101] 64-14-301 . Definitions.~~**

1716 As used in this [chapter] part:

- 1717 (1) "Average daily population" means the average daily number of individuals on parole or
 1718 felony probation in the region during the applicable fiscal year.
- 1719 (2) "Baseline parole employment rate" means the average of the parole employment rates
 1720 for fiscal years 2023, 2024, and 2025.
- 1721 (3) "Baseline probation employment rate" means the average of the probation employment
 1722 rates for fiscal years 2023, 2024, and 2025.
- 1723 ~~[(4) "Department" means the Department of Corrections.]~~
- 1724 ~~[(5)] (4)~~ (4) "Eligible employment" means an occupation, or combined occupations, that:
 1725 (a) consist of at least 130 hours in a 30-day period; and
 1726 (b) are verified via paystubs, employment letters, contracts, or other reliable methods, as
 1727 determined by the department.

1728 [(6)] (5) "Evidence-based" means a supervision policy, procedure, program, or practice
 1729 demonstrated by scientific research to reduce recidivism of individuals on parole or
 1730 felony probation.

1731 [(7)] (6) "Marginal cost of incarceration" means the total costs of incarceration, per inmate,
 1732 that fluctuate based on inmate population.

1733 [(8)] (7) "Office" means the Governor's Office of Planning and Budget.

1734 [(9)] (8) "Parole employment rate" means the percentage of individuals on parole who held
 1735 eligible employment for at least nine months in a one-year period, if at least a portion of
 1736 the nine-months was during the preceding fiscal year.

1737 [(10)] (9) "Probation employment rate" means the percentage of individuals on felony
 1738 probation who held eligible employment for at least nine months in a one-year period, if
 1739 at least a portion of the nine-months was during the preceding fiscal year.

1740 [(11)] (10) "Program" means the Adult Probation and Parole Employment Incentive
 1741 Program, created in Section [64-13g-102] 64-14-302.

1742 [(12)] (11) "Region" means one of the geographic regions into which the [Department of
 1743 Corrections] department has divided the state for purposes of supervising adult probation
 1744 and parole.

1745 [(13)] (12) "Restricted account" means the Employment Incentive Restricted Account
 1746 created in Section [64-13g-103] 64-14-303.

1747 Section 28. Section **64-14-302**, which is renumbered from Section 64-13g-102 is renumbered
 1747 and amended to read:

1749 **[64-13g-102] 64-14-302 . Adult Probation and Parole Employment Incentive Program.**

1750 (1) There is created the Adult Probation and Parole Employment Incentive Program.

1751 (2) The department and the office shall implement the program in accordance with the
 1752 requirements of this chapter.

1753 (3) Beginning July 2026, and each July after 2026, the department shall calculate and report
 1754 to the office, for the preceding fiscal year, for each region and statewide:

1755 (a) the parole employment rate and the average length of employment of individuals on
 1756 parole;

1757 (b) the probation employment rate and average length of employment of individuals on
 1758 felony probation;

1759 (c) the recidivism percentage, using applicable recidivism metrics described in
 1760 Subsections 63M-7-102(1) and (3);

1761 (d) the number and percentage of individuals who successfully complete parole or

- 1762 felony probation;
- 1763 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in
 1764 the recidivism percentage when compared to the fiscal year immediately preceding
 1765 the fiscal year to which the recidivism percentage described in Subsection (3)(c)
 1766 relates, the estimated costs of incarceration savings to the state, based on the
 1766a marginal
 1767 cost of incarceration;
- 1768 (f) the number of individuals who successfully complete parole and, during the entire six
 1769 months before the day on which the individuals' parole ends, held eligible
 1770 employment; and
- 1771 (g) the number of individuals who successfully complete felony probation and, during
 1772 the entire six months before the day on which the individuals' parole ended, held
 1773 eligible employment.
- 1774 (4) In addition to the information described in Subsection (3), the department shall report,
 1775 for each region, the number and types of parole or probation programs that were created,
 1776 replaced, or discontinued during the preceding fiscal year.
- 1777 (5) After receiving the information described in Subsections (3) and (4), the office, in
 1778 consultation with the department, shall, for each region:
- 1779 (a) add the region's baseline parole employment rate and the region's baseline probation
 1780 employment rate;
- 1781 (b) add the region's parole employment rate and the region's probation employment rate;
- 1782 (c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection
 1783 (5)(b); and
- 1784 (d)(i) if the rate difference described in Subsection (5)(c) is zero or less than zero,
 1785 assign an employment incentive payment of zero to the region; or
- 1786 (ii) except as provided in Subsection (7), if the rate difference described in
 1787 Subsection (5)(c) is greater than zero, assign an employment incentive payment to
 1788 the region by:
- 1789 (A) multiplying the rate difference by the average daily population for that region;
 1790 and
- 1791 (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A)
 1792 by \$2,500.
- 1793 (6) In addition to the employment incentive payment described in Subsection (5), after
 1794 receiving the information described in Subsections (3) and (4), the office, in consultation

1795 with the department, shall, for each region, multiply the sum of the numbers described in
1796 Subsections (3)(f) and (g) for the region by \$2,500 to determine the end-of-supervision
1797 employment incentive payment for the region.

1798 (7) The employment incentive payment, or end-of-supervision employment supervision
1799 payment, for a region is zero if the recidivism percentage for the region, described in
1800 Subsection (3)(c), represents an increase in the recidivism percentage when compared to
1801 the fiscal year immediately preceding the fiscal year to which the recidivism percentage
1802 for the region, described in Subsection (3)(c), relates.

1803 (8) Upon determining an employment incentive payment for a region in accordance with
1804 Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the
1805 restricted account, of the incentive payment as follows:

- 1806 (a) 15% of the payment may be used by the department for expenses related to
1807 administering the program; and
- 1808 (b) 85% of the payment shall be used by the region to improve and expand supervision
1809 and rehabilitative services to individuals on parole or adult probation, including by:
- 1810 (i) implementing and expanding evidence-based practices for risk and needs
1811 assessments for individuals;
- 1812 (ii) implementing and expanding intermediate sanctions, including mandatory
1813 community service, home detention, day reporting, restorative justice programs,
1814 and furlough programs;
- 1815 (iii) expanding the availability of evidence-based practices for rehabilitation
1816 programs, including drug and alcohol treatment, mental health treatment, anger
1817 management, cognitive behavior programs, and job training and other
1818 employment services;
- 1819 (iv) hiring additional officers, contractors, or other personnel to implement
1820 evidence-based practices for rehabilitative and vocational programming;
- 1821 (v) purchasing and adopting new technologies or equipment that are relevant to, and
1822 enhance, supervision, rehabilitation, or vocational training; or
- 1823 (vi) evaluating the effectiveness of rehabilitation and supervision programs and
1824 ensuring program fidelity.

1825 (9)(a) The report described in Subsections (3) and (4) is a public record.

1826 (b) The department shall maintain a complete and accurate accounting of the payment
1827 and use of funds under this section.

1828 (c) If the money in the restricted account is insufficient to make the full employment

1829 incentive payments or the full end-of-supervision employment incentive payments,
1830 the office shall authorize the payments on a prorated basis.

1831 Section 29. Section **64-14-303**, which is renumbered from Section 64-13g-103 is renumbered
1831 and amended to read:

1833 **~~[64-13g-103]~~ 64-14-303 . Employment Incentive Restricted Account.**

1834 (1) There is created within the General Fund a restricted account known as the
1835 "Employment Incentive Restricted Account."

1836 (2) The account consists of appropriations made by the Legislature.

1837 (3) The office shall authorize expenditures from the account in accordance with Section [
1838 ~~64-13g-102]~~ 64-14-302.

1839 (4) Subject to legislative appropriations, the department and each region shall expend
1840 money from the restricted account only in accordance with Subsection [~~64-13g-102(8)]~~
1841 64-14-302(8).

1842 Section 30. Section **76-3-202** is amended to read:

1843 **76-3-202 . Paroled individuals -- Termination or discharge from sentence -- Time**
1844 **served on parole -- Discretion of Board of Pardons and Parole.**

1845 (1) As described in Subsection 77-27-5(7), every individual committed to the state prison to
1846 serve an indeterminate term and, after December 31, 2018, released on parole shall
1847 complete a term of parole that extends through the expiration of the individual's
1848 maximum sentence unless the parole is earlier terminated by the Board of Pardons and
1849 Parole in accordance with the adult sentencing and supervision length guidelines, as
1850 defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the
1851 requirements of the law.

1852 (2)(a) Except as provided in Subsection (2)(b), an individual committed to the state
1853 prison to serve an indeterminate term and released on parole on or after October 1,
1854 2015, but before January 1, 2019, shall, upon completion of three years on parole
1855 outside of confinement and without violation, be terminated from the individual's
1856 sentence unless the parole is earlier terminated by the Board of Pardons and Parole or
1857 is terminated pursuant to Section [~~64-13-21]~~ 64-14-204.

1858 (b) An individual committed to the state prison to serve an indeterminate term and later
1859 released on parole on or after July 1, 2008, but before January 1, 2019, and who was
1860 convicted of a felony offense under Chapter 5, Offenses Against the Individual, or an
1861 attempt, conspiracy, or solicitation to commit the offense, shall complete a term of
1862 parole that extends through the expiration of the individual's maximum sentence,

- 1863 unless the parole is earlier terminated by the Board of Pardons and Parole.
- 1864 (3) An individual convicted of a second degree felony for violating Section 76-5-404,
1865 forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section 76-5-404.3,
1866 aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the
1867 commission of a violation of any of those sections, and who is paroled before July 1,
1868 2008, shall, upon completion of 10 years parole outside of confinement and without
1869 violation, be terminated from the sentence unless the individual is earlier terminated by
1870 the Board of Pardons and Parole.
- 1871 (4) An individual who violates the terms of parole, while serving parole, for any offense
1872 under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and
1873 Parole be recommitted to prison to serve the portion of the balance of the term as
1874 determined by the Board of Pardons and Parole, but not to exceed the maximum term.
- 1875 (5) An individual paroled following a former parole revocation may not be discharged from
1876 the individual's sentence until:
- 1877 (a) the individual has served the applicable period of parole under this section outside of
1878 confinement;
- 1879 (b) the individual's maximum sentence has expired; or
- 1880 (c) the Board of Pardons and Parole orders the individual to be discharged from the
1881 sentence.
- 1882 (6)(a) All time served on parole, outside of confinement and without violation,
1883 constitutes service toward the total sentence.
- 1884 (b) Any time an individual spends outside of confinement after commission of a parole
1885 violation does not constitute service toward the total sentence unless the individual is
1886 exonerated at a parole revocation hearing.
- 1887 (c)(i) Any time an individual spends in confinement awaiting a hearing before the
1888 Board of Pardons and Parole or a decision by the board concerning revocation of
1889 parole constitutes service toward the total sentence.
- 1890 (ii) In the case of exoneration by the board, the time spent is included in computing
1891 the total parole term.
- 1892 (7) When a parolee causes the parolee's absence from the state without authority from the
1893 Board of Pardons and Parole or avoids or evades parole supervision, the period of
1894 absence, avoidance, or evasion tolls the parole period.
- 1895 (8)(a) While on parole, time spent in confinement outside the state may not be credited
1896 toward the service of any Utah sentence.

1897 (b) Time in confinement outside the state or in the custody of any tribal authority or the
 1898 United States government for a conviction obtained in another jurisdiction tolls the
 1899 expiration of the Utah sentence.

1900 (9) This section does not preclude the Board of Pardons and Parole from paroling or
 1901 discharging an inmate at any time within the discretion of the Board of Pardons and
 1902 Parole unless otherwise specifically provided by law.

1903 (10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole
 1904 for termination of lifetime parole.

1905 Section 31. Section **76-3-409** is amended to read:

1906 **76-3-409 . Child abuse or sex offense against child -- Treatment of offender or**
 1907 **victim -- Payment of costs.**

1908 (1) Any person convicted in the district court of child abuse, or a sexual offense if the
 1909 victim is under 18 years ~~[of age]~~ old, may be ordered to participate in treatment or
 1910 therapy under the supervision of the ~~[adult probation and parole section of the~~
 1911 ~~Department of Corrections]~~ Division of Adult Probation and Parole created in Section
 1912 64-14-202, in cooperation with the division of children, youth, and families until the
 1913 court is satisfied that such treatment or therapy has been successful or that no further
 1914 benefit to the convicted offender would result if such treatment or therapy were
 1915 continued. The court may also order treatment of the victim if it believes the same
 1916 would be beneficial under the circumstances. Nothing in this section shall preclude the
 1917 court from imposing any additional sentence as provided by law.

1918 (2) The convicted offender shall be ordered to pay, to the extent that he or she is able, the
 1919 costs of his or her treatment, together with treatment costs incurred by the victim and
 1920 any administrative costs incurred by the appropriate state agency in the supervision of
 1921 such treatment. If the convicted offender is unable to pay all or part of the costs of
 1922 treatment, the court may order the appropriate state agency to pay such costs to the
 1923 extent funding is provided by the Legislature for such purpose and shall order the
 1924 convicted offender to perform public service work as compensation for the cost of
 1925 treatment.

1926 Section 32. Section **77-2a-2** is amended to read:

1927 **77-2a-2 . Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**
 1928 **agreement -- Waiver of time for sentencing.**

1929 (1) At any time after acceptance of a plea of guilty or no contest but before entry of
 1930 judgment of conviction and imposition of sentence, the court may, upon motion of both

- 1931 the prosecuting attorney and the defendant, hold the plea in abeyance and not enter
1932 judgment of conviction against the defendant nor impose sentence upon the defendant
1933 within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.
- 1934 (2) A defendant shall be represented by counsel during negotiations for a plea in abeyance
1935 and at the time of acknowledgment and affirmation of any plea in abeyance agreement
1936 unless the defendant knowingly and intelligently waives the defendant's right to counsel.
- 1937 (3) A defendant has the right to be represented by counsel at any court hearing relating to a
1938 plea in abeyance agreement.
- 1939 (4)(a) Any plea in abeyance agreement entered into between the prosecution and the
1940 defendant and approved by the court shall include a full, detailed recitation of the
1941 requirements and conditions agreed to by the defendant and the reason for requesting
1942 the court to hold the plea in abeyance.
- 1943 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the
1944 agreement shall be in writing and shall, before acceptance by the court, be executed
1945 by the prosecuting attorney, the defendant, and the defendant's counsel in the
1946 presence of the court.
- 1947 (5)(a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a
1948 period longer than 18 months if the plea is to any class of misdemeanor or longer
1949 than three years if the plea is to any degree of felony or to any combination of
1950 misdemeanors and felonies.
- 1951 (b)(i) For a plea in abeyance agreement that the ~~[Department of Corrections]~~ Division
1952 of Adult Probation and Parole created in Section 64-14-202 supervises, the plea
1953 may not be held in abeyance for a period longer than the initial term of probation
1954 required under the adult sentencing and supervision length guidelines, as defined
1955 in Section 63M-7-401.1, if the initial term of probation is shorter than the period
1956 required under Subsection (5)(a).
- 1957 (ii) Subsection (5)(b)(i) does not:
- 1958 (A) apply to a plea that is held in abeyance in a drug court created under Title
1959 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by
1960 the Judicial Council; or
- 1961 (B) prohibit court supervision of a plea in abeyance agreement after the day on
1962 which the ~~[Department of Corrections]~~ Division of Adult Probation and Parole
1963 supervision described in Subsection (5)(b)(i) ends and before the day on which
1964 the plea in abeyance agreement ends.

- 1965 (6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if
 1966 the plea is to any class of misdemeanor and the plea in abeyance agreement includes a
 1967 condition that the defendant participate in a problem solving court approved by the
 1968 Judicial Council.
- 1969 (7) A plea in abeyance agreement may not be approved unless the defendant, before the
 1970 court, and any written agreement, knowingly and intelligently waives time for
 1971 sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.
- 1972 Section 33. Section **77-2a-3** is amended to read:
- 1973 **77-2a-3 . Manner of entry of plea -- Powers of court -- Expungement.**
- 1974 (1)(a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
 1975 done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.
- 1976 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
 1977 agreement may be entered into without a personal appearance before a magistrate.
- 1978 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
 1979 defendant has successfully completed the terms of the agreement:
- 1980 (a) reduce the degree of the offense, enter a judgment of conviction for the lower degree
 1981 of the offense, and impose a sentence for the lower degree of the offense;
- 1982 (b) allow withdrawal of the defendant's plea and order the dismissal of the case; or
- 1983 (c) issue an order of expungement for all records of the offense if:
- 1984 (i) the defendant successfully completes a problem solving court program that is
 1985 certified by the Judicial Council; and
- 1986 (ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of
 1987 the case.
- 1988 (3)(a) Upon finding that a defendant has successfully completed the terms of a plea in
 1989 abeyance agreement and only as provided in the plea in abeyance agreement or as
 1990 agreed to by all parties, the court may :
- 1991 (i) reduce the degree of the offense, enter a judgment of conviction for the lower
 1992 degree of the offense, and impose a sentence for the lower degree of the offense;
- 1993 (ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or
- 1994 (iii) issue an order of expungement for all records of the offense if:
- 1995 (A) the defendant successfully completes a problem solving court program that is
 1996 certified by the Judicial Council; and
- 1997 (B) the court allows the withdrawal of the defendant's plea and orders the
 1998 dismissal of the case.

- 1999 (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in
2000 abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the
2001 degree of the offense.
- 2002 (4) The court may require the [~~Department of Corrections~~] Division of Adult Probation and
2003 Parole created in Section 64-14-202 to assist in the administration of the plea in
2004 abeyance agreement as if the defendant [~~were on probation to the court~~] were placed on
2005 probation under Section 77-18-105.
- 2006 (5) The terms of a plea in abeyance agreement may include:
- 2007 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
2008 surcharge based on the amount of the plea in abeyance fee, both of which shall be
2009 allocated in the same manner as if paid as a fine for a criminal conviction under
2010 Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal
2011 Conviction Surcharge Allocation, and which may not exceed in amount the
2012 maximum fine and surcharge which could have been imposed upon conviction and
2013 sentencing for the same offense;
- 2014 (b) an order that the defendant pay the costs of any remedial or rehabilitative program
2015 required by the terms of the agreement; and
- 2016 (c) an order that the defendant comply with any other conditions that could have been
2017 imposed as conditions of probation upon conviction and sentencing for the same
2018 offense.
- 2019 (6)(a) The terms of a plea in abeyance shall include:
- 2020 (i) a specific amount of restitution that the defendant will pay, as agreed to by the
2021 defendant and the prosecuting attorney;
- 2022 (ii) a certification from the prosecuting attorney that:
- 2023 (A) the prosecuting attorney has consulted with all victims, including the Utah
2024 Office for Victims of Crime; and
- 2025 (B) all victims, including the Utah Office for Victims of Crime, are not seeking
2026 restitution; or
- 2027 (iii) an agreement between the parties that restitution will be determined by the court
2028 at a subsequent hearing in accordance with Section 77-38b-205.
- 2029 (b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the
2030 defendant, as a modified term of the plea in abeyance, to pay restitution to all victims
2031 for the entire amount of pecuniary damages that are proximately caused by the
2032 criminal conduct of the defendant.

- 2033 (c) The court shall collect, receive, process, and distribute payments for restitution to the
2034 victim, unless otherwise provided by law or by the plea in abeyance agreement.
- 2035 (d) If the defendant does not successfully complete the terms of the plea in abeyance, the
2036 court shall enter an order for restitution, in accordance with Chapter 38b, Crime
2037 Victims Restitution Act, upon entering a sentence for the defendant.
- 2038 (7)(a) A court may not hold a plea in abeyance without the consent of both the
2039 prosecuting attorney and the defendant.
- 2040 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.
- 2041 (8) No plea may be held in abeyance in any case involving:
- 2042 (a) a sexual offense against an individual who is under 14 years old; or
2043 (b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5,
2044 41-6a-517, 41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.
- 2045 (9)(a) If the terms of a plea in abeyance agreement allow a court to issue an order of
2046 expungement as described in Subsection (2)(c), the prosecuting attorney shall make a
2047 reasonable effort to provide notice to any victim of the offense of the terms of the
2048 plea in abeyance agreement.
- 2049 (b) The notice under Subsection (9)(a) shall:
- 2050 (i) state that the victim has a right to object to the expungement; and
2051 (ii) provide instructions for registering an objection with the court.
- 2052 (c) If there is a victim of the offense, the victim may file an objection with the court
2053 before the court makes a finding as to whether the defendant successfully completed
2054 the terms of the plea in abeyance agreement as described in Subsection (3).
- 2055 (d) The defendant may respond, in writing, to any objection filed by the victim within 14
2056 days after the day on which the objection is received by the court.
- 2057 (10) If the court issues an order of expungement under Subsection (3)(a)(iii), the court shall:
- 2058 (a) expunge all records of the case as described in Section 77-40a-401; and
2059 (b) notify the Bureau of Criminal Identification of the order of expungement.
- 2060 (11)(a) Upon receiving notice from the court of an expungement order as described in
2061 Subsection (10), the Bureau of Criminal Identification shall notify any agency, as
2062 defined in Section 77-40a-101, affected by the expungement order.
- 2063 (b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not
2064 notify the Board of Pardons and Parole of an expungement order if the individual has
2065 never been:
- 2066 (i) sentenced to prison in this state; or

- 2067 (ii) under the jurisdiction of the Board of Pardons and Parole.
- 2068 (c) The Bureau of Criminal Identification shall forward a copy of the expungement order
2069 to the Federal Bureau of Investigation.
- 2070 (12) The defendant may deliver copies of the expungement to any agency, as defined in
2071 Section 77-40a-101, affected by the order of expungement.
- 2072 (13) If an agency receives an expungement order under this part, the agency shall expunge
2073 all records for the case in accordance with Section 77-40a-401.
- 2074 Section 34. Section **77-16a-103** is amended to read:
- 2075 **77-16a-103 . Plea of guilty with a mental condition-- Procedures -- Sentencing --**
2076 **Reduction -- Costs.**
- 2077 (1)(a)(i) If a defendant wishes to enter a plea of guilty with a mental condition, the
2078 parties may stipulate as to:
- 2079 (A) whether the defendant had a mental condition at the time of the commission of
2080 the offense; and
- 2081 (B) whether the defendant could benefit from supervision or treatment.
- 2082 (ii) If the parties stipulate as described in Subsection (1)(a)(i), the court shall enter
2083 findings consistent with the parties' stipulation if the stipulation is supported by
2084 sufficient evidence.
- 2085 (b) If the parties do not stipulate to Subsection (1)(a)(i), the court shall hold a hearing
2086 and determine, by clear and convincing evidence:
- 2087 (i) whether the defendant had a mental condition at the time of the commission of the
2088 offense; and
- 2089 (ii) whether the defendant could benefit from supervision or treatment.
- 2090 (c) After reviewing the stipulation described in Subsection (1)(a)(i) or conducting a
2091 hearing under Subsection (1)(b):
- 2092 (i) if the court finds that the defendant had a mental condition at the time of the
2093 offense, the court shall accept the defendant's plea of guilty with a mental
2094 condition; or
- 2095 (ii) if the court finds that the defendant did not have a mental condition at the time of
2096 the offense, the court may not accept the defendant's plea of guilty with a mental
2097 condition.
- 2098 (2)(a) If a defendant wishes to enter a plea of guilty with a mental condition for a felony
2099 offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the
2100 hearing described in Subsection (1)(b), the court may order the defendant to submit

- 2101 to an examination, which may be conducted only by a forensic evaluator appointed
2102 by the department, to determine:
- 2103 (i) whether the defendant had a mental condition at the time of the commission of the
2104 offense;
 - 2105 (ii) whether the defendant could benefit from supervision or treatment; or
 - 2106 (iii) whether the defendant currently is competent to enter a plea.
- 2107 (b)(i) If a defendant wishes to enter a plea of guilty with a mental condition for a
2108 misdemeanor offense and the parties do not stipulate to Subsection (1)(a)(i),
2109 before holding the hearing described in Subsection (1)(b), the court may order the
2110 defendant to submit to an examination by a forensic evaluator.
- 2111 (ii) The examination shall determine:
 - 2112 (A) whether the defendant had a mental condition at the time of the commission of
2113 the offense;
 - 2114 (B) whether the defendant could benefit from supervision or treatment; or
 - 2115 (C) whether the defendant currently is competent to enter a plea.
- 2116 (c) Before an examination is conducted pursuant to Subsection (1)(b) or this Subsection
2117 (2):
- 2118 (i) the petitioner or other party, as directed by the court or requested by the
2119 department, shall provide to the forensic evaluation provider nonmedical
2120 information and materials relevant to a treatment assessment, including the
2121 charging document, arrest or incident reports pertaining to the charged offense,
2122 known criminal history information, and known prior mental health evaluations
2123 and treatments; and
 - 2124 (ii) for purposes of a guilty with a mental condition evaluation, a custodian of mental
2125 health records pertaining to the defendant, including the defendant's prior mental
2126 health evaluations or records relating to the defendant's substance use disorder,
2127 may provide the records to:
 - 2128 (A) with the defendant's consent, a forensic evaluation provider or the department
2129 on the department's request; or
 - 2130 (B) pursuant to an order of the court, a forensic evaluation provider.
- 2131 (3)(a) If a defendant relies on a private mental health evaluation in support of the
2132 defendant's plea of guilty with a mental condition and the parties do not stipulate to
2133 Subsection (1)(a)(i), upon the request of the prosecutor before the hearing described
2134 in Subsection (1)(b), the court shall order the defendant to submit to an examination

- 2135 by:
- 2136 (i) the department if the offense is a felony; or
- 2137 (ii) the department or a forensic evaluator if the offense is a misdemeanor.
- 2138 (b) The petitioner or other party, as directed by the court or requested by the department,
- 2139 shall provide to the private mental health evaluation provider nonmedical information
- 2140 and materials relevant to a treatment assessment, including the charging document,
- 2141 arrest or incident reports pertaining to the charged offense, known criminal history
- 2142 information, and known prior mental health evaluations and treatments.
- 2143 (c) For purposes of a guilty with a mental condition evaluation, a custodian of mental
- 2144 health records pertaining to the defendant, including the defendant's prior mental
- 2145 health evaluations or records relating to the defendant's substance use disorder, may
- 2146 provide the records to:
- 2147 (i) with the defendant's consent, a private mental health evaluation provider or the
- 2148 department on the department's request; or
- 2149 (ii) pursuant to an order of the court, a private mental health evaluation provider.
- 2150 (4) If a court finds that a defendant was guilty with a mental condition at the time of the
- 2151 offense in accordance with Subsection (1)(c)(i) but would not benefit from available
- 2152 supervision or treatment, the court shall hold a sentencing hearing within 45 days of the
- 2153 entry of the defendant's plea of guilty with a mental condition.
- 2154 (5)(a) If a court finds that a defendant had a mental condition at the time of the
- 2155 commission of the offense, the defendant could benefit from supervision or
- 2156 treatment, and has entered a plea of guilty with a mental condition in accordance with
- 2157 Subsection (1)(c)(i), the court:
- 2158 (i) shall order:
- 2159 (A) the department to provide a treatment assessment of the defendant and to
- 2160 submit to the court treatment recommendations for the defendant; or
- 2161 (B) the defendant to arrange for a treatment assessment of the defendant with a
- 2162 private provider and for the private provider to submit to the court treatment
- 2163 recommendations for the defendant;
- 2164 (ii) shall schedule a treatment review hearing within 30 days after the day on which
- 2165 the court entered the plea of guilty with a mental condition; and
- 2166 (iii) may defer sentencing for up to one year in accordance with Subsection (6), if the
- 2167 defendant consents to a deferred sentence.
- 2168 (b) The petitioner or other party, as directed by the court or requested by the department,

- 2169 shall provide to the treatment assessment provider nonmedical information and
2170 materials relevant to a treatment assessment, including the charging document, arrest
2171 or incident reports pertaining to the charged offense, known criminal history
2172 information, and known prior mental health evaluations and treatments.
- 2173 (c) For purposes of a guilty with a mental condition treatment assessment, a custodian of
2174 mental health records pertaining to the defendant, including the defendant's prior
2175 mental health evaluations or records relating to the defendant's substance use
2176 disorder, may provide the records to:
- 2177 (i) with the defendant's consent, a treatment assessment provider or the department on
2178 the department's request; or
- 2179 (ii) pursuant to an order of the court, a treatment assessment provider.
- 2180 (d) At the treatment review hearing described in Subsection (5)(a)(ii), the court shall:
- 2181 (i) consider all available diagnosis, treatment, and supervision recommendations;
- 2182 (ii) if a party does not agree with treatment recommendations issued by the
2183 department under Subsection (5)(a)(i)(A), hold a hearing on the issue of the
2184 department's recommendations and make appropriate modifications to the
2185 recommendations if necessary; and
- 2186 (iii) order the defendant to comply with all treatment and supervision
2187 recommendations that are in the best interest of the defendant and public safety.
- 2188 (e)(i) In determining treatment and supervision recommendations under Subsection
2189 (5)(d), the court may order the defendant to be placed in a secure setting as
2190 described in Subsections (5)(e)(ii) and (iii) if the court finds that the placement
2191 would be in the best interest of the defendant, a victim of the defendant, or public
2192 safety.
- 2193 (ii)(A) If the offense is a class C misdemeanor, the court may not place the
2194 defendant in a secure setting for more than 90 days.
- 2195 (B) If the offense is a class B misdemeanor, the court may not place the defendant
2196 in a secure setting for more than six months.
- 2197 (C) If the offense is a class A misdemeanor or a felony, the court may place the
2198 defendant in a secure setting for up to one year.
- 2199 (iii) The court shall, before making a determination as to a secure setting placement,
2200 notify the executive director of the proposed placement and provide the
2201 department with an opportunity to:
- 2202 (A) evaluate the defendant; and

- 2203 (B) make a recommendation regarding placement to the court.
- 2204 (f) If the court determines that the defendant is eligible for supervised release as part of
2205 the defendant's treatment and supervision recommendations under Subsection (5)(d),
2206 except as provided in Section 76-3-406, the court may order:
- 2207 (i) if the offense is a felony:
- 2208 (A) supervision by the Division of Adult Probation and Parole created in Section
2209 64-14-202, or a third party that is approved by the Division of Adult Probation
2210 and Parole, for a period of up to one year in accordance with the applicable
2211 supervision provisions described in Title 64, Chapter 13, Department of
2212 Corrections - State Prison, and Title 64, Chapter 14, Adult Probation and Parole;
2213 and
- 2214 (B) mental health supervision by:
- 2215 (I) the department or a local mental health authority; or
- 2216 (II) if the court determines that it is appropriate, a public or private entity that
2217 provides mental or behavioral health services and is approved by the; or
- 2218 (ii) if the offense is a misdemeanor, mental health supervision by:
- 2219 (A) a local mental health authority; or
- 2220 (B) if the court determines that it is appropriate, a public or private entity that
2221 provides mental or behavioral health services and is approved by the
2222 department.
- 2223 (g)(i) After the initial review hearing described in Subsection (5)(a), the court shall
2224 hold periodic review hearings approximately every 90 days, the frequency of
2225 which may be modified by the court.
- 2226 (ii) At a review hearing described in Subsection (5)(g)(i):
- 2227 (A) the department or the department's designee shall report on the progress of the
2228 defendant, provide recommendations for the defendant's future care, treatment,
2229 and secure or unsecure placement, and advise the court on the medical
2230 necessity of treatments for the defendant;
- 2231 (B) the court shall review the status of the defendant and determine whether any
2232 changes are needed to the defendant's supervision or treatment plan; and
- 2233 (C) a party may request, if the party has a good faith basis, that the court review or
2234 change the defendant's placement within a secure or non-secure setting.
- 2235 (h) If a defendant is willfully non-compliant with the treatment or supervision ordered
2236 by the court under this Subsection (5), the court shall hold an order to show cause

- 2237 hearing to determine whether the court should:
- 2238 (i) proceed with sentencing under Subsection (6);
- 2239 (ii) change the defendant's placement to a secure setting;
- 2240 (iii) impose another sanction; or
- 2241 (iv) take no action.
- 2242 (6)(a) The court shall defer sentencing for a defendant who has pleaded guilty with a
- 2243 mental condition as described in Subsection (5) until:
- 2244 (i) the court determines, after an order to show cause hearing or a review hearing as
- 2245 described in Subsection (5), that:
- 2246 (A) the defendant is willfully non-compliant with treatment or supervision and is
- 2247 unlikely to become compliant with further ordered treatment or supervision; or
- 2248 (B) the defendant has reached the maximum benefit of treatment and supervision;
- 2249 or
- 2250 (ii) one year has elapsed after the day on which the court entered the defendant's plea
- 2251 of guilty with a mental condition.
- 2252 (b) At the sentencing hearing, the court shall:
- 2253 (i) consider all treatment and supervision that has occurred before the sentencing
- 2254 hearing in the defendant's case;
- 2255 (ii) credit any time the defendant has spent in a mental health facility or other
- 2256 residential treatment facility or a secure facility against the defendant's sentence;
- 2257 (iii) consider victim input;
- 2258 (iv) consider the best interests of the defendant, including which sentence will help
- 2259 prevent the defendant:
- 2260 (A) from losing the defendant's ability to control the defendant's state of mental
- 2261 health; and
- 2262 (B) from committing additional criminal conduct related to the defendant's mental
- 2263 condition;
- 2264 (v) consider the best interest of public safety; and
- 2265 (vi) consider any other relevant factor or circumstance.
- 2266 (7)(a) Except as provided in Subsection (7)(b), after a defendant who has been
- 2267 sentenced under Subsection (6) has completed the defendant's sentence and any
- 2268 probation or parole:
- 2269 (i) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1),
- 2270 the court has jurisdiction to enter a judgment of conviction and shall reduce the

- 2271 judgment of conviction for the offense by two degrees from the original offense;
2272 and
- 2273 (ii) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1),
2274 if the prosecuting attorney specifically agrees in writing or on the court record at
2275 any time, the court has jurisdiction to consider and enter a judgment of conviction
2276 and may enter a judgment of conviction for the offense that is reduced by up to
2277 three degrees from the original offense.
- 2278 (b) If a defendant's probation is revoked and any suspended sentence is imposed, the
2279 defendant may not receive a reduction under this Subsection (7).
- 2280 (8)(a)(i) Except as provided in Subsection (8)(a)(iv), when the offense is a state
2281 offense, expenses of examination, observation, and treatment for the defendant
2282 shall be paid by the department when not paid for by the defendant's insurance.
- 2283 (ii) Travel expenses shall be paid by the county where prosecution is commenced.
- 2284 (iii) Expenses of examination for a defendant charged with a violation of a municipal
2285 or county ordinance shall be paid by the municipality or county that commenced
2286 the prosecution.
- 2287 (iv) The department is not responsible for payment for an evaluation described in
2288 Subsection (3)(a)(ii) that is conducted by a forensic evaluator who is privately
2289 retained by a party.
- 2290 (b)(i) Provisions in this part for the support at public expense of a defendant with a
2291 mental condition do not release an insurer of a defendant with a mental condition
2292 from liability for the care or treatment of the defendant with a mental condition.
- 2293 (ii) The department is authorized to collect amounts spent on a defendant with a
2294 mental condition from an insurer of the defendant with a mental condition.
- 2295 (iii) A health insurance company may not deny coverage for court-ordered treatment
2296 or supervision of a defendant with a mental condition solely based on the fact that
2297 the treatment or supervision is ordered by a court if the treatment or supervision is
2298 medically necessary and would otherwise be a covered benefit under the
2299 defendant's insurance plan.
- 2300 (9) A guilty with a mental condition evaluation conducted under this section is also subject
2301 to the procedural requirements of Subsections 77-15-5(8) through (11) and 77-15-6(4)(a).
2302 Section 35. Section **77-16a-205** is amended to read:
2303 **77-16a-205 . Parole.**
- 2304 (1) When an offender with a mental condition who has been committed to the department

- 2305 becomes eligible to be considered for parole, the board shall request a recommendation
 2306 from the executive director and from UDC before placing the offender on parole.
- 2307 (2) Before setting a parole date, the board shall request that its mental health adviser
 2308 prepare a report regarding the offender with a mental condition, including:
 2309 (a) all available clinical facts;
 2310 (b) the diagnosis;
 2311 (c) the course of treatment received at the mental health facility;
 2312 (d) the prognosis for remission of symptoms;
 2313 (e) potential for recidivism;
 2314 (f) an estimation of the dangerousness of the offender with a mental condition either to
 2315 self or others; and
 2316 (g) recommendations for future treatment.
- 2317 (3) Based on the report described in Subsection (2), the board may place the offender with a
 2318 mental condition on parole. The board may require mental health treatment as a
 2319 condition of parole. If treatment is ordered, failure to continue treatment, except by
 2320 agreement with the treatment provider, and the board, is a basis for initiation of parole
 2321 violation hearings by the board.
- 2322 (4)(a) ~~[UDC, through Adult Probation and Parole,]~~ The Division of Adult Probation and
 2323 Parole created in Section 64-14-202 shall monitor the status of an offender with a
 2324 mental condition who has been placed on parole.[-]
- 2325 (b) UDC may provide treatment by contracting with the department, a local mental
 2326 health authority, any other public or private provider, or in-house staff.
- 2327 (5) The board may not subsequently reduce the period of parole without considering an
 2328 updated report on the offender's current mental condition.
- 2329 Section 36. Section **77-18-102** is amended to read:
- 2330 **77-18-102 . Definitions.**
- 2331 As used in this chapter:
- 2332 (1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.
 2333 (2) "Board" means the Board of Pardons and Parole.
 2334 (3) "Civil accounts receivable" means the same as that term is defined in Section
 2335 77-32b-102.
 2336 (4) "Civil judgment of restitution" means the same as that term is defined in Section
 2337 77-32b-102.
 2338 (5) "Convicted" means the same as that term is defined in Section 76-3-201.

- 2339 (6) "Criminal accounts receivable" means the same as that term is defined in Section
 2340 77-32b-102.
- 2341 (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 2342 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 2343 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 2344 (10) "Division" means the Division of Adult Probation and Parole created in Section
 2345 64-14-202.
- 2346 [~~(10)~~] (11) "Habitual offender" means an individual who has been convicted in:
 2347 (a) at least six cases for one or more felony offenses in each case; and
 2348 (b) each case described in Subsection [~~(10)(a)~~] (11)(a) within five years before the day on
 2349 which the defendant is convicted of the felony offense before the court.
- 2350 [~~(11)~~] (12) "Payment schedule" means the same as that term is defined in Section
 2351 77-32b-102.
- 2352 [~~(12)~~] (13) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 2353 [~~(13)~~] (14) "Screening" means a tool or questionnaire that is designed to determine whether
 2354 an individual needs further assessment or any additional resource or referral for
 2355 treatment.
- 2356 [~~(14)~~] (15) "Substance use disorder treatment" means treatment obtained through a
 2357 substance use disorder program that is licensed by the Office of Licensing within the
 2358 Department of Health and Human Services.
- 2359 Section 37. Section **77-18-105** is amended to read:
- 2360 **77-18-105 . Pleas held in abeyance -- Suspension of a sentence -- Probation --**
 2361 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
 2362 **supervision for payments on criminal accounts receivable.**
- 2363 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
 2364 abeyance agreement, the court may hold the plea in abeyance:
 2365 (a) in accordance with Chapter 2a, Pleas in Abeyance; and
 2366 (b) under the terms of the plea in abeyance agreement.
- 2367 (2) If a defendant is convicted, the court:
 2368 (a) shall impose a sentence in accordance with Section 76-3-201; and
 2369 (b) subject to Subsection (5), may suspend the execution of the sentence and place the
 2370 defendant:
 2371 (i) on probation under the supervision of the [~~department~~] division;
 2372 (ii) on probation under the supervision of an agency of a local government or a

- 2373 private organization; or
- 2374 (iii) on court probation under the jurisdiction of the sentencing court.
- 2375 (3)(a) The legal custody of all probationers under the supervision of the [department]
- 2376 division is with the department.
- 2377 (b) The legal custody of all probationers under the jurisdiction of the sentencing court is
- 2378 vested as ordered by the court.
- 2379 (c) The court has continuing jurisdiction over all probationers.
- 2380 (4)(a) Court probation may include an administrative level of services, including
- 2381 notification to the sentencing court of scheduled periodic reviews of the probationer's
- 2382 compliance with conditions.
- 2383 (b) Supervised probation services provided by the [department] division, an agency of a
- 2384 local government, or a private organization shall specifically address the defendant's
- 2385 risk of reoffending as identified by a screening or an assessment.
- 2386 (c) If a court orders supervised probation and determines that a public probation
- 2387 provider is unavailable or inappropriate to supervise the defendant, the court shall
- 2388 make available to the defendant the list of private probation providers prepared by a
- 2389 criminal justice coordinating council under Section 17-55-201.
- 2390 (5)(a) Before ordering supervised probation, the court shall consider the supervision
- 2391 costs to the defendant for each entity that can supervise the defendant.
- 2392 (b)(i) A court may order an agency of a local government to supervise the probation
- 2393 for an individual convicted of any crime if:
- 2394 (A) the agency has the capacity to supervise the individual; and
- 2395 (B) the individual's supervision needs will be met by the agency.
- 2396 (ii) A court may only order:
- 2397 (A) the [department] division to supervise the probation for an individual
- 2398 convicted of a class A misdemeanor or any felony; or
- 2399 (B) a private organization to supervise the probation for an individual convicted of
- 2400 a class A, B, or C misdemeanor or an infraction.
- 2401 (c) A court may not order a specific private organization to supervise an individual
- 2402 unless there is only one private organization that can provide the specific supervision
- 2403 services required to meet the individual's supervision needs.
- 2404 (6)(a) If a defendant is placed on probation, the court may order the defendant as a
- 2405 condition of the defendant's probation:
- 2406 (i) to provide for the support of persons for whose support the defendant is legally

- 2407 liable;
- 2408 (ii) to participate in available treatment programs, including any treatment program in
- 2409 which the defendant is currently participating if the program is acceptable to the
- 2410 court;
- 2411 (iii) be voluntarily admitted to the custody of the Division of Substance ~~Abuse~~ Use
- 2412 and Mental Health for treatment at the Utah State Hospital in accordance with
- 2413 Section 77-18-106;
- 2414 (iv) if the defendant is on probation for a felony offense, to serve a period of time as
- 2415 an initial condition of probation that does not exceed one year in a county jail
- 2416 designated by the department, after considering any recommendation by the court
- 2417 as to which jail the court finds most appropriate;
- 2418 (v) to serve a term of home confinement in accordance with Section 77-18-107;
- 2419 (vi) to participate in compensatory service programs, including the compensatory
- 2420 service program described in Section 76-3-410;
- 2421 (vii) to pay for the costs of investigation, probation, or treatment services;
- 2422 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b,
- 2423 Crime Victims Restitution Act; or
- 2424 (ix) to comply with other terms and conditions the court considers appropriate to
- 2425 ensure public safety or increase a defendant's likelihood of success on probation.
- 2426 (b)(i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
- 2427 defendant to include a period of time that is served in a county jail immediately
- 2428 before the termination of probation as long as that period of time does not exceed
- 2429 one year.
- 2430 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a
- 2431 probation violation, the one-year limitation described in Subsection (6)(a)(iv) or
- 2432 (6)(b)(i) does not apply to the period of time that the court orders the defendant to
- 2433 serve in a county jail under this Subsection (6)(b)(ii).
- 2434 (7)(a) Except as provided in Subsection (7)(b), probation of an individual placed on
- 2435 probation after December 31, 2018:
- 2436 (i) may not exceed the individual's maximum sentence;
- 2437 (ii) shall be for a period of time that is in accordance with the adult sentencing and
- 2438 supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the
- 2439 guidelines are consistent with the requirements of the law; and
- 2440 (iii) shall be terminated in accordance with the adult sentencing and supervision

- 2441 length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines
2442 are consistent with the requirements of the law.
- 2443 (b) Probation of an individual placed on probation after December 31, 2018, whose
2444 maximum sentence is one year or less, may not exceed 36 months.
- 2445 (c) Probation of an individual placed on probation on or after October 1, 2015, but
2446 before January 1, 2019, may be terminated at any time at the discretion of the court
2447 or upon completion without violation of 36 months probation in felony or class A
2448 misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions,
2449 or as allowed in accordance with Section 64-13-21 regarding earned credits.
- 2450 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
2451 offense for criminal nonsupport under Section 76-7-201.
- 2452 (8)(a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal
2453 accounts receivable for the defendant upon termination of the probation period for
2454 the defendant under Subsection (7), the court may require the defendant to continue
2455 to make payments towards the criminal accounts receivable in accordance with the
2456 payment schedule established by the court under Section 77-32b-103.
- 2457 (b) A court may not require the defendant to make payments as described in Subsection
2458 (8)(a) beyond the expiration of the defendant's sentence.
- 2459 (c) If the court requires a defendant to continue to pay in accordance with the payment
2460 schedule for the criminal accounts receivable under this Subsection (8) and the
2461 defendant defaults on the criminal accounts receivable, the court shall proceed with
2462 an order for a civil judgment of restitution and a civil accounts receivable for the
2463 defendant as described in Section 77-18-114.
- 2464 (d)(i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
2465 own motion, the court may require a defendant to show cause as to why the
2466 defendant's failure to pay in accordance with the payment schedule should not be
2467 treated as contempt of court.
- 2468 (ii) A court may hold a defendant in contempt for failure to make payments for a
2469 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3,
2470 Contempt.
- 2471 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
2472 offense for criminal nonsupport under Section 76-7-201.
- 2473 (9) When making any decision regarding probation:
- 2474 (a) the court shall consider information provided by the Department of Corrections

2475 regarding a defendant's individual case action plan, including any progress the
2476 defendant has made in satisfying the case action plan's completion requirements; and
2477 (b) the court may not rely solely on an algorithm or a risk assessment tool score.

2478 Section 38. Section **77-18-107** is amended to read:

2479 **77-18-107 . Home confinement -- Electronic monitoring for home confinement.**

- 2480 (1) The court may order home confinement as a condition of probation under the
2481 supervision of the [department] division, except as provided in Sections 76-3-406 and
2482 76-5-406.5.
- 2483 (2) The department shall establish procedures and standards for home confinement for all
2484 defendants supervised by the [department] division for home confinement.
- 2485 (3) If the court places the defendant on probation and orders the defendant to participate in
2486 home confinement under Subsection (1), the court may order the defendant to participate
2487 in home confinement through the use of electronic monitoring until further order of the
2488 court.
- 2489 (4) The electronic monitoring of a defendant shall alert the [department] division and the
2490 appropriate law enforcement agency of the defendant's whereabouts.
- 2491 (5) An electronic monitoring device shall be used under conditions that require:
2492 (a) the defendant to wear an electronic monitoring device at all times; and
2493 (b) the device be placed in the home of the defendant to monitor the defendant's
2494 compliance with the court's order.
- 2495 (6) If a court orders a defendant to participate in home confinement through electronic
2496 monitoring as a condition of probation under Subsection (3), the court shall:
2497 (a) place the defendant on probation under the supervision of the [department] division;
2498 (b) order the [department] division to place an electronic monitoring device on the
2499 defendant and install electronic monitoring equipment in the residence of the
2500 defendant; and
2501 (c) order the defendant to pay the costs associated with home confinement to the
2502 department or the program provider.
- 2503 (7) The department shall pay the costs of home confinement through electronic monitoring
2504 only for an individual who is determined to be indigent by the court.
- 2505 (8) The department may provide the electronic monitoring described in this section directly
2506 or by contract with a private provider.

2507 Section 39. Section **77-18-108** is amended to read:

2508 **77-18-108 . Termination, revocation, modification, or extension of probation --**

2509 **Violation of probation -- Hearing on violation.**2510 (1)(a) The [department] division shall send a written notice to the court:2511 (i) when the [department] division is recommending termination of supervision for a
2512 defendant; or

2513 (ii) before a defendant's supervision will be terminated by law.

2514 (b) The written notice under this Subsection (1) shall include:

2515 (i) a probation progress report; and

2516 (ii) if the department is responsible for the collection of the defendant's criminal
2517 accounts receivable, a summary of the criminal accounts receivable, including the
2518 amount of restitution ordered and the amount of restitution that has been paid.

2519 (c)(i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

2520 (A) file the written notice on the docket; and

2521 (B) provide notice to all parties in the criminal case.

2522 (ii) A party shall have a reasonable opportunity to respond to the written notice under
2523 Subsection (1)(a).2524 (d) If a defendant's probation is being terminated, and the defendant's criminal accounts
2525 receivable has an unpaid balance or there is any outstanding debt with the
2526 department, the department shall send a written notice to the Office of State Debt
2527 Collection with a summary of the defendant's criminal accounts receivable, including
2528 the amount of restitution ordered and the amount of restitution that has been paid.2529 (2)(a) The court may modify the defendant's probation in accordance with the adult
2530 sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

2531 (b) The court may not:

2532 (i) extend the length of a defendant's probation, except upon:

2533 (A) waiver of a hearing by the defendant; or

2534 (B) a hearing and a finding by the court that the defendant has violated the terms
2535 of probation;2536 (ii) revoke a defendant's probation, except upon a hearing and a finding by the court
2537 that the terms of probation have been violated; or2538 (iii) terminate a defendant's probation before expiration of the probation period until
2539 the court:2540 (A) reviews the docket to determine whether the defendant owes a balance on the
2541 defendant's criminal accounts receivable; and

2542 (B) enters a finding of whether the defendant owes restitution under Section

2543 77-38b-205.

2544 (c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe
2545 restitution if no request for restitution has been filed with the court.

2546 (3)(a) Upon the filing of an affidavit, or an unsworn written declaration executed in
2547 substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations
2548 Act, alleging with particularity facts asserted to constitute violation of the terms of a
2549 defendant's probation, the court shall determine if the affidavit or unsworn written
2550 declaration establishes probable cause to believe that revocation, modification, or
2551 extension of the defendant's probation is justified.

2552 (b)(i) If the court determines there is probable cause, the court shall order that the
2553 defendant be served with:

2554 (A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn
2555 written declaration; and

2556 (B) an order to show cause as to why the defendant's probation should not be
2557 revoked, modified, or extended.

2558 (ii) The order under Subsection (3)(b)(i)(B) shall:

2559 (A) be served upon the defendant at least five days before the day on which the
2560 hearing is held;

2561 (B) specify the time and place of the hearing; and

2562 (C) inform the defendant of the right to be represented by counsel at the hearing,
2563 the right to have counsel appointed if the defendant is indigent, and the right to
2564 present evidence at the hearing.

2565 (iii) The defendant shall show good cause for a continuance of the hearing.

2566 (c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or
2567 unsworn written declaration.

2568 (d)(i) If the defendant denies the allegations of the affidavit or unsworn written
2569 declaration, the prosecuting attorney shall present evidence on the allegations.

2570 (ii) If the affidavit, or unsworn written declaration, alleges that a defendant is
2571 delinquent, or in default, on a criminal accounts receivable, the prosecuting
2572 attorney shall present evidence to establish, by a preponderance of the evidence,
2573 that the defendant:

2574 (A) was aware of the defendant's obligation to pay the balance of the criminal
2575 accounts receivable;

2576 (B) failed to pay on the balance of the criminal accounts receivable as ordered by

- 2577 the court; and
- 2578 (C) had the ability to make a payment on the balance of the criminal accounts
2579 receivable if the defendant opposes an order to show cause, in writing, and
2580 presents evidence that the defendant was unable to make a payment on the
2581 balance of the criminal accounts receivable.
- 2582 (e) The persons who have given adverse information on which the allegations are based
2583 shall be presented as witnesses subject to questioning by the defendant, unless the
2584 court for good cause otherwise orders.
- 2585 (f) At the hearing, the defendant may:
- 2586 (i) call witnesses;
- 2587 (ii) appear and speak in the defendant's own behalf; and
- 2588 (iii) present evidence.
- 2589 (g)(i) After the hearing, the court shall make findings of fact.
- 2590 (ii) Upon a finding that the defendant violated the terms of the defendant's probation,
2591 the court may order the defendant's probation terminated, revoked, modified,
2592 continued, or reinstated for all or a portion of the original term of probation.
- 2593 (4)(a)(i) Except as provided in Subsection 77-18-105(7), the court may not require a
2594 defendant to remain on probation for a period of time that exceeds the length of
2595 the defendant's maximum sentence.
- 2596 (ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is
2597 revoked and later reinstated, the total time of all periods of probation that the
2598 defendant serves, in relation to the same sentence, may not exceed the defendant's
2599 maximum sentence.
- 2600 (b) If the court orders a sanction for a defendant who violated terms of probation, the
2601 court may:
- 2602 (i) order a period of incarceration that is consistent with the adult sentencing and
2603 supervision length guidelines, as defined in Section 63M-7-401.1;
- 2604 (ii) order a period of incarceration that deviates from the guidelines with an
2605 explanation for the deviation on the record;
- 2606 (iii) order treatment services that are immediately available in the community for a
2607 defendant that needs substance abuse or mental health treatment, as determined by
2608 a screening and assessment;
- 2609 (iv) execute the sentence previously imposed; or
- 2610 (v) order any other appropriate sanction.

2611 (c) If the defendant had, before the imposition of a term of incarceration or the execution
 2612 of the previously imposed sentence under this section, served time in jail as a term of
 2613 probation or due to a violation of probation, the time that the defendant served in jail
 2614 constitutes service of time toward the sentence previously imposed.

2615 (5)(a) Any time served by a defendant:

2616 (i) outside of confinement after having been charged with a probation violation, and
 2617 before a hearing to revoke probation, does not constitute service of time toward
 2618 the total probation term, unless the defendant is exonerated at a hearing to revoke
 2619 the defendant's probation;

2620 (ii) in confinement awaiting a hearing or a decision concerning revocation of the
 2621 defendant's probation does not constitute service of time toward the total
 2622 probation term, unless the defendant is exonerated at the hearing to revoke
 2623 probation; or

2624 (iii) in confinement awaiting a hearing or a decision concerning revocation of the
 2625 defendant's probation constitutes service of time toward a term of incarceration
 2626 imposed as a result of the revocation of probation or a graduated and
 2627 evidence-based response imposed under the adult sentencing and supervision
 2628 length guidelines, as defined in Section 63M-7-401.1.

2629 (b) The running of the probation period is tolled upon:

2630 (i) the filing of a report with the court alleging a violation of the terms of the
 2631 defendant's probation; or

2632 (ii) the issuance of an order or a warrant under Subsection (3).

2633 Section 40. Section **77-18-109** is amended to read:

2634 **77-18-109 . Standards for supervision and presentence investigation.**

2635 (1) The department shall establish supervision and presentence investigation standards for
 2636 all individuals referred to the [~~department~~] division based on:

2637 (a) the type of offense;

2638 (b) the results of a screening and an assessment;

2639 (c) the demand for services;

2640 (d) the availability of agency resources;

2641 (e) public safety; and

2642 (f) other criteria established by the department to determine what level of services shall
 2643 be provided.

2644 (2) The department shall submit proposed supervision and presentence investigation

2645 standards annually to the Judicial Council and the board for review and comment before
2646 the department adopts the standards.

2647 (3) The Judicial Council and the department shall establish procedures for the division to
2648 implement the supervision and presentence investigation standards.

2649 (4) The Judicial Council and the department shall annually consider modifications to the
2650 standards based upon criteria in Subsection (1) and other criteria as the Judicial Council
2651 and the department consider appropriate.

2652 (5) The Judicial Council and the department shall:

2653 (a) annually prepare an impact report; and

2654 (b) submit the impact report to the appropriate legislative appropriations subcommittee.

2655 Section 41. Section **77-20-203** is amended to read:

2656 **77-20-203 . County sheriff authority to release an individual from jail on own**
2657 **recognizance.**

2658 (1) As used in this section:

2659 (a) "Division" means the Division of Adult Probation and Parole created in Section
2660 64-14-202.

2661 [(a)] (b)(i) "Qualifying domestic violence offense" means the same as that term is
2662 defined in Subsection 77-36-1.1(4).

2663 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
2664 described in Section 76-6-106.

2665 [(b)] (c) "Qualifying offense" means the same as that term is defined in Section
2666 78B-7-801.

2667 [(c)] (d) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

2668 (2) Except as provided in Subsection (3), a county jail official may release an individual
2669 from a jail facility on the individual's own recognizance if:

2670 (a) the individual was arrested without a warrant;

2671 (b) the individual was not arrested for:

2672 (i) a violent felony;

2673 (ii) a qualifying offense;

2674 (iii) the offense of driving under the influence or driving with a measurable
2675 controlled substance in the body if the offense results in death or serious bodily
2676 injury to an individual; or

2677 (iv) an offense described in Subsection 76-9-101(4);

2678 (c) law enforcement has not submitted a probable cause statement to a court or

- 2679 magistrate;
- 2680 (d) the individual agrees in writing to appear for any future criminal proceedings related
2681 to the arrest; and
- 2682 (e) the individual qualifies for release under the written policy described in Subsection
2683 (4) for the county.
- 2684 (3) A county jail official may not release an individual from a jail facility if the individual is
2685 subject to a 72-hour hold placed on the individual by the Department of Corrections as
2686 described in Section [~~64-13-29~~] 64-14-205.
- 2687 (4)(a) A county sheriff shall create and approve a written policy for the county that
2688 governs the release of an individual on the individual's own recognizance.
- 2689 (b) The written policy shall describe the criteria an individual shall meet to be released
2690 on the individual's own recognizance.
- 2691 (c) A county sheriff may include in the written policy the criteria for release relating to:
2692 (i) criminal history;
2693 (ii) prior instances of failing to appear for a mandatory court appearance;
2694 (iii) current employment;
2695 (iv) residency;
2696 (v) ties to the community;
2697 (vi) an offense for which the individual was arrested;
2698 (vii) any potential criminal charges that have not yet been filed;
2699 (viii) the individual's health condition;
2700 (ix) any potential risks to a victim, a witness, or the public; and
2701 (x) any other similar factor a sheriff determines is relevant.
- 2702 (5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an
2703 individual for up to 24 hours from booking if:
2704 (i) the individual is on supervised probation or parole and that information is
2705 reasonably available; and
2706 (ii) the individual was arrested for:
2707 (A) a violent felony; or
2708 (B) a qualifying domestic violence offense.
- 2709 (b) The jail facility shall:
2710 (i) notify the entity supervising the individual's probation or parole that the individual
2711 is being detained; and
2712 (ii) release the individual:

- 2713 (A) to the [~~Department of Corrections if the Department of Corrections~~] division if
 2714 the division supervises the individual and requests the individual's release; or
 2715 (B) if a court or magistrate orders release.
- 2716 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
 2717 accordance with this chapter for a new criminal offense.
- 2718 (6) This section does not prohibit a court and a county from entering into an agreement
 2719 regarding release.
- 2720 Section 42. Section **77-20-204** is amended to read:
 2721 **77-20-204 . County jail authority to release an individual from jail on monetary**
 2722 **bail.**
- 2723 (1) As used in this section, "eligible felony offense" means a third degree felony violation
 2724 under:
- 2725 (a) Section 23A-4-501 or 23A-4-502;
 2726 (b) Section 23A-5-311;
 2727 (c) Section 23A-5-313;
 2728 (d) Title 76, Chapter 6, Part 4, Theft;
 2729 (e) Title 76, Chapter 6, Part 5, Fraud;
 2730 (f) Title 76, Chapter 6, Part 6, Retail Theft;
 2731 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;
 2732 (h) Title 76, Chapter 6, Part 8, Library Theft;
 2733 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;
 2734 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;
 2735 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;
 2736 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;
 2737 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;
 2738 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;
 2739 (o) Title 76, Chapter 6a, Pyramid Scheme Act;
 2740 (p) Title 76, Chapter 7, Offenses Against the Family;
 2741 (q) Title 76, Chapter 7a, Abortion Prohibition;
 2742 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
 2743 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
 2744 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
 2745 (u) Title 76, Chapter 9, Part 5, Libel; or
 2746 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

- 2747 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial
2748 condition for an individual if:
- 2749 (a)(i) the individual is ineligible to be released on the individual's own recognizance
2750 under Section 77-20-203;
- 2751 (ii) the individual is arrested for, or charged with:
- 2752 (A) a misdemeanor offense under state law; or
- 2753 (B) a violation of a city or county ordinance that is classified as a class B or C
2754 misdemeanor offense;
- 2755 (iii) the individual agrees in writing to appear for any future criminal proceedings
2756 related to the arrest; and
- 2757 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 2758 (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
- 2759 (ii) the individual is not on pretrial release for a separate criminal offense;
- 2760 (iii) the individual is not on probation or parole;
- 2761 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 2762 (v) the individual agrees in writing to appear for any future criminal proceedings
2763 related to the arrest; and
- 2764 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 2765 (3) A county jail official may not fix a financial condition at a monetary amount that
2766 exceeds:
- 2767 (a) \$5,000 for an eligible felony offense;
- 2768 (b) \$1,950 for a class A misdemeanor offense;
- 2769 (c) \$680 for a class B misdemeanor offense;
- 2770 (d) \$340 for a class C misdemeanor offense;
- 2771 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
2772 misdemeanor; or
- 2773 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
2774 misdemeanor.
- 2775 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
2776 financial condition for release:
- 2777 (a) the county jail official shall fix the financial condition at a single monetary amount;
2778 and
- 2779 (b) the single monetary amount may not exceed the monetary amount under Subsection
2780 (3) for the highest level of offense for which the individual is arrested.

2781 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
 2782 posts a financial condition fixed by a county jail official in accordance with this section.

2783 (6) If a county jail official fixes a financial condition for an individual, law enforcement
 2784 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
 2785 Criminal Procedure after the county jail official fixes the financial condition.

2786 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
 2787 Rules of Criminal Procedure:

2788 (a) a county jail official may not fix or modify a financial condition for an individual;
 2789 and

2790 (b) if a county jail official fixed a financial condition for the individual before the
 2791 magistrate's review, the individual may no longer be released on the financial
 2792 condition.

2793 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
 2794 individual by the Department of Corrections as described in Section [~~64-13-29~~]
 2795 64-14-205.

2796 (9) This section does not prohibit a court and a county from entering into an agreement
 2797 regarding release.

2798 Section 43. Section **77-27-10** is amended to read:

2799 **77-27-10 . Conditions of parole -- Inmate agreement to warrant -- Rulemaking --**
 2800 **Intensive early release parole program.**

2801 (1)(a) When the Board of Pardons and Parole releases an offender on parole, it shall, in
 2802 accordance with Section [~~64-13-21~~] 64-14-204, issue to the parolee a certificate
 2803 setting forth the conditions of parole, including the graduated and evidence-based
 2804 responses to a violation of a condition of parole established in the adult sentencing
 2805 and supervision length guidelines, as defined in Section 63M-7-401.1, which the
 2806 offender shall accept and agree to as evidenced by the offender's signature affixed to
 2807 the agreement.

2808 (b) The parole agreement shall require that the inmate agree in writing that the board
 2809 may issue a warrant and conduct a parole revocation hearing if:

2810 (i) the board determines after the grant of parole that the inmate willfully provided to
 2811 the board false or inaccurate information that the board finds was significant in the
 2812 board's determination to grant parole; or

2813 (ii)(A) the inmate has engaged in criminal conduct prior to the granting of parole;
 2814 and

- 2815 (B) the board did not have information regarding the conduct at the time parole
2816 was granted.
- 2817 (c)(i) A copy of the agreement shall be delivered to the Department of Corrections
2818 and a copy shall be given to the parolee.
- 2819 (ii) The original agreement shall remain with the board's file.
- 2820 (2)(a) If an offender convicted of violating or attempting to violate Section 76-5-301.1,
2821 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1,
2822 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall
2823 order outpatient mental health counseling and treatment as a condition of parole.
- 2824 (b) The board shall develop standards and conditions of parole under this Subsection (2)
2825 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2826 (c) This Subsection (2) does not apply to intensive early release parole.
- 2827 (3)(a)(i) In addition to the conditions set out in Subsection (1), the board may place
2828 offenders in an intensive early release parole program.
- 2829 (ii) The board shall determine the conditions of parole which are reasonably
2830 necessary to protect the community as well as to protect the interests of the
2831 offender and to assist the offender to lead a law-abiding life.
- 2832 (b) The offender is eligible for this program only if the offender:
2833 (i) has not been convicted of a sexual offense; or
2834 (ii) has not been sentenced pursuant to Section 76-3-406.
- 2835 (c) The department shall:
2836 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
2837 Rulemaking Act, for operation of the program;
2838 (ii) adopt and implement internal management policies for operation of the program;
2839 (iii) determine whether or not to refer an offender into this program within 120 days
2840 from the date the offender is committed to prison by the sentencing court; and
2841 (iv) make the final recommendation to the board regarding the placement of an
2842 offender into the program.
- 2843 (d) The department may not consider credit for time served in a county jail awaiting trial
2844 or sentencing when calculating the 120-day period.
- 2845 (e) The prosecuting attorney or sentencing court may refer an offender for consideration
2846 by the department for participation in the program.
- 2847 (f) The board shall determine whether or not to place an offender into this program
2848 within 30 days of receiving the department's recommendation.

- 2849 (4) This program shall be implemented by the department within the existing budget.
- 2850 (5) During the time the offender is on parole, the department shall collect from the offender
2851 the monthly supervision fee authorized by Section ~~[64-13-21]~~ 64-14-204.
- 2852 (6) When a parolee commits a violation of the parole agreement, the department may:
- 2853 (a) respond in accordance with the graduated and evidence-based responses established
2854 in accordance with Section ~~[64-13-21]~~ 64-14-204; or
- 2855 (b) when the graduated and evidence-based responses established in accordance with
2856 Section ~~[64-13-21]~~ 64-14-204 indicate, refer the parolee to the Board of Pardons and
2857 Parole for revocation of parole.
- 2858 Section 44. Section **77-27-10.5** is amended to read:
- 2859 **77-27-10.5 . Special condition of parole -- Penalty.**
- 2860 (1) In accordance with Section 77-27-5, the Board of Pardons and Parole may release the
2861 defendant on parole and as a condition of parole, the board may order the defendant to
2862 be prohibited from directly or indirectly engaging in any profit or benefit generating
2863 activity relating to the publication of facts or circumstances pertaining to the defendant's
2864 involvement in the criminal act for which the defendant is convicted.
- 2865 (2) The order may prohibit the defendant from contracting with any person, firm,
2866 corporation, partnership, association, or other legal entity with respect to the commission
2867 and reenactment of the defendant's criminal conduct, by way of a movie, book,
2868 magazine article, tape recording, phonograph record, radio, or television presentations,
2869 live entertainment of any kind, or from the expression of the defendant's thoughts,
2870 feelings, opinions, or emotions regarding the criminal conduct.
- 2871 (3) The board may order that the prohibition includes any event undertaken and
2872 experienced by the defendant while avoiding apprehension from the authorities or while
2873 facing criminal charges.
- 2874 (4) The board may order that any action taken by the defendant by way of execution of
2875 power of attorney, creation of corporate entities, or other action to avoid compliance
2876 with the board's order shall be grounds for revocation of parole as provided in Section
2877 77-27-11.
- 2878 (5) The Division of Adult Probation and Parole created in Section 64-14-202 shall notify
2879 the board of any alleged violation of the board's order under this section.
- 2880 (6) The violation of the board's order shall be considered a violation of parole.
- 2881 (7) For purposes of this section:
- 2882 (a) "convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty

2883 with a mental condition, no contest, and conviction of any crime or offense; and

2884 (b) "defendant" means the convicted defendant, the defendant's assignees, and
2885 representatives acting on the defendant's authority.

2886 Section 45. Section **77-27-11** is amended to read:

2887 **77-27-11 . Revocation of parole.**

2888 (1) The board may revoke the parole of any individual who is found to have violated any
2889 condition of the individual's parole.

2890 (2)(a) If a parolee is confined by the department or any law enforcement official for a
2891 suspected violation of parole, the department:

2892 (i) shall immediately report the alleged violation to the board, by means of an
2893 incident report; and

2894 (ii) make any recommendation regarding the incident.

2895 (b) A parolee may not be held for a period longer than 72 hours, excluding weekends
2896 and holidays, without first obtaining a warrant.

2897 (c) The board shall expeditiously consider warrant requests from the department under
2898 Section [~~64-13-29~~] 64-14-205.

2899 (3) Any member of the board may:

2900 (a) issue a warrant based upon a certified warrant request to a peace officer or other
2901 persons authorized to arrest, detain, and return to actual custody a parolee; and

2902 (b) upon arrest of the parolee, determine, or direct the department to determine, if there
2903 is probable cause to believe that the parolee has violated the conditions of the
2904 parolee's parole.

2905 (4) Upon a finding of probable cause, a parolee may be further detained or imprisoned
2906 again pending a hearing by the board or the board's appointed examiner.

2907 (5)(a) The board or the board's appointed examiner shall conduct a hearing on the
2908 alleged violation, and the parolee shall have written notice of the time and location of
2909 the hearing, the alleged violation of parole, and a statement of the evidence against
2910 the parolee.

2911 (b) The board or the board's appointed examiner shall provide the parolee the
2912 opportunity:

2913 (i) to be present;

2914 (ii) to be heard;

2915 (iii) to present witnesses and documentary evidence;

2916 (iv) to confront and cross-examine adverse witnesses, absent a showing of good

- 2917 cause for not allowing the confrontation; and
- 2918 (v) to be represented by counsel when the parolee is mentally incompetent or
- 2919 pleading not guilty.
- 2920 (c)(i) If heard by an appointed examiner, the examiner shall make a written decision
- 2921 which shall include a statement of the facts relied upon by the examiner in
- 2922 determining the guilt or innocence of the parolee on the alleged violation and a
- 2923 conclusion as to whether the alleged violation occurred.
- 2924 (ii) The appointed examiner shall then refer the case to the board for disposition.
- 2925 (d)(i) A final decision shall be reached by a majority vote of the sitting members of
- 2926 the board.
- 2927 (ii) A parolee shall be promptly notified in writing of the board's findings and
- 2928 decision.
- 2929 (6)(a) If a parolee is found to have violated the terms of parole, the board, at the board's
- 2930 discretion, may:
- 2931 (i) return the parolee to parole;
- 2932 (ii) modify the payment schedule for the parolee's criminal accounts receivable in
- 2933 accordance with Section 77-32b-105;
- 2934 (iii) order the parolee to pay pecuniary damages that are proximately caused by a
- 2935 defendant's violation of the terms of the defendant's parole;
- 2936 (iv) order the parolee to be imprisoned, but not to exceed the maximum term of
- 2937 imprisonment for the parolee's sentence; or
- 2938 (v) order any other conditions for the parolee.
- 2939 (b) If the board returns the parolee to parole, the length of parole may not be for a period
- 2940 of time that exceeds the length of the parolee's maximum sentence.
- 2941 (c) If the board revokes parole for a violation and orders incarceration, the board may
- 2942 impose a period of incarceration:
- 2943 (i) consistent with the adult sentencing and supervision length guidelines, as defined
- 2944 in Section 63M-7-401.1; or
- 2945 (ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from
- 2946 the guidelines.
- 2947 (d) The following periods of time constitute service of time toward the period of
- 2948 incarceration imposed under Subsection (6)(c):
- 2949 (i) time served in jail by a parolee awaiting a hearing or decision concerning
- 2950 revocation of parole; and

2951 (ii) time served in jail by a parolee due to a violation of parole under Subsection
2952 64-13-6(2).

2953 Section 46. Section **77-32b-102** is amended to read:

2954 **77-32b-102 . Definitions.**

2955 As used in this chapter:

2956 (1) "Board" means the Board of Pardons and Parole.

2957 (2)(a) "Civil accounts receivable" means any amount of the criminal accounts
2958 receivable that is owed by the defendant that has not been paid on or before the day
2959 on which:

2960 (i) the defendant's sentence is terminated; or

2961 (ii) the court enters an order for a civil accounts receivable under Subsection
2962 77-18-114(1) or (2).

2963 (b) "Civil accounts receivable" does not include any amount of the criminal accounts
2964 receivable that is owed by the defendant for restitution.

2965 (3) "Civil judgment of restitution" means any amount of the criminal accounts receivable
2966 that is owed by the defendant for restitution that has not been paid on or before the day
2967 on which the defendant's sentence is terminated.

2968 (4)(a) "Criminal accounts receivable" means any amount owed by a defendant that
2969 arises from a criminal judgment until:

2970 (i) the defendant's sentence terminates;

2971 (ii) the court enters an order for a civil accounts receivable under Subsection
2972 77-18-114(1) or (2); or

2973 (iii) if the court requires the defendant, upon termination of the probation period for
2974 the defendant, to continue to make payments on the criminal accounts as
2975 described in Subsection 77-18-105(8), the defendant's sentence expires.

2976 (b) "Criminal accounts receivable" includes any unpaid:

2977 (i) fee, including the monthly supervision fee described in Subsection [~~64-13-21(6)~~]
2978 64-14-204(6);

2979 (ii) forfeiture;

2980 (iii) surcharge;

2981 (iv) cost;

2982 (v) interest;

2983 (vi) penalty;

2984 (vii) restitution;

- 2985 (viii) third party claim;
- 2986 (ix) reimbursement of a reward; and
- 2987 (x) damages.
- 2988 (5) "Default" means a civil accounts receivable, a civil judgment of restitution, or a criminal
- 2989 accounts receivable that is overdue by at least 90 days.
- 2990 (6) "Delinquent" means a civil accounts receivable, a civil judgment of restitution, or a
- 2991 criminal account receivable that is overdue by more than 28 days but less than 90 days.
- 2992 (7) "Payment schedule" means the amount that is be paid by a defendant in installments, or
- 2993 by a certain date, to satisfy a criminal accounts receivable for the defendant.
- 2994 (8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any unpaid
- 2995 amount of a criminal accounts receivable.
- 2996 (9) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 2997 Section 47. Section **77-36-5.1** is amended to read:
- 2998 **77-36-5.1 . Conditions of probation for domestic violence offense.**
- 2999 (1) Before a perpetrator who is convicted or adjudicated of a domestic violence offense may
- 3000 be placed on probation, the court shall consider the safety and protection of the victim
- 3001 and any member of the victim's family or household.
- 3002 (2) The court may condition probation or a plea in abeyance on the perpetrator's compliance
- 3003 with one or more orders of the court, which may include:
- 3004 (a) a sentencing protective order issued under Section 78B-7-804;
- 3005 (b) prohibiting the perpetrator from possessing or consuming alcohol or controlled
- 3006 substances;
- 3007 (c) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other
- 3008 specified weapon;
- 3009 (d) directing the perpetrator to surrender any weapons the perpetrator owns or possesses;
- 3010 (e) directing the perpetrator to participate in and complete, to the satisfaction of the
- 3011 court, a program of intervention for perpetrators, treatment for alcohol or substance
- 3012 abuse, or psychiatric or psychological treatment;
- 3013 (f) directing the perpetrator to pay restitution to the victim, enforcement of which shall
- 3014 be in accordance with Chapter 38b, Crime Victims Restitution Act; and
- 3015 (g) imposing any other condition necessary to protect the victim and any other
- 3016 designated family or household member or to rehabilitate the perpetrator.
- 3017 (3) The perpetrator is responsible for the costs of any condition of probation, according to
- 3018 the perpetrator's ability to pay.

- 3019 (4)(a) The Division of Adult Probation and Parole created in Section 64-14-202, or
3020 other provider, shall immediately report to the court and notify the victim of any
3021 offense involving domestic violence committed by the perpetrator, the perpetrator's
3022 failure to comply with any condition imposed by the court, and any violation of a
3023 sentencing protective order issued by the court under Section 78B-7-804.
- 3024 (b) Notification of the victim under Subsection (4)(a) shall consist of a good faith
3025 reasonable effort to provide prompt notification, including mailing a copy of the
3026 notification to the last-known address of the victim.
- 3027 (5) In addition to a protective order issued under this section, the court may issue a separate
3028 order relating to the transfer of a wireless telephone number in accordance with Section
3029 78B-7-117.
- 3030 Section 48. Section **77-38-3** is amended to read:
- 3031 **77-38-3 . Notification to victims -- Initial notice, election to receive subsequent**
3032 **notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact**
3033 **order.**
- 3034 (1) Within seven days after the day on which felony criminal charges are filed against a
3035 defendant, the prosecuting agency shall provide an initial notice to reasonably
3036 identifiable and locatable victims of the crime contained in the charges, except as
3037 otherwise provided in this chapter.
- 3038 (2) The initial notice to the victim of a crime shall provide information about electing to
3039 receive notice of subsequent important criminal justice hearings listed in Subsections
3040 77-38-2(5)(a) through (g) and rights under this chapter.
- 3041 (3) The prosecuting agency shall provide notice to a victim of a crime:
- 3042 (a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a)
3043 through (g), which the victim has requested; and
- 3044 (b) for a restitution request to be submitted in accordance with Section 77-38b-202.
- 3045 (4)(a) The responsible prosecuting agency may provide initial and subsequent notices in
3046 any reasonable manner, including telephonically, electronically, orally, or by means
3047 of a letter or form prepared for this purpose.
- 3048 (b) In the event of an unforeseen important criminal justice hearing, described in
3049 Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a
3050 good faith attempt to contact the victim by telephone shall be considered sufficient
3051 notice, provided that the prosecuting agency subsequently notifies the victim of the
3052 result of the proceeding.

- 3053 (5)(a) The court shall take reasonable measures to ensure that its scheduling practices
3054 for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an
3055 opportunity for victims of crimes to be notified.
- 3056 (b) The court shall consider whether any notification system that the court might use to
3057 provide notice of judicial proceedings to defendants could be used to provide notice
3058 of judicial proceedings to victims of crimes.
- 3059 (6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole
3060 created in Section 64-14-202, shall give notice to the responsible prosecuting agency of
3061 any motion for modification of any determination made at any of the important criminal
3062 justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any
3063 requested court hearing or action so that the prosecuting agency may comply with the
3064 prosecuting agency's notification obligation.
- 3065 (7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and
3066 Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).
- 3067 (b) The board may provide notice in any reasonable manner, including telephonically,
3068 electronically, orally, or by means of a letter or form prepared for this purpose.
- 3069 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to
3070 a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g)
3071 only where the victim has responded to the initial notice, requested notice of subsequent
3072 proceedings, and provided a current address and telephone number if applicable.
- 3073 (9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a
3074 victim who seeks restitution and notice of restitution hearings shall provide the court
3075 with the victim's current address and telephone number.
- 3076 (10)(a) Law enforcement and criminal justice agencies shall refer any requests for
3077 notice or information about crime victim rights from victims to the responsible
3078 prosecuting agency.
- 3079 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
3080 prosecuting agency shall forward any request for notice the prosecuting agency has
3081 received from a victim to the Board of Pardons and Parole.
- 3082 (11) In all cases where the number of victims exceeds 10, the responsible prosecuting
3083 agency may send any notices required under this chapter in the prosecuting agency's
3084 discretion to a representative sample of the victims.
- 3085 (12)(a) A victim's address, telephone number, and victim impact statement maintained
3086 by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile

3087 Justice and Youth Services, Department of Corrections, Utah State Courts, and Board
3088 of Pardons and Parole, for purposes of providing notice under this section, are
3089 classified as protected under Subsection 63G-2-305(10).

3090 (b) The victim's address, telephone number, and victim impact statement is available
3091 only to the following persons or entities in the performance of their duties:

3092 (i) a law enforcement agency, including the prosecuting agency;

3093 (ii) a victims' right committee as provided in Section 77-37-5;

3094 (iii) a governmentally sponsored victim or witness program;

3095 (iv) the Department of Corrections;

3096 (v) the Utah Office for Victims of Crime;

3097 (vi) the Commission on Criminal and Juvenile Justice;

3098 (vii) the Utah State Courts; and

3099 (viii) the Board of Pardons and Parole.

3100 (13) The notice provisions as provided in this section do not apply to misdemeanors as
3101 provided in Section 77-38-5 and to important juvenile justice hearings as provided in
3102 Section 77-38-2.

3103 (14)(a) When a defendant is charged with a felony crime under Sections 76-5-301
3104 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling;
3105 Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section
3106 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during
3107 any court hearing where the defendant is present, issue a pretrial criminal no contact
3108 order:

3109 (i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
3110 communicating with the victim directly or through a third party;

3111 (ii) ordering the defendant to stay away from the residence, school, place of
3112 employment of the victim, and the premises of any of these, or any specified place
3113 frequented by the victim or any designated family member of the victim directly
3114 or through a third party; and

3115 (iii) ordering any other relief that the court considers necessary to protect and provide
3116 for the safety of the victim and any designated family or household member of the
3117 victim.

3118 (b) Violation of a pretrial criminal no contact order issued pursuant to this section is a
3119 third degree felony.

3120 (c)(i) The court shall provide to the victim a certified copy of any pretrial criminal

- 3121 no contact order that has been issued if the victim can be located with reasonable
3122 effort.
- 3123 (ii) The court shall also transmit the pretrial criminal no contact order to the statewide
3124 domestic violence network in accordance with Section 78B-7-113.
- 3125 (15)(a) When a case involving a victim may resolve before trial with a plea deal, the
3126 prosecutor shall notify the victim of that possibility as soon as practicable.
- 3127 (b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall
3128 explain the available details of an anticipated plea deal.
- 3129 Section 49. Section **77-38-611** is amended to read:
- 3130 **77-38-611 . Address use by state or local government entities.**
- 3131 (1) Except as otherwise provided in Subsection (7), a program participant is responsible for
3132 requesting that a state or local government entity use the program participant's assigned
3133 address as the program participant's residential address.
- 3134 (2) Except as otherwise provided in this part, if a program participant submits a valid
3135 authorization card, or a notification form, to a state or local government entity, the state
3136 or local government entity shall accept the assigned address listed on the authorization
3137 card or notification form as the program participant's address to be used as the program
3138 participant's residential address when creating a record.
- 3139 (3) The program participant's assigned address shall be listed as the last known address if
3140 any last known address requirement is needed by the state or local government entity.
- 3141 (4) The state or local government entity may photocopy a program participant's
3142 authorization card for a record for the state or local government entity, but the state or
3143 local government entity shall immediately return the authorization card to the program
3144 participant.
- 3145 (5)(a) An election official, as defined in Section 20A-1-102, shall:
- 3146 (i) use a program participant's actual address for precinct designation and all official
3147 election-related purposes;
- 3148 (ii) classify the program participant's actual address as concealed; and
- 3149 (iii) keep the program participant's actual address confidential from the public.
- 3150 (b) A program participant may not use the program participant's assigned address for
3151 voter registration.
- 3152 (c) An election official shall use the assigned address for all correspondence and mail for
3153 the program participant placed in the United States mail.
- 3154 (d) A state or local government entity's access to a program participant's voter

- 3155 registration is subject to the request for disclosure process under Section 77-38-612.
- 3156 (e) This Subsection (5) applies only to a program participant who submits a valid
3157 authorization card or a notification form when registering to vote.
- 3158 (6)(a) A state or local government entity may not use a program participant's assigned
3159 address for the purposes of listing, or appraising a property, or assessing property
3160 taxes.
- 3161 (b) Except as provided by Subsection (6)(c), all property assessments and tax notices,
3162 property tax collection notices, and all property related correspondence placed in the
3163 United States mail for the program participant shall be addressed to the assigned
3164 address.
- 3165 (c) The State Tax Commission shall use the actual address of a program participant,
3166 unless the commission provides the following information to the State Tax
3167 Commission:
- 3168 (i) the full name of the program participant; and
3169 (ii) the program participant's social security number, federal employee identification
3170 number, and any other identification number related to a tax, fee, charge, or
3171 license administered by the State Tax Commission.
- 3172 (7)(a) A state or local government entity may not use a program participant's assigned
3173 address for purposes of assessing any taxes or fees on a motor vehicle or a watercraft
3174 for titling or registering a motor vehicle or a watercraft.
- 3175 (b) Except as provided by Subsection (7)(c), all motor vehicle and watercraft
3176 assessments and tax notices, title registration notices, and all related correspondence
3177 placed in the United States mail for the program participant is required to be
3178 addressed to the assigned address.
- 3179 (c) The Motor Vehicle Division shall use the actual address of a program participant,
3180 unless the commission provides the following information to the Motor Vehicle
3181 Division:
- 3182 (i) the full name of the program participant;
3183 (ii) the assigned address of the program participant;
3184 (iii) the motor vehicle or hull identification number for each motor vehicle or
3185 watercraft that is owned or leased by the program participant;
3186 (iv) the license plate or registration number for each motor vehicle or watercraft that
3187 is owned or leased by the program participant; and
3188 (v) the physical address where each motor vehicle or watercraft that is owned or

- 3189 leased by the program participant.
- 3190 (d) Notwithstanding any other provision of this part, the Motor Vehicle Division may
3191 disclose to another state or local government entity all information that is necessary
3192 for the state or local government entity to distribute any taxes or fees collected for
3193 titling or registering a motor vehicle or a watercraft.
- 3194 (e) Notwithstanding Section 41-1a-116 or any other provision of this part, the Motor
3195 Vehicle Division may not disclose the actual address of a program participant
3196 described in Subsection 77-38-605(3)(m)(ii) to:
- 3197 (i) the Utah Criminal Justice Information System; or
3198 (ii) the title, lien, and registration system that is provided to the Motor Vehicle
3199 Division by a third party contractor and is accessed in accordance with Subsection
3200 41-1a-116(4).
- 3201 (8)(a) [~~The Department of Corrections~~] The Division of Adult Probation and Parole
3202 created in Section 64-14-202, or any other entity responsible for supervising a
3203 program participant who is on probation or parole as a result of a criminal conviction
3204 or an adjudication, may not use the program participant's assigned address if the
3205 program participant's actual address is necessary for supervising the program
3206 participant.
- 3207 (b) All written communication delivered through the United States mail to the program
3208 participant by the Department of Corrections, or the other entity described in
3209 Subsection (8)(a), shall be addressed to the program participant's assigned address.
- 3210 (9) If a program participant is required by law to swear or affirm to the program
3211 participant's address, the program participant may use the program participant's assigned
3212 address.
- 3213 (10)(a) A school district shall:
- 3214 (i) accept the assigned address as the address of record; and
3215 (ii) verify student enrollment eligibility with the commission.
- 3216 (b) The commission shall help facilitate the transfer of student records as needed.
- 3217 (11)(a) Notwithstanding Title 63G, Chapter 2, Government Records Access and
3218 Management Act, a record containing a program participant's address is confidential
3219 and, regardless of the record's classification under Title 63G, Chapter 2, Part 3,
3220 Classification, may not be disclosed by a state or local government entity, unless
3221 otherwise provided under this part.
- 3222 (b) A program participant's actual address may not be disclosed to a third party by a state

- 3223 or local government entity, except:
- 3224 (i) in a record created more than 90 days before the date on which the program
- 3225 participant applied for enrollment in the program; or
- 3226 (ii) if a program participant voluntarily requests, in writing, that the program
- 3227 participant's actual address be disclosed to the third party.
- 3228 (c) For a record created within 90 days before the date that a program participant applied
- 3229 for enrollment in the program, a state or local government entity shall redact the
- 3230 actual address from the record or change the actual address to the assigned address in
- 3231 the public record if the program participant presents a valid authorization card or a
- 3232 notification form and requests that the state or local government entity use the
- 3233 assigned address instead of the actual address on the record.

3234 Section 50. Section **77-38b-102** is amended to read:

3235 **77-38b-102 . Definitions.**

3236 As used in this chapter:

- 3237 (1) "Civil accounts receivable" means the same as that term is defined in Section
- 3238 77-32b-102.
- 3239 (2) "Civil judgment of restitution" means the same as that term is defined in Section
- 3240 77-32b-102.
- 3241 (3)(a) "Conviction" means:
- 3242 (i) a plea of:
- 3243 (A) guilty;
- 3244 (B) guilty with a mental condition; or
- 3245 (C) no contest; or
- 3246 (ii) a judgment of:
- 3247 (A) guilty; or
- 3248 (B) guilty with a mental condition.
- 3249 (b) "Conviction" does not include:
- 3250 (i) a plea in abeyance until a conviction is entered for the plea in abeyance;
- 3251 (ii) a diversion agreement; or
- 3252 (iii) an adjudication of a minor for an offense under Section 80-6-701.
- 3253 (4) "Criminal accounts receivable" means the same as that term is defined in Section
- 3254 77-32b-102.
- 3255 (5) "Criminal conduct" means:
- 3256 (a) any misdemeanor or felony offense of which the defendant is convicted; or

- 3257 (b) any other criminal behavior for which the defendant admits responsibility to the
3258 court with or without an admission of committing the criminal behavior.
- 3259 (6) "Deceased victim" means an individual whose death is proximately caused by the
3260 criminal conduct of the defendant.
- 3261 (7)(a) "Defendant" means an individual who has been convicted of, or entered into a
3262 plea disposition for, criminal conduct.
- 3263 (b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is
3264 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80,
3265 Chapter 6, Juvenile Justice.
- 3266 (8) "Department" means the Department of Corrections.
- 3267 (9)(a) "Dependent" means an individual for whom a deceased victim, or a permanently
3268 impaired victim, had a legal obligation to provide dependent support at the time of
3269 the criminal conduct by the defendant.
- 3270 (b) "Dependent" includes:
- 3271 (i) a child:
- 3272 (A) who is younger than 18 years old; and
- 3273 (B) for whom a deceased victim, or a permanently impaired victim, is the adoptive
3274 or biological parent or legal guardian;
- 3275 (ii) an unborn child who has a parent-child relationship with a deceased victim, or a
3276 permanently impaired victim, in accordance with Title 78B, Chapter 15, Utah
3277 Uniform Parentage Act; or
- 3278 (iii) an incapacitated individual for whom a deceased victim, or a permanently
3279 impaired victim, is the adoptive or biological parent or the legal guardian.
- 3280 (10) "Dependent support" means the financial obligation of an individual to provide for the
3281 routine needs of a dependent, including food, clothing, health care, safety, or shelter.
- 3282 (11) "Diversion agreement" means an agreement entered into by the prosecuting attorney
3283 and the defendant that suspends criminal proceedings before conviction on the condition
3284 that a defendant agree to participate in a rehabilitation program, pay restitution to the
3285 victim, or fulfill some other condition.
- 3286 (12) "Division" means the Division of Adult Probation and Parole created in Section
3287 64-14-202.
- 3288 [~~12~~] (13) "Incapacitated" or "incapacitation" means the individual is:
- 3289 (a) mentally or physically impaired to the extent that the individual is permanently
3290 unable to gain employment and provide basic necessities, including food, clothing,

3291 health care, safety, or shelter; and
3292 (b) reliant on a parent, legal guardian, or other relative or person to provide basic
3293 necessities for the individual.

3294 ~~[(13)]~~ (14) "Incapacitated individual" means an individual who is incapacitated.
3295 ~~[(14)]~~ (15) "Legal guardian" means an individual appointed by a court to make decisions
3296 regarding a child or an incapacitated individual.

3297 ~~[(15)]~~ (16) "Life expectancy" means the number of months an individual is or was expected
3298 to live considering medical records and experiential data for the individual.

3299 ~~[(16)]~~ (17) "Office" means the Office of State Debt Collection created in Section 63A-3-502.
3300 ~~[(17)]~~ (18) "Payment schedule" means the same as that term is defined in Section
3301 77-32b-102.

3302 ~~[(18)]~~ (19)(a) "Pecuniary damages" means all demonstrable economic injury, losses, and
3303 expenses regardless of whether the economic injury, losses, and expenses have yet
3304 been incurred.

3305 (b) "Pecuniary damages" does not include punitive damages or pain and suffering
3306 damages.

3307 ~~[(19)]~~ (20) "Permanently impaired victim" means an incapacitated individual whose
3308 incapacitation is proximately caused by the criminal conduct of the defendant.

3309 ~~[(20)]~~ (21) "Plea agreement" means an agreement entered between the prosecuting attorney
3310 and the defendant setting forth the special terms and conditions and criminal charges
3311 upon which the defendant will enter a plea of guilty or no contest.

3312 ~~[(21)]~~ (22) "Plea disposition" means an agreement entered into between the prosecuting
3313 attorney and the defendant including a diversion agreement, a plea agreement, a plea in
3314 abeyance agreement, or any agreement by which the defendant may enter a plea in any
3315 other jurisdiction or where charges are dismissed without a plea.

3316 ~~[(22)]~~ (23) "Plea in abeyance" means an order by a court, upon motion of the prosecuting
3317 attorney and the defendant, accepting a plea of guilty or of no contest from the defendant
3318 but not, at that time, entering judgment of conviction against the defendant nor imposing
3319 sentence upon the defendant on condition that the defendant comply with specific
3320 conditions as set forth in a plea in abeyance agreement.

3321 ~~[(23)]~~ (24) "Plea in abeyance agreement" means an agreement entered into between the
3322 prosecuting attorney and the defendant setting forth the specific terms and conditions
3323 upon which, following acceptance of the agreement by the court, a plea may be held in
3324 abeyance.

- 3325 [~~(24)~~] (25) "Restitution" means the payment of pecuniary damages to a victim.
- 3326 [~~(25)~~] (26) "Unborn child" means a human fetus or embryo in any stage of gestation from
3327 fertilization until birth.
- 3328 [~~(26)~~] (27)(a) "Victim" means any person who has suffered pecuniary damages that are
3329 proximately caused by the criminal conduct of the defendant.
- 3330 (b) "Victim" includes:
- 3331 (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime
3332 makes a payment to, or on behalf of, a victim under Section 63M-7-519;
- 3333 (ii) the estate of a deceased victim;
- 3334 (iii) a dependent; or
- 3335 (iv) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or
3336 sibling of a victim.
- 3337 (c) "Victim" does not include a codefendant or accomplice.
- 3338 Section 51. Section **77-38b-304** is amended to read:
- 3339 **77-38b-304 . Priority of payment disbursement.**
- 3340 (1) The court, or the office, shall disburse a payment for restitution within 60 days after the
3341 day on which the payment is received from the defendant if:
- 3342 (a) the victim has complied with Subsection 77-38b-203(2);
- 3343 (b) if the defendant has tendered a negotiable instrument, funds from the financial
3344 institution are actually received;
- 3345 (c) the payment to the victim is at least \$25, unless the payment is the final payment; and
- 3346 (d) there is no pending legal issue that would affect an order for restitution or the
3347 distribution of restitution.
- 3348 (2) The court shall disburse money collected from a defendant for a criminal accounts
3349 receivable in the following order of priority:
- 3350 (a) first, and except as provided in Subsection (4)(b), to restitution owed by the
3351 defendant in accordance with Subsection (4);
- 3352 (b) second, to the cost of obtaining a DNA specimen from the defendant as described in
3353 Subsection (4)(b);
- 3354 (c) third, to any criminal fine or surcharge owed by the defendant;
- 3355 (d) fourth, to the cost owed by the defendant for a reward described in Section
3356 77-32b-104;
- 3357 (e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization,
3358 and related transportation paid by a county correctional facility under Section

- 3359 17-50-319; and
- 3360 (f) sixth, to any other amount owed by the defendant.
- 3361 (3) When the office collects money from a defendant for a criminal accounts receivable, a
3362 civil accounts receivable, or a civil judgment of restitution, the office shall disburse the
3363 money in the following order of priority:
- 3364 (a) first, to any past due amount owed to the department for the monthly supervision fee
3365 under Subsection [~~64-13-21(6)(a)~~] 64-14-204(6);
- 3366 (b) second, and except as provided in Subsection (4)(b), to restitution owed by the
3367 defendant in accordance with Subsection (4);
- 3368 (c) third, to the cost of obtaining a DNA specimen from the defendant in accordance
3369 with Subsection (4)(b);
- 3370 (d) fourth, to any criminal fine or surcharge owed by the defendant;
- 3371 (e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;
- 3372 (f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization
3373 and related transportation paid by a county correctional facility under Section
3374 17-50-319; and
- 3375 (g) seventh, to any other amount owed by the defendant.
- 3376 (4)(a) If a defendant owes restitution to more than one person or government agency at
3377 the same time, the court, or the office, shall disburse a payment for restitution in the
3378 following order of priority:
- 3379 (i) first, to the victim of the offense;
- 3380 (ii) second, to the Utah Office for Victims of Crime;
- 3381 (iii) third, any other government agency that has provided reimbursement to the
3382 victim as a result of the defendant's criminal conduct; and
- 3383 (iv) fourth, any insurance company that has provided reimbursement to the victim as
3384 a result of the defendant's criminal conduct.
- 3385 (b) If a defendant is required under Section 53-10-404 to reimburse the department for
3386 the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost
3387 of obtaining the defendant's DNA specimen is the next priority after restitution to the
3388 victim of the offense under Subsection (4)(a)(i).
- 3389 (c) If a defendant is required to pay restitution to more than one victim, the court or the
3390 office shall disburse a payment for restitution proportionally to each victim.
- 3391 (5) Notwithstanding the requirements for the disbursement of a payment under Subsection
3392 (3) or (4), the office shall disburse money collected from a defendant to a debt that is a

- 3393 part of a civil accounts receivable or civil judgment of restitution if:
- 3394 (a) a defendant has provided a written request to the office to apply the payment to the
- 3395 debt; and
- 3396 (b)(i) the payment will eliminate the entire balance of the debt, including any
- 3397 interest; or
- 3398 (ii) after reaching a settlement, the payment amount will eliminate the entire agreed
- 3399 upon balance of the debt, including any interest.
- 3400 (6) For a criminal accounts receivable, the department shall collect the current and past due
- 3401 amount owed by a defendant for the monthly supervision fee under Subsection [
- 3402 ~~64-13-21(6)(a)~~] 64-14-204(6)(a) until the court enters a civil accounts receivable on the
- 3403 civil judgment docket under Section 77-18-114.
- 3404 (7) Notwithstanding any other provision of this section:
- 3405 (a) the office may collect a fee, as described in Subsection 63A-3-502(4), from each
- 3406 payment for a criminal accounts receivable, a civil accounts receivable, or a civil
- 3407 judgment of restitution before disbursing the payment as described in this section; and
- 3408 (b) the office shall apply any payment collected through garnishment to the case for
- 3409 which the garnishment was issued.
- 3410 Section 52. Section **77-38b-401** is amended to read:
- 3411 **77-38b-401 . Collection from inmate offenders.**
- 3412 Upon written request of the prosecuting attorney, the victim, or [~~the parole or probation~~]
- 3413 a division agent [for] supervising the defendant, the department shall collect restitution from
- 3414 offender funds held by the department under Section 64-13-23.
- 3415 Section 53. Section **77-40a-205** is amended to read:
- 3416 **77-40a-205 . Automatic expungement of state records for a clean slate case.**
- 3417 (1) A court shall issue an order of expungement, without the filing of a petition, for all
- 3418 records of the case that are held by the court and the bureau if:
- 3419 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
- 3420 form requesting expungement of a case as described in Section 77-40a-204;
- 3421 (b) the case is eligible for expungement under this section; and
- 3422 (c) the prosecuting agency does not object to the expungement of the case as described
- 3423 in Subsection (6).
- 3424 (2) Except as otherwise provided in Subsection (3), a case is eligible for expungement
- 3425 under this section if:
- 3426 (a)(i) each conviction within the case is a conviction for:

- 3427 (A) a misdemeanor offense for possession of a controlled substance in violation of
3428 Subsection 58-37-8(2)(a)(i);
- 3429 (B) a class B misdemeanor offense;
- 3430 (C) a class C misdemeanor offense; or
- 3431 (D) an infraction; and
- 3432 (ii) the following time periods have passed after the day on which the individual is
3433 adjudicated:
- 3434 (A) at least five years for the conviction of a class C misdemeanor offense or an
3435 infraction;
- 3436 (B) at least six years for the conviction of a class B misdemeanor offense; or
- 3437 (C) at least seven years for the conviction of a class A misdemeanor offense for
3438 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);
3439 or
- 3440 (b)(i) the case is dismissed as a result of a successful completion of a plea in
3441 abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is
3442 dismissed without prejudice;
- 3443 (ii) each charge within the case is:
- 3444 (A) a misdemeanor offense for possession of a controlled substance in violation of
3445 Subsection 58-37-8(2)(a)(i);
- 3446 (B) a class B misdemeanor offense;
- 3447 (C) a class C misdemeanor offense; or
- 3448 (D) an infraction; and
- 3449 (iii) the following time periods have passed after the day on which the case is
3450 dismissed:
- 3451 (A) at least five years for a charge in the case for a class C misdemeanor offense
3452 or an infraction;
- 3453 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
- 3454 (C) at least seven years for a charge in the case for a class A misdemeanor offense
3455 for possession of a controlled substance in violation of Subsection 58-37-8
3456 (2)(a)(i).
- 3457 (3) A case is not eligible for expungement under this section if:
- 3458 (a) the individual has a total number of convictions in courts of this state that exceed the
3459 limits under Subsection 77-40a-303(4) or (5) without taking into consideration:
- 3460 (i) the exception in Subsection 77-40a-303(7); or

- 3461 (ii) any infraction, traffic offense, or minor regulatory offense;
- 3462 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a
- 3463 court of this state against the individual, unless the proceeding is for a traffic offense;
- 3464 (c) for an individual seeking an automatic expungement on and after January 1, 2025,
- 3465 the individual is incarcerated in the state prison or on probation or parole that is
- 3466 supervised by the [~~Department of Corrections~~] Division of Adult Probation and Parole
- 3467 created in Section 64-14-202;
- 3468 (d) the case resulted in the individual being found not guilty by reason of insanity;
- 3469 (e) the case establishes a criminal accounts receivable that:
- 3470 (i) has been entered as a civil accounts receivable or a civil judgment of restitution
- 3471 and transferred to the Office of State Debt Collection under Section 77-18-114; or
- 3472 (ii) has not been satisfied according to court records; or
- 3473 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
- 3474 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
- 3475 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
- 3476 the Individual;
- 3477 (iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 3478 (iv) sexual battery in violation of Section 76-9-702.1;
- 3479 (v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 3480 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the
- 3481 Influence and Reckless Driving;
- 3482 (vii) damage to or interruption of a communication device in violation of Section
- 3483 76-6-108;
- 3484 (viii) a domestic violence offense as defined in Section 77-36-1; or
- 3485 (ix) any other offense classified in the Utah Code as a felony or a class A
- 3486 misdemeanor other than a class A misdemeanor conviction for possession of a
- 3487 controlled substance in violation of Subsection 58-37-8(2)(a)(i).
- 3488 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal
- 3489 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency
- 3490 that appears to be eligible for automatic expungement under this section.
- 3491 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the
- 3492 prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah
- 3493 Rules of Criminal Procedure if the prosecuting agency objects to an automatic
- 3494 expungement for any of the following reasons:

- 3495 (a) the prosecuting agency believes that the case is not eligible for expungement under
3496 this section after reviewing the agency record;
- 3497 (b) the individual has not paid restitution to the victim as ordered by the court; or
- 3498 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an
3499 individual involved in the case is continuing to engage in criminal activity within or
3500 outside of the state.
- 3501 (6) If a prosecuting agency provides written notice of an objection for a reason described in
3502 Subsection (5) within 35 days after the day on which the notice under Subsection (4) is
3503 sent, the court may not proceed with automatic expungement of the case.
- 3504 (7) If 35 days pass after the day on which the notice described in Subsection (4) is sent
3505 without the prosecuting agency providing written notice of an objection under
3506 Subsection (5), the court shall proceed with automatic expungement of the case.
- 3507 (8) If a court issues an order of expungement under Subsection (1), the court shall:
- 3508 (a) expunge all records of the case held by the court in accordance with Section
3509 77-40a-401; and
- 3510 (b) notify the bureau and the prosecuting agency identified in the case, based on
3511 information available to the court, of the order of expungement.
- 3512 Section 54. Section **77-40a-305** is amended to read:
- 3513 **77-40a-305 . Petition for expungement -- Prosecutorial responsibility -- Hearing.**
- 3514 (1)(a) The petitioner shall file a petition for expungement in accordance with Rule 42 of
3515 the Utah Rules of Criminal Procedure.
- 3516 (b) A petitioner shall include the identification number for the certificate of eligibility or
3517 special certificate described in Subsection 77-40a-304(2)(b)(ii) in the petition for
3518 expungement, unless the petitioner is not required to obtain a certificate of eligibility
3519 under Subsection (3) or (4).
- 3520 (c) Information on a certificate of eligibility is incorporated into a petition by reference
3521 to the identification number for the certificate of eligibility.
- 3522 (d) A petitioner shall bring a petition for expungement:
- 3523 (i) in the court where the criminal case was filed; or
- 3524 (ii) if charges were never filed, in the district court in the county in which the arrest
3525 occurred or the citation is issued.
- 3526 (2)(a) If a petition for expungement is filed under Subsection (1)(a), the court shall
3527 obtain a certificate of eligibility or special certificate from the bureau.
- 3528 (b) A court may not accept a petition for expungement if the certificate of eligibility or

- 3529 special certificate is no longer valid as described in Subsection 77-40a-304(2)(b)(i).
- 3530 (3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a
3531 traffic offense case without obtaining a certificate of eligibility if:
- 3532 (a)(i) for a traffic offense case with a class C misdemeanor or infraction, at least
3533 three years have passed after the day on which the case was adjudicated or
3534 dismissed; or
- 3535 (ii) for a traffic offense case with a class B misdemeanor, at least four years have
3536 passed after the day on which the case was adjudicated or dismissed;
- 3537 (b) there is no traffic offense case pending against the petitioner;
- 3538 (c) there is no plea in abeyance for a traffic offense case pending against the petitioner;
3539 and
- 3540 (d) the petitioner is not currently on probation for a traffic offense case.
- 3541 (4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a
3542 record for a conviction related to cannabis possession without a certificate of eligibility
3543 if the petition demonstrates that:
- 3544 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
3545 conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and
- 3546 (b) the possession of cannabis in question was in a form and an amount to medicinally
3547 treat the qualifying condition described in Subsection (4)(a).
- 3548 (5)(a) The court shall provide notice of a filing of a petition and certificate of eligibility
3549 or special certificate to the prosecutorial office that handled the court proceedings
3550 within three days after the day on which the petitioner's filing fee is paid or waived.
- 3551 (b) If there were no court proceedings, the court shall provide notice of a filing of a
3552 petition and certificate of eligibility or special certificate to the county attorney's
3553 office in the jurisdiction where the arrest occurred.
- 3554 (c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or
3555 conviction, was a city attorney's office, the county attorney's office in the jurisdiction
3556 where the arrest occurred shall immediately notify the city attorney's office that the
3557 county attorney's office has received a notice of a filing of a petition for expungement.
- 3558 (6)(a) Upon receipt of a notice of a filing of a petition for expungement of a conviction
3559 or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney
3560 shall make a reasonable effort to provide notice to any victim of the conviction or
3561 charge.
- 3562 (b) The notice under Subsection (6)(a) shall:

- 3563 (i) include a copy of the petition, certificate of eligibility or special certificate,
3564 statutes, and rules applicable to the petition;
- 3565 (ii) state that the victim has a right to object to the expungement; and
3566 (iii) provide instructions for registering an objection with the court.
- 3567 (7)(a) The prosecuting attorney may respond to the petition by filing a recommendation
3568 or objection with the court within 35 days after the day on which the notice of the
3569 filing of the petition is sent by the court to the prosecuting attorney.
- 3570 (b) If there is a victim of the offense for which expungement is sought, the victim may
3571 respond to the petition by filing a recommendation or objection with the court within
3572 60 days after the day on which the petition for expungement was filed with the court.
- 3573 (8)(a) The court may request a written response to the petition from the Division of
3574 Adult Probation and Parole [~~within the Department of Corrections~~] created in Section
3575 64-14-202.
- 3576 (b) If requested, the response prepared by the Division of Adult Probation and Parole
3577 shall include:
- 3578 (i) the reasons probation was terminated; and
3579 (ii) certification that the petitioner has completed all requirements of sentencing and
3580 probation or parole.
- 3581 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
3582 the petitioner and the prosecuting attorney.
- 3583 (9) The petitioner may respond in writing to any objections filed by the prosecuting
3584 attorney or the victim and the response prepared by the Division of Adult Probation and
3585 Parole within 14 days after the day on which the objection or response is received.
- 3586 (10)(a) If the court receives an objection concerning the petition from any party, the
3587 court shall set a date for a hearing and notify the petitioner and the prosecuting
3588 attorney of the date set for the hearing.
- 3589 (b) The prosecuting attorney shall notify the victim of the date set for the hearing.
- 3590 (c) The petitioner, the prosecuting attorney, the victim, and any other person who has
3591 relevant information about the petitioner may testify at the hearing.
- 3592 (d) The court shall review the petition, the certificate of eligibility or special certificate,
3593 and any written responses submitted regarding the petition.
- 3594 (11) If no objection is received within 60 days from the day on which the petition for
3595 expungement is filed with the court, the expungement may be granted without a hearing.
- 3596 (12)(a) If the petitioner seeks a waiver of the fee required for a petition for

3597 expungement in accordance with Section 78A-2-302, the court shall consider the
3598 total number of cases for which the petitioner has received a certificate of eligibility
3599 and is seeking expungement in determining whether the petitioner is indigent under
3600 Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case
3601 for which the petitioner is seeking expungement.

3602 (b) If a court grants a waiver of the fee required for a petition for expungement in
3603 accordance with Section 78A-2-302, and only upon a request from the petitioner, a
3604 subsequent court shall grant a waiver of a fee for a petition for expungement if the
3605 prior court waived the fee for a petition for expungement within 180 days before the
3606 day on which the petitioner filed the petition for expungement with the subsequent
3607 court.

3608 Section 55. Section **77-41-104** is amended to read:

3609 **77-41-104 . Registration of offenders -- Department and agency requirements.**

- 3610 (1) The Department of Corrections shall register an offender in the custody of the
3611 Department of Corrections as required under this chapter upon:
- 3612 (a) placement on probation;
 - 3613 (b) commitment to a secure correctional facility operated by or under contract to the
3614 Department of Corrections;
 - 3615 (c) release from confinement to parole status, termination or expiration of sentence, or
3616 escape;
 - 3617 (d) entrance to and release from any community-based residential program operated by
3618 or under contract to the Department of Corrections; or
 - 3619 (e) termination of probation or parole.
- 3620 (2) The sheriff of the county in which an offender is confined shall register an offender with
3621 the department, as required under this chapter, if the offender is not in the custody of the
3622 Department of Corrections and is confined in a correctional facility not operated by or
3623 under contract to the Department of Corrections upon:
- 3624 (a) commitment to the correctional facility; and
 - 3625 (b) release from confinement.
- 3626 (3) The division shall register an offender in the custody of the division with the
3627 department, as required under this chapter, before the offender's release from custody of
3628 the division.
- 3629 (4) A state mental hospital shall register an offender committed to the state mental hospital
3630 with the department, as required under this chapter, upon the offender's admission and

- 3631 upon the offender's discharge.
- 3632 (5)(a)(i) A municipal or county law enforcement agency shall register an offender
3633 who resides within the agency's jurisdiction and is not under the supervision of the
3634 Division of Adult Probation and Parole [~~within the Department of Corrections~~]
3635 created in Section 64-14-202.
- 3636 (ii) In order to conduct offender registration under this chapter, the agency shall
3637 ensure the agency staff responsible for registration:
- 3638 (A) has received initial training by the department and has been certified by the
3639 department as qualified and authorized to conduct registrations and enter
3640 offender registration information into the registry database; and
- 3641 (B) certify annually with the department.
- 3642 (b)(i) When the department receives offender registration information regarding a
3643 change of an offender's primary residence location, the department shall within
3644 five days after the day on which the department receives the information
3645 electronically notify the law enforcement agencies that have jurisdiction over the
3646 area where:
- 3647 (A) the residence that the offender is leaving is located; and
- 3648 (B) the residence to which the offender is moving is located.
- 3649 (ii) The department shall provide notification under this Subsection (5)(b) if the
3650 offender's change of address is between law enforcement agency jurisdictions, or
3651 is within one jurisdiction.
- 3652 (c) The department shall make available to offenders required to register under this
3653 chapter the name of the agency, whether the agency is a local law enforcement
3654 agency or the department, that the offender should contact to register, the location for
3655 registering, and the requirements of registration.
- 3656 (6) An agency in the state that registers an offender on probation, an offender who has been
3657 released from confinement to parole status or termination, or an offender whose
3658 sentence has expired shall inform the offender of the duty to comply with the continuing
3659 registration requirements of this chapter during the period of registration required in
3660 Subsection 77-41-105(3), including:
- 3661 (a) notification to the state agencies in the states where the registrant presently resides
3662 and plans to reside when moving across state lines;
- 3663 (b) verification of address at least every 60 days pursuant to a parole agreement for
3664 lifetime parolees; and

3665 (c) notification to the out-of-state agency where the offender is living, regardless of
3666 whether the offender is a resident of that state.

3667 (7) The department may make administrative rules necessary to implement this chapter,
3668 including:

3669 (a) the method for dissemination of the information; and

3670 (b) instructions to the public regarding the use of the information.

3671 (8) The department shall redact information regarding the identity or location of a victim
3672 from information provided under Subsections 77-41-103(4) and 77-41-105(7).

3673 (9) This chapter does not create or impose any duty on any person to request or obtain
3674 information regarding any offender from the department.

3675 Section 56. Section **77-41-105** is amended to read:

3676 **77-41-105 . Registration of offenders -- Offender responsibilities.**

3677 (1)(a) An offender who enters this state from another jurisdiction is required to register
3678 under Subsection (3) and Subsection 77-41-102(1), (11), or (19).

3679 (b) The offender shall register with the department within 10 days after the day on which
3680 the offender enters the state, regardless of the offender's length of stay.

3681 (2)(a) An offender required to register under Subsection 77-41-102(1), (11), or (19)
3682 who is under supervision by the [department] Division of Adult Probation and Parole
3683 created in Section 64-14-202 shall register in person with the Division of Adult
3684 Probation and Parole.

3685 (b) An offender required to register under Subsection 77-41-102(1), (11), or (19) who is
3686 no longer under supervision by the [department] Division of Adult Probation and
3687 Parole created in Section 64-14-202 shall register in person with the police
3688 department or sheriff's office that has jurisdiction over the area where the offender
3689 resides.

3690 (3)(a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the
3691 duration of the sentence and for 10 years after termination of sentence or custody of
3692 the division, register each year during the month of the offender's date of birth,
3693 during the month that is the sixth month after the offender's birth month, and within
3694 three business days after the day on which there is a change of the offender's primary
3695 residence, any secondary residences, place of employment, vehicle information, or
3696 educational information required to be submitted under Subsection (7).

3697 (b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is
3698 convicted in another jurisdiction of an offense listed in Subsection 77-41-102(1),

3699 (11), or (19), a substantially similar offense, another offense that requires registration
3700 in the jurisdiction of conviction, or an offender who is ordered by a court of another
3701 jurisdiction to register as an offender shall register for the time period required by the
3702 jurisdiction where the offender was convicted or ordered to register.

3703 (c)(i) An offender convicted as an adult of an offense listed in Section 77-41-106
3704 shall, for the offender's lifetime, register each year during the month of the
3705 offender's birth, during the month that is the sixth month after the offender's birth
3706 month, and also within three business days after the day on which there is a
3707 change of the offender's primary residence, any secondary residences, place of
3708 employment, vehicle information, or educational information required to be
3709 submitted under Subsection (7).

3710 (ii) Except as provided in Subsection (3)(c)(iii), the registration requirement
3711 described in Subsection (3)(c)(i) is not subject to exemptions and may not be
3712 terminated or altered during the offender's lifetime, unless a petition is granted
3713 under Section 77-41-112.

3714 (iii)(A) If the sentencing court at any time after conviction determines that the
3715 offense does not involve force or coercion, lifetime registration under
3716 Subsection (3)(c)(i) does not apply to an offender who commits the offense
3717 when the offender is under 21 years old.

3718 (B) For an offense listed in Section 77-41-106, an offender who commits the
3719 offense when the offender is under 21 years old shall register for the
3720 registration period required under Subsection (3)(a), unless a petition is granted
3721 under Section 77-41-112.

3722 (d) For the purpose of establishing venue for a violation of this Subsection (3), the
3723 violation is considered to be committed:

3724 (i) at the most recent registered primary residence of the offender or at the location of
3725 the offender, if the actual location of the offender at the time of the violation is not
3726 known; or

3727 (ii) at the location of the offender at the time the offender is apprehended.

3728 (4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in
3729 a secure facility or in a state mental hospital is not required to register during the period
3730 of confinement.

3731 (5)(a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in
3732 another jurisdiction as a juvenile and required to register under this chapter, the

- 3733 offender shall register in the time period and in the frequency consistent with the
3734 requirements of Subsection (3).
- 3735 (b) If the jurisdiction of the offender's adjudication does not publish the offender's
3736 information on a public website, the department shall maintain, but not publish the
3737 offender's information on the registration website.
- 3738 (6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a
3739 child while required to register under this chapter shall register for an additional five
3740 years subsequent to the registration period otherwise required under this chapter.
- 3741 (7) An offender shall provide the department or the registering entity with the following
3742 information:
- 3743 (a) all names and aliases by which the offender is or has been known;
3744 (b) the addresses of the offender's primary and secondary residences;
3745 (c) a physical description, including the offender's date of birth, height, weight, eye and
3746 hair color;
3747 (d) the make, model, color, year, plate number, and vehicle identification number of a
3748 vehicle or vehicles the offender owns or drives more than 12 times per year;
3749 (e) a current photograph of the offender;
3750 (f) a set of fingerprints, if one has not already been provided;
3751 (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already
3752 been provided;
3753 (h) telephone numbers and any other designations used by the offender for routing or
3754 self-identification in telephonic communications from fixed locations or cellular
3755 telephones;
3756 (i) Internet identifiers and the addresses the offender uses for routing or
3757 self-identification in Internet communications or postings;
3758 (j) the name and Internet address of all websites on which the offender is registered
3759 using an online identifier, including all online identifiers used to access those
3760 websites;
3761 (k) a copy of the offender's passport, if a passport has been issued to the offender;
3762 (l) if the offender is an alien, all documents establishing the offender's immigration
3763 status;
3764 (m) all professional licenses that authorize the offender to engage in an occupation or
3765 carry out a trade or business, including any identifiers, such as numbers;
3766 (n) each educational institution in Utah at which the offender is employed, carries on a

- 3767 vocation, or is a student, and a change of enrollment or employment status of the
3768 offender at an educational institution;
- 3769 (o) the name, the telephone number, and the address of a place where the offender is
3770 employed or will be employed;
- 3771 (p) the name, the telephone number, and the address of a place where the offender works
3772 as a volunteer or will work as a volunteer; and
- 3773 (q) the offender's social security number.
- 3774 (8)(a) An offender may change the offender's name in accordance with Title 42,
3775 Chapter 1, Change of Name, if the name change is not contrary to the interests of the
3776 public.
- 3777 (b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department
3778 at least 30 days before the day on which the hearing for the name change is held.
- 3779 (c) The court shall provide a copy of the order granting the offender's name change to
3780 the department within 10 days after the day on which the court issues the order.
- 3781 (d) If the court orders an offender's name changed, the department shall publish on the
3782 registration website the offender's former name, and the offender's changed name as
3783 an alias.
- 3784 (9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not
3785 required to provide the department with:
- 3786 (a) the offender's online identifier and password used exclusively for the offender's
3787 employment on equipment provided by an employer and used to access the
3788 employer's private network; or
- 3789 (b) online identifiers for the offender's financial accounts, including a bank, retirement,
3790 or investment account.
- 3791 Section 57. Section **78B-7-807** is amended to read:
- 3792 **78B-7-807 . Notice to victims.**
- 3793 (1)(a) The court shall provide the victim with a certified copy of any pretrial protective
3794 order that has been issued if the victim can be located with reasonable effort.
- 3795 (b) If the court is unable to locate the victim, the court shall provide the victim's certified
3796 copy to the prosecutor.
- 3797 (c) A sentencing protective order or continuous protective order issued under this part
3798 shall be in writing, and the prosecutor shall provide a certified copy of that order to
3799 the victim.
- 3800 (2)(a) The Division of Adult Probation and Parole created in Section 64-14-202, or

- 3801 another provider, shall immediately report to the court and notify the victim of any
3802 violation of any sentencing protective order issued under this part.
- 3803 (b) Notification of the victim under Subsection (2)(a) shall consist of a good faith
3804 reasonable effort to provide prompt notification, including mailing a copy of the
3805 notification to the last-known address of the victim.
- 3806 (3)(a) Before release of an individual who is subject to a continuous protective order
3807 issued under this part, the victim shall receive notice of the imminent release by the
3808 law enforcement agency that is releasing the individual who is subject to the
3809 continuous protective order:
- 3810 (i) if the victim has provided the law enforcement agency contact information; and
3811 (ii) in accordance with Section 64-13-14.7, if applicable.
- 3812 (b) Before release, the law enforcement agency shall notify in writing the individual
3813 being released that a violation of the continuous protective order issued at the time of
3814 conviction or sentencing continues to apply, and that a violation of the continuous
3815 protective order is punishable as described in Section 78B-7-806.
- 3816 (4) The court shall transmit a dismissal, termination, and expiration of a pretrial protective
3817 order, sentencing protective order, or a continuous protective order to the statewide
3818 domestic violence network described in Section 78B-7-113.
- 3819 Section 58. **Repealer.**
- 3820 This bill repeals:
- 3821 Section **64-13-21.2, Offender supervision dedicated credits.**
- 3822 Section 59. **Effective Date.**
- 3823 This bill takes effect on May 7, 2025.