

1 **HEALTH AND HUMAN SERVICES LICENSING AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Stephanie Gricius

2
3 **LONG TITLE**

4 **General Description:**

5 This bill consolidates and amends provisions relating to the licenses, certificates, and
6 certifications issued by the Department of Health and Human Services.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▸ defines terms;
- 10 ▸ amends provisions relating to the use of emergency safety intervention in licensed
11 congregate care programs;
- 12 ▸ consolidates into a single part and amends provisions concerning licenses, certificates,
13 and certifications issued by the Department of Health and Human Services, including
14 provisions addressing:
 - 15 • revocation, suspension, sanctions, and penalties;
 - 16 • adjudicative proceedings;
 - 17 • access restrictions and injunctive relief;
 - 18 • criminal penalties; and
 - 19 • investigations, records, and enforcement; and
- 20 ▸ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **26B-2-101**, as last amended by Laws of Utah 2023, Chapter 305

28 **26B-2-105**, as renumbered and amended by Laws of Utah 2023, Chapter 305
29 **26B-2-107**, as renumbered and amended by Laws of Utah 2023, Chapter 305
30 **26B-2-120**, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and
31 amended by Laws of Utah 2023, Chapter 305
32 **26B-2-123**, as renumbered and amended by Laws of Utah 2023, Chapter 305
33 **26B-2-222**, as renumbered and amended by Laws of Utah 2023, Chapter 305
34 **26B-4-502**, as renumbered and amended by Laws of Utah 2023, Chapter 307
35 **63G-2-305**, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329
36 **76-7-314**, as last amended by Laws of Utah 2023, Chapters 301, 330
37 **80-2-909**, as last amended by Laws of Utah 2023, Chapter 330

38 ENACTS:

39 **26B-2-701**, as Utah Code Annotated 1953
40 **26B-2-702**, as Utah Code Annotated 1953
41 **26B-2-703**, as Utah Code Annotated 1953

42 RENUMBERS AND AMENDS:

43 **26B-2-704**, (Renumbered from 26B-2-209, as renumbered and amended by Laws of
44 Utah 2023, Chapter 305)
45 **26B-2-705**, (Renumbered from 26B-2-214, as renumbered and amended by Laws of
46 Utah 2023, Chapter 305)
47 **26B-2-706**, (Renumbered from 26B-2-114, as renumbered and amended by Laws of
48 Utah 2023, Chapter 305)
49 **26B-2-707**, (Renumbered from 26B-2-113, as renumbered and amended by Laws of
50 Utah 2023, Chapter 305)
51 **26B-2-708**, (Renumbered from 26B-2-133, as renumbered and amended by Laws of
52 Utah 2023, Chapter 305)
53 **26B-2-709**, (Renumbered from 26B-2-408, as renumbered and amended by Laws of
54 Utah 2023, Chapter 305)

55 REPEALS:

56 **26B-2-110**, as renumbered and amended by Laws of Utah 2023, Chapter 305
57 **26B-2-111**, as renumbered and amended by Laws of Utah 2023, Chapter 305
58 **26B-2-112**, as renumbered and amended by Laws of Utah 2023, Chapter 305
59 **26B-2-208**, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and
60 amended by Laws of Utah 2023, Chapter 305
61 **26B-2-210**, as renumbered and amended by Laws of Utah 2023, Chapter 305

- 62 **26B-2-211**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 63 **26B-2-215**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 64 **26B-2-216**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 65 **26B-2-409**, as renumbered and amended by Laws of Utah 2023, Chapter 305
- 66 **26B-2-410**, as renumbered and amended by Laws of Utah 2023, Chapter 305



67

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

69 Section 1. Section **26B-2-101** is amended to read:

70 **26B-2-101 . Definitions.**

71 As used in this part:

- 72 (1) "Adoption services" means the same as that term is defined in Section 80-2-801.
- 73 (2) "Adult day care" means nonresidential care and supervision:
 - 74 (a) for three or more adults for at least four but less than 24 hours a day; and
 - 75 (b) that meets the needs of functionally impaired adults through a comprehensive
 - 76 program that provides a variety of health, social, recreational, and related support
 - 77 services in a protective setting.
- 78 (3) "Applicant" means a person that applies for an initial license or a license renewal under
- 79 this part.
- 80 (4) (a) "Associated with the licensee" means that an individual is:
 - 81 (i) affiliated with a licensee as an owner, director, member of the governing body,
 - 82 employee, agent, provider of care, department contractor, or volunteer; or
 - 83 (ii) applying to become affiliated with a licensee in a capacity described in
 - 84 Subsection (4)(a)(i).
- 85 (b) "Associated with the licensee" does not include:
 - 86 (i) service on the following bodies, unless that service includes direct access to a
 - 87 child or a vulnerable adult:
 - 88 (A) a local mental health authority described in Section 17-43-301;
 - 89 (B) a local substance abuse authority described in Section 17-43-201; or
 - 90 (C) a board of an organization operating under a contract to provide mental health
 - 91 or substance use programs, or services for the local mental health authority or
 - 92 substance abuse authority; or
 - 93 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly
 - 94 supervised at all times.
- 95 (5) (a) "Boarding school" means a private school that:

- 96 (i) uses a regionally accredited education program;
- 97 (ii) provides a residence to the school's students:
- 98 (A) for the purpose of enabling the school's students to attend classes at the
- 99 school; and
- 100 (B) as an ancillary service to educating the students at the school;
- 101 (iii) has the primary purpose of providing the school's students with an education, as
- 102 defined in Subsection (5)(b)(i); and
- 103 (iv) (A) does not provide the treatment or services described in Subsection [~~(38)(a)~~]
- 104 (39)(a); or
- 105 (B) provides the treatment or services described in Subsection [~~(38)(a)~~] (39)(a) on
- 106 a limited basis, as described in Subsection (5)(b)(ii).
- 107 (b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
- 108 one or more grades from kindergarten through grade 12.
- 109 (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment
- 110 or services described in Subsection [~~(38)(a)~~] (39)(a) on a limited basis if:
- 111 (A) the treatment or services described in Subsection [~~(38)(a)~~] (39)(a) are provided
- 112 only as an incidental service to a student; and
- 113 (B) the school does not:
- 114 (I) specifically solicit a student for the purpose of providing the treatment or
- 115 services described in Subsection [~~(38)(a)~~] (39)(a); or
- 116 (II) have a primary purpose of providing the treatment or services described in
- 117 Subsection [~~(38)(a)~~] (39)(a).
- 118 (c) "Boarding school" does not include a therapeutic school.
- 119 (6) "Child" means an individual under 18 years old.
- 120 (7) "Child placing" means receiving, accepting, or providing custody or care for any child,
- 121 temporarily or permanently, for the purpose of:
- 122 (a) finding a person to adopt the child;
- 123 (b) placing the child in a home for adoption; or
- 124 (c) foster home placement.
- 125 (8) "Child-placing agency" means a person that engages in child placing.
- 126 (9) "Client" means an individual who receives or has received services from a licensee.
- 127 (10) (a) "Congregate care program" means any of the following that provide services to
- 128 a child:
- 129 (i) an outdoor youth program;

- 130 (ii) a residential support program;
- 131 (iii) a residential treatment program; or
- 132 (iv) a therapeutic school.
- 133 (b) "Congregate care program" does not include a human services program that:
- 134 (i) is licensed to serve adults; and
- 135 (ii) is approved by the office to service a child for a limited time.
- 136 (11) "Day treatment" means specialized treatment that is provided to:
- 137 (a) a client less than 24 hours a day; and
- 138 (b) four or more persons who:
- 139 (i) are unrelated to the owner or provider; and
- 140 (ii) have emotional, psychological, developmental, physical, or behavioral
- 141 dysfunctions, impairments, or chemical dependencies.
- 142 (12) "Department contractor" means an individual who:
- 143 (a) provides services under a contract with the department; and
- 144 (b) due to the contract with the department, has or will likely have direct access to a
- 145 child or vulnerable adult.
- 146 (13) "Direct access" means that an individual has, or likely will have:
- 147 (a) contact with or access to a child or vulnerable adult that provides the individual with
- 148 an opportunity for personal communication or touch; or
- 149 (b) an opportunity to view medical, financial, or other confidential personal identifying
- 150 information of the child, the child's parents or legal guardians, or the vulnerable adult.
- 151 (14) "Directly supervised" means that an individual is being supervised under the
- 152 uninterrupted visual and auditory surveillance of another individual who has a current
- 153 background screening approval issued by the office.
- 154 (15) "Director" means the director of the office.
- 155 (16) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 156 (17) "Domestic violence treatment program" means a nonresidential program designed to
- 157 provide psychological treatment and educational services to perpetrators and victims of
- 158 domestic violence.
- 159 (18) "Elder adult" means a person 65 years old or older.
- 160 (19) "Emergency safety intervention" means a tactic used to protect staff or a client from
- 161 being physically injured, utilized by an appropriately trained direct care staff and only
- 162 performed in accordance with a nationally or regionally recognized curriculum in the
- 163 least restrictive manner to restore staff or client safety.

164 ~~[(19)]~~ (20) "Foster home" means a residence that is licensed or certified by the office for the
165 full-time substitute care of a child.

166 ~~[(20)]~~ (21) "Health benefit plan" means the same as that term is defined in Section
167 31A-22-634.

168 ~~[(21)]~~ (22) "Health care provider" means the same as that term is defined in Section
169 78B-3-403.

170 ~~[(22)]~~ (23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

171 ~~[(23)]~~ (24) (a) "Human services program" means:

172 (i) a foster home;

173 (ii) a therapeutic school;

174 (iii) a youth program;

175 (iv) an outdoor youth program;

176 (v) a residential treatment program;

177 (vi) a residential support program;

178 (vii) a resource family home;

179 (viii) a recovery residence; or

180 (ix) a facility or program that provides:

181 (A) adult day care;

182 (B) day treatment;

183 (C) outpatient treatment;

184 (D) domestic violence treatment;

185 (E) child-placing services;

186 (F) social detoxification; or

187 (G) any other human services that are required by contract with the department to

188 be licensed with the department.

189 (b) "Human services program" does not include:

190 (i) a boarding school; or

191 (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

192 ~~[(24)]~~ (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

193 ~~[(25)]~~ (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

194 ~~[(26)]~~ (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

195 ~~[(27)]~~ (28) "Intermediate secure treatment" means 24-hour specialized residential treatment
196 or care for an individual who:

197 (a) cannot live independently or in a less restrictive environment; and

198 (b) requires, without the individual's consent or control, the use of locked doors to care
199 for the individual.

200 [~~(28)~~] (29) "Licensee" means an individual or a human services program licensed by the
201 office.

202 [~~(29)~~] (30) "Local government" means a city, town, metro township, or county.

203 [~~(30)~~] (31) "Minor" means child.

204 [~~(31)~~] (32) "Office" means the Office of Licensing within the department.

205 [~~(32)~~] (33) "Outdoor youth program" means a program that provides:

206 (a) services to a child that has:

207 (i) a chemical dependency; or

208 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
209 physical, or behavioral;

210 (b) a 24-hour outdoor group living environment; and

211 (c) (i) regular therapy, including group, individual, or supportive family therapy; or

212 (ii) informal therapy or similar services, including wilderness therapy, adventure
213 therapy, or outdoor behavioral healthcare.

214 [~~(33)~~] (34) "Outpatient treatment" means individual, family, or group therapy or counseling
215 designed to improve and enhance social or psychological functioning for those whose
216 physical and emotional status allows them to continue functioning in their usual living
217 environment.

218 [~~(34)~~] (35) "Practice group" or "group practice" means two or more health care providers
219 legally organized as a partnership, professional corporation, or similar association, for
220 which:

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

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

226 [~~(35)~~] (36) "Private-placement child" means a child whose parent or guardian enters into a
227 contract with a congregate care program for the child to receive services.

228 [~~(36)~~] (37) (a) "Recovery residence" means a home, residence, or facility that meets at
229 least two of the following requirements:

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

- 232 (ii) provides a living environment in which more than half of the individuals in the
 233 residence are recovering from a substance use disorder;
- 234 (iii) provides or arranges for residents to receive services related to the resident's
 235 recovery from a substance use disorder, either on or off site;
- 236 (iv) is held out as a living environment in which individuals recovering from
 237 substance abuse disorders live together to encourage continued sobriety; or
- 238 (v) (A) receives public funding; or
 239 (B) is run as a business venture, either for-profit or not-for-profit.
- 240 (b) "Recovery residence" does not mean:
- 241 (i) a residential treatment program;
- 242 (ii) residential support program; or
- 243 (iii) a home, residence, or facility, in which:
- 244 (A) residents, by a majority vote of the residents, establish, implement, and
 245 enforce policies governing the living environment, including the manner in
 246 which applications for residence are approved and the manner in which
 247 residents are expelled;
- 248 (B) residents equitably share rent and housing-related expenses; and
- 249 (C) a landlord, owner, or operator does not receive compensation, other than fair
 250 market rental income, for establishing, implementing, or enforcing policies
 251 governing the living environment.
- 252 ~~[(37)]~~ (38) "Regular business hours" means:
- 253 (a) the hours during which services of any kind are provided to a client; or
- 254 (b) the hours during which a client is present at the facility of a licensee.
- 255 ~~[(38)]~~ (39) (a) "Residential support program" means a program that arranges for or
 256 provides the necessities of life as a protective service to individuals or families who
 257 have a disability or who are experiencing a dislocation or emergency that prevents
 258 them from providing these services for themselves or their families.
- 259 (b) "Residential support program" includes a program that provides a supervised living
 260 environment for individuals with dysfunctions or impairments that are:
- 261 (i) emotional;
- 262 (ii) psychological;
- 263 (iii) developmental; or
- 264 (iv) behavioral.
- 265 (c) Treatment is not a necessary component of a residential support program.

- 266 (d) "Residential support program" does not include:
- 267 (i) a recovery residence; or
- 268 (ii) a program that provides residential services that are performed:
- 269 (A) exclusively under contract with the department and provided to individuals
- 270 through the Division of Services for People with Disabilities; or
- 271 (B) in a facility that serves fewer than four individuals.
- 272 ~~[(39)]~~ (40) (a) "Residential treatment" means a 24-hour group living environment for
- 273 four or more individuals unrelated to the owner or provider that offers room or board
- 274 and specialized treatment, behavior modification, rehabilitation, discipline, emotional
- 275 growth, or habilitation services for persons with emotional, psychological,
- 276 developmental, or behavioral dysfunctions, impairments, or chemical dependencies.
- 277 (b) "Residential treatment" does not include a:
- 278 (i) boarding school;
- 279 (ii) foster home; or
- 280 (iii) recovery residence.
- 281 ~~[(40)]~~ (41) "Residential treatment program" means a program or facility that provides:
- 282 (a) residential treatment; or
- 283 (b) intermediate secure treatment.
- 284 ~~[(41)]~~ (42) "Seclusion" means the involuntary confinement of an individual in a room or an
- 285 area:
- 286 (a) away from the individual's peers; and
- 287 (b) in a manner that physically prevents the individual from leaving the room or area.
- 288 ~~[(42)]~~ (43) "Social detoxification" means short-term residential services for persons who are
- 289 experiencing or have recently experienced drug or alcohol intoxication, that are provided
- 290 outside of a health care facility licensed under Part 2, Health Care Facility Licensing and
- 291 Inspection, and that include:
- 292 (a) room and board for persons who are unrelated to the owner or manager of the facility;
- 293 (b) specialized rehabilitation to acquire sobriety; and
- 294 (c) aftercare services.
- 295 ~~[(43)]~~ (44) "Substance abuse disorder" or "substance use disorder" mean the same as
- 296 "substance use disorder" is defined in Section 26B-5-501.
- 297 ~~[(44)]~~ (45) "Substance abuse treatment program" or "substance use disorder treatment
- 298 program" means a program:
- 299 (a) designed to provide:

- 300 (i) specialized drug or alcohol treatment;
- 301 (ii) rehabilitation; or
- 302 (iii) habilitation services; and
- 303 (b) that provides the treatment or services described in Subsection [~~(44)~~(a)] (45)(a) to
- 304 persons with:
- 305 (i) a diagnosed substance use disorder; or
- 306 (ii) chemical dependency disorder.
- 307 [~~(45)~~] (46) "Therapeutic school" means a residential group living facility:
- 308 (a) for four or more individuals that are not related to:
- 309 (i) the owner of the facility; or
- 310 (ii) the primary service provider of the facility;
- 311 (b) that serves students who have a history of failing to function:
- 312 (i) at home;
- 313 (ii) in a public school; or
- 314 (iii) in a nonresidential private school; and
- 315 (c) that offers:
- 316 (i) room and board; and
- 317 (ii) an academic education integrated with:
- 318 (A) specialized structure and supervision; or
- 319 (B) services or treatment related to:
- 320 (I) a disability;
- 321 (II) emotional development;
- 322 (III) behavioral development;
- 323 (IV) familial development; or
- 324 (V) social development.
- 325 [~~(46)~~] (47) "Unrelated persons" means persons other than parents, legal guardians,
- 326 grandparents, brothers, sisters, uncles, or aunts.
- 327 [~~(47)~~] (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or
- 328 permanent mental or physical impairment that substantially affects the person's ability to:
- 329 (a) provide personal protection;
- 330 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 331 (c) obtain services necessary for health, safety, or welfare;
- 332 (d) carry out the activities of daily living;
- 333 (e) manage the adult's own resources; or

- 334 (f) comprehend the nature and consequences of remaining in a situation of abuse,
335 neglect, or exploitation.
- 336 [(48)] (49) (a) "Youth program" means a program designed to provide behavioral,
337 substance use, or mental health services to minors that:
- 338 (i) serves adjudicated or nonadjudicated youth;
 - 339 (ii) charges a fee for the program's services;
 - 340 (iii) may provide host homes or other arrangements for overnight accommodation of
341 the youth;
 - 342 (iv) may provide all or part of the program's services in the outdoors;
 - 343 (v) may limit or censor access to parents or guardians; and
 - 344 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
345 minor's own free will.
- 346 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
347 Scouts, 4-H, and other such organizations.
- 348 [(49)] (50) (a) "Youth transportation company" means any person that transports a child
349 for payment to or from a congregate care program in Utah.
- 350 (b) "Youth transportation company" does not include:
- 351 (i) a relative of the child;
 - 352 (ii) a state agency; or
 - 353 (iii) a congregate care program's employee who transports the child from the
354 congregate care program that employs the employee and returns the child to the
355 same congregate care program.
- 356 Section 2. Section **26B-2-105** is amended to read:
- 357 **26B-2-105 . Licensure requirements -- Expiration -- Renewal.**
- 358 (1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation,
359 association, or governmental unit acting severally or jointly with any other individual,
360 agency, firm, corporation, association, or governmental unit may not establish, conduct,
361 or maintain a human services program in this state without a valid and current license
362 issued by and under the authority of the office as provided by this part and the rules
363 under the authority of this part.
- 364 (2) (a) For purposes of this Subsection (2), "member" means a person or entity that is
365 associated with another person or entity:
- 366 (i) as a member;
 - 367 (ii) as a partner;

- 368 (iii) as a shareholder; or
369 (iv) as a person or entity involved in the ownership or management of a human
370 services program owned or managed by the other person or entity.
- 371 (b) A license issued under this part may not be assigned or transferred.
- 372 (c) An application for a license under this part shall be treated as an application for
373 reinstatement of a revoked license if:
- 374 (i) (A) the person or entity applying for the license had a license revoked under
375 this part; and
376 (B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated
377 before the application described in this Subsection (2)(c) is made; or
378 (ii) a member of an entity applying for the license:
379 (A) (I) had a license revoked under this part; and
380 (II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated
381 before the application described in this Subsection (2)(c) is made; or
382 (B) (I) was a member of an entity that had a license revoked under this part at
383 any time before the license was revoked; and
384 (II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated
385 before the application described in this Subsection (2)(c) is made.
- 386 (3) A current license shall at all times be posted in the facility where each human services
387 program is operated, in a place that is visible and readily accessible to the public.
- 388 (4) (a) Except as provided in Subsection (4)(c), each license issued under this part
389 expires at midnight on the last day of the same month the license was issued, one
390 year following the date of issuance unless the license has been:
- 391 (i) previously revoked by the office;
392 (ii) voluntarily returned to the office by the licensee; or
393 (iii) extended by the office.
- 394 (b) A license shall be renewed upon application and payment of the applicable fee,
395 unless the office finds that the licensee:
- 396 (i) is not in compliance with the:
397 (A) provisions of this part; or
398 (B) rules made under this part;
399 (ii) has engaged in a pattern of noncompliance with the:
400 (A) provisions of this part; or
401 (B) rules made under this part;

- 402 (iii) has engaged in conduct that is grounds for denying a license under Section [
403 ~~26B-2-112~~] 26B-2-703; or
- 404 (iv) has engaged in conduct that poses a substantial risk of harm to any person.
- 405 (c) The office may issue a renewal license that expires at midnight on the last day of the
406 same month the license was issued, two years following the date of issuance, if:
- 407 (i) the licensee has maintained a human services license for at least 24 months before
408 the day on which the licensee applies for the renewal; and
- 409 (ii) the licensee has not violated this part or a rule made under this part.
- 410 (5) Any licensee that is in operation at the time rules are made in accordance with this part
411 shall be given a reasonable time for compliance as determined by the rule.
- 412 (6) (a) A license for a human services program issued under this section shall apply to a
413 specific human services program site.
- 414 (b) A human services program shall obtain a separate license for each site where the
415 human services program is operated.
- 416 Section 3. Section **26B-2-107** is amended to read:
- 417 **26B-2-107 . Administrative inspections.**
- 418 (1) (a) Subject to Subsection (1)(b), the office may, for the purpose of ascertaining
419 compliance with this part, enter and inspect on a routine basis the facility of a
420 licensee.
- 421 (b) (i) The office shall enter and inspect a congregate care program at least once each
422 calendar quarter.
- 423 (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be
424 unannounced.
- 425 (c) If another government entity conducts an inspection that is substantially similar to an
426 inspection conducted by the office, the office may conclude the inspection satisfies
427 an inspection described in Subsection (1)(b).
- 428 (2) Before conducting an inspection under Subsection (1), the office shall, after identifying
429 the person in charge:
- 430 (a) give proper identification;
- 431 (b) request to see the applicable license;
- 432 (c) describe the nature and purpose of the inspection; and
- 433 (d) if necessary, explain the authority of the office to conduct the inspection and the
434 penalty for refusing to permit the inspection as provided in Section [~~26B-2-113~~]
435 26B-2-707.

- 436 (3) In conducting an inspection under Subsection (1), the office may, after meeting the
437 requirements of Subsection (2):
- 438 (a) inspect the physical facilities;
 - 439 (b) inspect and copy records and documents;
 - 440 (c) interview officers, employees, clients, family members of clients, and others; and
 - 441 (d) observe the licensee in operation.
- 442 (4) An inspection conducted under Subsection (1) shall be during regular business hours
443 and may be announced or unannounced.
- 444 (5) The licensee shall make copies of inspection reports available to the public upon request.
- 445 (6) The provisions of this section apply to on-site inspections and do not restrict the office
446 from contacting family members, neighbors, or other individuals, or from seeking
447 information from other sources to determine compliance with this part.

448 Section 4. Section **26B-2-120** is amended to read:

449 **26B-2-120 . Background check -- Direct access to children or vulnerable adults.**

- 450 (1) As used in this section:
- 451 (a) (i) "Applicant" means, notwithstanding Section 26B-2-101:
 - 452 (A) an individual who applies for an initial license or certification or a license or
453 certification renewal under this part;
 - 454 (B) an individual who is associated with a licensee and has or will likely have
455 direct access to a child or a vulnerable adult;
 - 456 (C) an individual who provides respite care to a foster parent or an adoptive parent
457 on more than one occasion;
 - 458 (D) a department contractor;
 - 459 (E) an individual who transports a child for a youth transportation company;
 - 460 (F) a guardian submitting an application on behalf of an individual, other than the
461 child or vulnerable adult who is receiving the service, if the individual is 12
462 years old or older and resides in a home, that is licensed or certified by the
463 office; or
 - 464 (G) a guardian submitting an application on behalf of an individual, other than the
465 child or vulnerable adult who is receiving the service, if the individual is 12
466 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C),
467 or (D).
 - 468 (ii) "Applicant" does not include:
 - 469 (A) an individual who is in the custody of the Division of Child and Family

- 470 Services or the Division of Juvenile Justice Services; or
471 (B) an individual who applies for employment with, or is employed by, the
472 Department of Health and Human Services.
- 473 (b) "Application" means a background screening application to the office.
474 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
475 Public Safety, created in Section 53-10-201.
476 (d) "Certified peer support specialist" means the same as that term is defined in Section
477 26B-5-610.
478 (e) "Criminal finding" means a record of:
479 (i) an arrest or a warrant for an arrest;
480 (ii) charges for a criminal offense; or
481 (iii) a criminal conviction.
482 (f) "Incidental care" means occasional care, not in excess of five hours per week and
483 never overnight, for a foster child.
484 (g) "Mental health professional" means an individual who:
485 (i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;
486 and
487 (ii) engaged in the practice of mental health therapy.
488 (h) "Non-criminal finding" means a record maintained in:
489 (i) the Division of Child and Family Services' Management Information System
490 described in Section 80-2-1001;
491 (ii) the Division of Child and Family Services' Licensing Information System
492 described in Section 80-2-1002;
493 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
494 exploitation database described in Section 26B-6-210;
495 (iv) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and
496 Kidnap Offender Registry, or a national sex offender registry; or
497 (v) a state child abuse or neglect registry.
498 (i) (i) "Peer support specialist" means an individual who:
499 (A) has a disability or a family member with a disability, or is in recovery from a
500 mental illness or a substance use disorder; and
501 (B) uses personal experience to provide support, guidance, or services to promote
502 resiliency and recovery.
503 (ii) "Peer support specialist" includes a certified peer support specialist.

- 504 (iii) "Peer support specialist" does not include a mental health professional.
- 505 (j) "Personal identifying information" means:
- 506 (i) current name, former names, nicknames, and aliases;
- 507 (ii) date of birth;
- 508 (iii) physical address and email address;
- 509 (iv) telephone number;
- 510 (v) driver license or other government-issued identification;
- 511 (vi) social security number;
- 512 (vii) only for applicants who are 18 years old or older, fingerprints, in a form
- 513 specified by the office; and
- 514 (viii) other information specified by the office by rule made in accordance with Title
- 515 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 516 (k) "Practice of mental health therapy" means the same as that term is defined in Section
- 517 58-60-102.
- 518 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the
- 519 following to the office:
- 520 (a) personal identifying information;
- 521 (b) a fee established by the office under Section 63J-1-504; and
- 522 (c) a disclosure form, specified by the office, for consent for:
- 523 (i) an initial background check upon submission of the information described in this
- 524 Subsection (2);
- 525 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a
- 526 licensee for 90 days;
- 527 (iii) a background check when the office determines that reasonable cause exists; and
- 528 (iv) retention of personal identifying information, including fingerprints, for
- 529 monitoring and notification as described in Subsections (3)(d) and (4); and
- 530 (d) if an applicant resided outside of the United States and its territories during the five
- 531 years immediately preceding the day on which the information described in
- 532 Subsections (2)(a) through (c) is submitted to the office, documentation establishing
- 533 whether the applicant was convicted of a crime during the time that the applicant
- 534 resided outside of the United States or its territories.
- 535 (3) The office:
- 536 (a) shall perform the following duties as part of a background check of an applicant:
- 537 (i) check state and regional criminal background databases for the applicant's

- 538 criminal history by:
- 539 (A) submitting personal identifying information to the bureau for a search; or
- 540 (B) using the applicant's personal identifying information to search state and
- 541 regional criminal background databases as authorized under Section 53-10-108;
- 542 (ii) submit the applicant's personal identifying information and fingerprints to the
- 543 bureau for a criminal history search of applicable national criminal background
- 544 databases;
- 545 (iii) search the Division of Child and Family Services' Licensing Information System
- 546 described in Section 80-2-1002;
- 547 (iv) if the applicant is applying to become a prospective foster or adoptive parent,
- 548 search the Division of Child and Family Services' Management Information
- 549 System described in Section 80-2-1001 for:
- 550 (A) the applicant; and
- 551 (B) any adult living in the applicant's home;
- 552 (v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child
- 553 and Family Services' Management Information System described in Section
- 554 80-2-1001;
- 555 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
- 556 or exploitation database described in Section 26B-6-210;
- 557 (vii) search the juvenile court records for substantiated findings of severe child abuse
- 558 or neglect described in Section 80-3-404; and
- 559 (viii) search the juvenile court arrest, adjudication, and disposition records, as
- 560 provided under Section 78A-6-209;
- 561 (b) shall conduct a background check of an applicant for an initial background check
- 562 upon submission of the information described in Subsection (2);
- 563 (c) may conduct all or portions of a background check of an applicant, as provided by
- 564 rule, made by the office in accordance with Title 63G, Chapter 3, Utah
- 565 Administrative Rulemaking Act:
- 566 (i) for an annual renewal; or
- 567 (ii) when the office determines that reasonable cause exists;
- 568 (d) may submit an applicant's personal identifying information, including fingerprints, to
- 569 the bureau for checking, retaining, and monitoring of state and national criminal
- 570 background databases and for notifying the office of new criminal activity associated
- 571 with the applicant;

- 572 (e) shall track the status of an applicant under this section to ensure that the applicant is
573 not required to duplicate the submission of the applicant's fingerprints if the applicant
574 applies for:
- 575 (i) more than one license;
 - 576 (ii) direct access to a child or a vulnerable adult in more than one human services
577 program; or
 - 578 (iii) direct access to a child or a vulnerable adult under a contract with the department;
- 579 (f) shall track the status of each individual with direct access to a child or a vulnerable
580 adult and notify the bureau within 90 days after the day on which the license expires
581 or the individual's direct access to a child or a vulnerable adult ceases;
- 582 (g) shall adopt measures to strictly limit access to personal identifying information
583 solely to the individuals responsible for processing and entering the applications for
584 background checks and to protect the security of the personal identifying information
585 the office reviews under this Subsection (3);
- 586 (h) as necessary to comply with the federal requirement to check a state's child abuse
587 and neglect registry regarding any individual working in a congregate care program,
588 shall:
- 589 (i) search the Division of Child and Family Services' Licensing Information System
590 described in Section 80-2-1002; and
 - 591 (ii) require the child abuse and neglect registry be checked in each state where an
592 applicant resided at any time during the five years immediately preceding the day
593 on which the applicant submits the information described in Subsection (2) to the
594 office; and
- 595 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
596 Rulemaking Act, to implement the provisions of this Subsection (3) relating to
597 background checks.
- 598 (4) (a) With the personal identifying information the office submits to the bureau under
599 Subsection (3), the bureau shall check against state and regional criminal background
600 databases for the applicant's criminal history.
- 601 (b) With the personal identifying information and fingerprints the office submits to the
602 bureau under Subsection (3), the bureau shall check against national criminal
603 background databases for the applicant's criminal history.
- 604 (c) Upon direction from the office, and with the personal identifying information and
605 fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

- 606 (i) maintain a separate file of the fingerprints for search by future submissions to the
607 local and regional criminal records databases, including latent prints; and
- 608 (ii) monitor state and regional criminal background databases and identify criminal
609 activity associated with the applicant.
- 610 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
611 Investigation Next Generation Identification System, to be retained in the Federal
612 Bureau of Investigation Next Generation Identification System for the purpose of:
- 613 (i) being searched by future submissions to the national criminal records databases,
614 including the Federal Bureau of Investigation Next Generation Identification
615 System and latent prints; and
- 616 (ii) monitoring national criminal background databases and identifying criminal
617 activity associated with the applicant.
- 618 (e) The Bureau shall notify and release to the office all information of criminal activity
619 associated with the applicant.
- 620 (f) Upon notice that an individual's direct access to a child or a vulnerable adult has
621 ceased for 90 days, the bureau shall:
- 622 (i) discard and destroy any retained fingerprints; and
- 623 (ii) notify the Federal Bureau of Investigation when the license has expired or an
624 individual's direct access to a child or a vulnerable adult has ceased, so that the
625 Federal Bureau of Investigation will discard and destroy the retained fingerprints
626 from the Federal Bureau of Investigation Next Generation Identification System.
- 627 (5) (a) Except as provided in Subsection (5)(b), after conducting the background check
628 described in Subsections (3) and (4), the office shall deny an application to an
629 applicant who, within three years before the day on which the applicant submits
630 information to the office under Subsection (2) for a background check, has been
631 convicted of:
- 632 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
- 633 (A) an offense identified as domestic violence, lewdness, voyeurism, battery,
634 cruelty to animals, or bestiality;
- 635 (B) a violation of any pornography law, including sexual exploitation of a minor
636 or aggravated sexual exploitation of a minor;
- 637 (C) sexual solicitation;
- 638 (D) an offense included in Title 76, Chapter 5, Offenses Against the Individual,
639 Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4,

- 640 Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;
- 641 (E) aggravated arson, as described in Section 76-6-103;
- 642 (F) aggravated burglary, as described in Section 76-6-203;
- 643 (G) aggravated robbery, as described in Section 76-6-302;
- 644 (H) identity fraud crime, as described in Section 76-6-1102;
- 645 (I) sexual battery, as described in Section 76-9-702.1; or
- 646 (J) a violent offense committed in the presence of a child, as described in Section
- 647 76-3-203.10; or
- 648 (ii) a felony or misdemeanor offense committed outside of the state that, if committed
- 649 in the state, would constitute a violation of an offense described in Subsection
- 650 (5)(a)(i).
- 651 (b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
- 652 peer support provider, a mental health professional, or in a program that serves
- 653 only adults with a primary mental health diagnosis, with or without a co-occurring
- 654 substance use disorder.
- 655 (ii) The office shall conduct a comprehensive review of an applicant described in
- 656 Subsection (5)(b)(i) in accordance with Subsection (6).
- 657 (6) The office shall conduct a comprehensive review of an applicant's background check if
- 658 the applicant:
- 659 (a) has a felony or class A misdemeanor conviction for an offense described in
- 660 Subsection (5) with a date of conviction that is more than three years before the date
- 661 on which the applicant submits the information described in Subsection (2);
- 662 (b) has a felony charge or conviction for an offense not described in Subsection (5) with
- 663 a date of charge or conviction that is no more than 10 years before the date on which
- 664 the applicant submits the application under Subsection (2) and no criminal findings
- 665 or non-criminal findings after the date of conviction;
- 666 (c) has a class B misdemeanor or class C misdemeanor conviction for an offense
- 667 described in Subsection (5) with a date of conviction that is more than three years
- 668 after, and no more than 10 years before, the date on which the applicant submits the
- 669 information described in Subsection (2) and no criminal findings or non-criminal
- 670 findings after the date of conviction;
- 671 (d) has a misdemeanor conviction for an offense not described in Subsection (5) with a
- 672 date of conviction that is no more than three years before the date on which the
- 673 applicant submits information described in Subsection (2) and no criminal findings or

- 674 non-criminal findings after the date of conviction;
- 675 (e) is currently subject to a plea in abeyance or diversion agreement for an offense
676 described in Subsection (5);
- 677 (f) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41,
678 Sex and Kidnap Offender Registry, or a national sex offender registry;
- 679 (g) has a record of an adjudication in juvenile court for an act that, if committed by an
680 adult, would be a felony or misdemeanor, if the applicant is:
- 681 (i) under 28 years old; or
- 682 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
683 currently subject to a plea in abeyance or diversion agreement for a felony or a
684 misdemeanor offense described in Subsection (5);
- 685 (h) has a pending charge for an offense described in Subsection (5);
- 686 (i) has a listing in the Division of Child and Family Services' Licensing Information
687 System described in Section 80-2-1002 that occurred no more than 15 years before
688 the date on which the applicant submits the information described in Subsection (2)
689 and no criminal findings or non-criminal findings dated after the date of the listing;
- 690 (j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
691 neglect, or exploitation database described in Section 26B-6-210 that occurred no
692 more than 15 years before the date on which the applicant submits the information
693 described in Subsection (2) and no criminal findings or non-criminal findings dated
694 after the date of the listing;
- 695 (k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
696 or 80-3-504 that occurred no more than 15 years before the date on which the
697 applicant submits the information described in Subsection (2) and no criminal
698 findings or non-criminal findings dated after the date of the finding;
- 699 (l) (i) is seeking a position:
- 700 (A) as a peer support provider;
- 701 (B) as a mental health professional; or
- 702 (C) in a program that serves only adults with a primary mental health diagnosis,
703 with or without a co-occurring substance use disorder; and
- 704 (ii) within three years before the day on which the applicant submits the information
705 described in Subsection (2):
- 706 (A) has a felony or misdemeanor charge or conviction;
- 707 (B) has a listing in the Division of Child and Family Services' Licensing

- 708 Information System described in Section 80-2-1002;
- 709 (C) has a listing in the Division of Aging and Adult Services' vulnerable adult
710 abuse, neglect, or exploitation database described in Section 26B-6-210; or
- 711 (D) has a substantiated finding of severe child abuse or neglect under Section
712 80-3-404 or 80-3-504;
- 713 (m) (i) (A) is seeking a position in a congregate care program;
- 714 (B) is seeking to become a prospective foster or adoptive parent; or
- 715 (C) is an applicant described in Subsection (1)(a)(i)(F); and
- 716 (ii) (A) has an infraction conviction for conduct that constitutes an offense or
717 violation described in Subsection (5)(a)(i)(A) or (B);
- 718 (B) has a listing in the Division of Child and Family Services' Licensing
719 Information System described in Section 80-2-1002;
- 720 (C) has a listing in the Division of Aging and Adult Services' vulnerable adult
721 abuse, neglect, or exploitation database described in Section 26B-6-210;
- 722 (D) has a substantiated finding of severe child abuse or neglect under Section
723 80-3-404 or 80-3-504; or
- 724 (E) has a listing on the registry check described in Subsection (13)(a) as having a
725 substantiated or supported finding of a severe type of child abuse or neglect as
726 defined in Section 80-1-102; or
- 727 (n) is seeking to become a prospective foster or adoptive parent and has, or has an adult
728 living with the applicant who has, a conviction, finding, or listing described in
729 Subsection (6)(m)(ii).
- 730 (7) (a) The comprehensive review shall include an examination of:
- 731 (i) the date of the offense or incident;
- 732 (ii) the nature and seriousness of the offense or incident;
- 733 (iii) the circumstances under which the offense or incident occurred;
- 734 (iv) the age of the perpetrator when the offense or incident occurred;
- 735 (v) whether the offense or incident was an isolated or repeated incident;
- 736 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
737 adult, including:
- 738 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 739 (B) sexual abuse;
- 740 (C) sexual exploitation; or
- 741 (D) negligent treatment;

- 742 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
743 treatment received, or additional academic or vocational schooling completed; and
744 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
745 which the applicant is applying.
- 746 (b) At the conclusion of the comprehensive review, the office shall deny an application
747 to an applicant if the office finds:
- 748 (i) that approval would likely create a risk of harm to a child or a vulnerable adult; or
749 (ii) an individual is prohibited from having direct access to a child or vulnerable adult
750 by court order.
- 751 (8) The office shall approve an application to an applicant who is not denied under this
752 section.
- 753 (9) (a) The office may conditionally approve an application of an applicant, for a
754 maximum of 60 days after the day on which the office sends written notice to the
755 applicant under Subsection (11), without requiring that the applicant be directly
756 supervised, if the office:
- 757 (i) is awaiting the results of the criminal history search of national criminal
758 background databases; and
759 (ii) would otherwise approve an application of the applicant under this section.
- 760 (b) The office may conditionally approve an application of an applicant, for a maximum
761 of one year after the day on which the office sends written notice to the applicant
762 under Subsection (11), without requiring that the applicant be directly supervised if
763 the office:
- 764 (i) is awaiting the results of an out-of-state registry for providers other than foster and
765 adoptive parents; and
766 (ii) would otherwise approve an application of the applicant under this section.
- 767 (c) Upon receiving the results of the criminal history search of a national criminal
768 background database, the office shall approve or deny the application of the applicant
769 in accordance with this section.
- 770 (10) (a) A licensee or department contractor may not permit an individual to have direct
771 access to a child or a vulnerable adult without being directly supervised unless:
- 772 (i) the individual is associated with the licensee or department contractor and the
773 department conducts a background screening in accordance with this section;
774 (ii) the individual is the parent or guardian of the child, or the guardian of the
775 vulnerable adult;

- 776 (iii) the individual is approved by the parent or guardian of the child, or the guardian
777 of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 778 (iv) the individual is only permitted to have direct access to a vulnerable adult who
779 voluntarily invites the individual to visit; or
- 780 (v) the individual only provides incidental care for a foster child on behalf of a foster
781 parent who has used reasonable and prudent judgment to select the individual to
782 provide the incidental care for the foster child.
- 783 (b) Notwithstanding any other provision of this section, an individual for whom the
784 office denies an application may not have direct access to a child or vulnerable adult
785 unless the office approves a subsequent application by the individual.
- 786 (11) (a) Within 30 days after the day on which the applicant submits the information
787 described in Subsection (2), the office shall notify the applicant of any potentially
788 disqualifying criminal findings or non-criminal findings.
- 789 (b) If the notice under Subsection (11)(a) states that the applicant's application is denied,
790 the notice shall further advise the applicant that the applicant may, under Subsection [
791 26B-2-111(2)] 26B-2-703(12), request a hearing in the department's Office of
792 Administrative Hearings, to challenge the office's decision.
- 793 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
794 office shall make rules, consistent with this part:
- 795 (i) defining procedures for the challenge of the office's background check decision
796 described in Subsection (11)(b); and
- 797 (ii) expediting the process for renewal of a license under the requirements of this
798 section and other applicable sections.
- 799 (12) (a) An individual or a department contractor who provides services in an adults
800 only substance use disorder program, as defined by rule made in accordance with
801 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this
802 section.
- 803 (b) The exemption described in Subsection (12)(a) does not extend to a program director
804 or a member, as defined by Section 26B-2-105, of the program.
- 805 (13) (a) Except as provided in Subsection (13)(b), in addition to the other requirements
806 of this section, if the background check of an applicant is being conducted for the
807 purpose of giving clearance status to an applicant seeking a position in a congregate
808 care program or an applicant seeking to become a prospective foster or adoptive
809 parent, the office shall:

- 810 (i) check the child abuse and neglect registry in each state where each applicant
811 resided in the five years immediately preceding the day on which the applicant
812 applied to be a foster or adoptive parent, to determine whether the prospective
813 foster or adoptive parent is listed in the registry as having a substantiated or
814 supported finding of child abuse or neglect; and
- 815 (ii) check the child abuse and neglect registry in each state where each adult living in
816 the home of the applicant described in Subsection (13)(a)(i) resided in the five
817 years immediately preceding the day on which the applicant applied to be a foster
818 or adoptive parent, to determine whether the adult is listed in the registry as
819 having a substantiated or supported finding of child abuse or neglect.
- 820 (b) The requirements described in Subsection (13)(a) do not apply to the extent that:
- 821 (i) federal law or rule permits otherwise; or
- 822 (ii) the requirements would prohibit the Division of Child and Family Services or a
823 court from placing a child with:
- 824 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or
- 825 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302,
826 or 80-3-303, pending completion of the background check described in
827 Subsection (5).
- 828 (c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to an
829 applicant seeking a position in a congregate care program or an applicant to become a
830 prospective foster or adoptive parent if the applicant has been convicted of:
- 831 (i) a felony involving conduct that constitutes any of the following:
- 832 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;
- 833 (B) commission of domestic violence in the presence of a child, as described in
834 Section 76-5-114;
- 835 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
- 836 (D) endangerment of a child or vulnerable adult, as described in Section
837 76-5-112.5;
- 838 (E) aggravated murder, as described in Section 76-5-202;
- 839 (F) murder, as described in Section 76-5-203;
- 840 (G) manslaughter, as described in Section 76-5-205;
- 841 (H) child abuse homicide, as described in Section 76-5-208;
- 842 (I) homicide by assault, as described in Section 76-5-209;
- 843 (J) kidnapping, as described in Section 76-5-301;

- 844 (K) child kidnapping, as described in Section 76-5-301.1;
- 845 (L) aggravated kidnapping, as described in Section 76-5-302;
- 846 (M) human trafficking of a child, as described in Section 76-5-308.5;
- 847 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 848 (O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
849 Exploitation Act;
- 850 (P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 851 (Q) aggravated arson, as described in Section 76-6-103;
- 852 (R) aggravated burglary, as described in Section 76-6-203;
- 853 (S) aggravated robbery, as described in Section 76-6-302;
- 854 (T) lewdness involving a child, as described in Section 76-9-702.5;
- 855 (U) incest, as described in Section 76-7-102; or
- 856 (V) domestic violence, as described in Section 77-36-1; or
- 857 (ii) an offense committed outside the state that, if committed in the state, would
858 constitute a violation of an offense described in Subsection (13)(c)(i).
- 859 (d) Notwithstanding Subsections (5) through (10), the office shall deny a license or
860 license renewal to an individual seeking a position in a congregate care program or a
861 prospective foster or adoptive parent if, within the five years immediately preceding
862 the day on which the individual's application or license would otherwise be approved,
863 the individual was convicted of a felony involving conduct that constitutes a violation
864 of any of the following:
- 865 (i) aggravated assault, as described in Section 76-5-103;
- 866 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 867 (iii) mayhem, as described in Section 76-5-105;
- 868 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 869 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 870 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
871 Act;
- 872 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
873 Precursor Act; or
- 874 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 875 (e) In addition to the circumstances described in Subsection (6), the office shall conduct
876 the comprehensive review of an applicant's background check under this section if
877 the registry check described in Subsection (13)(a) indicates that the individual is

878 listed in a child abuse and neglect registry of another state as having a substantiated
879 or supported finding of a severe type of child abuse or neglect as defined in Section
880 80-1-102.

881 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
882 office may make rules, consistent with this part, to:

883 (a) establish procedures for, and information to be examined in, the comprehensive
884 review described in Subsections (6) and (7); and

885 (b) determine whether to consider an offense or incident that occurred while an
886 individual was in the custody of the Division of Child and Family Services or the
887 Division of Juvenile Justice Services for purposes of approval or denial of an
888 application for a prospective foster or adoptive parent.

889 Section 5. Section **26B-2-123** is amended to read:

890 **26B-2-123 . Congregate care program regulation.**

891 (1) (a) A congregate care program may not use a cruel, severe, unusual, or unnecessary
892 practice on a child, including:

893 [~~(a)~~] (i) a strip search unless the congregate care program determines and documents
894 that a strip search is necessary to protect an individual's health or safety;

895 [~~(b)~~] (ii) a body cavity search unless the congregate care program determines and
896 documents that a body cavity search is necessary to protect an individual's health
897 or safety;

898 [~~(c)~~] (iii) inducing pain to obtain compliance;

899 [~~(d)~~] (iv) hyperextending joints;

900 [~~(e)~~] (v) peer restraints;

901 [~~(f)~~] (vi) discipline or punishment that is intended to frighten or humiliate;

902 [~~(g)~~] (vii) requiring or forcing the child to take an uncomfortable position, including
903 squatting or bending;

904 [~~(h)~~] (viii) for the purpose of punishing or humiliating, requiring or forcing the child
905 to repeat physical movements or physical exercises such as running laps or
906 performing push-ups;

907 [~~(i)~~] (ix) spanking, hitting, shaking, or otherwise engaging in aggressive physical
908 contact;

909 [~~(j)~~] (x) denying an essential program service;

910 [~~(k)~~] (xi) depriving the child of a meal, water, rest, or opportunity for toileting;

911 [~~(l)~~] (xii) denying shelter, clothing, or bedding;

- 912 ~~[(m)]~~ (xiii) withholding personal interaction, emotional response, or stimulation;
- 913 ~~[(n)]~~ (xiv) prohibiting the child from entering the residence;
- 914 ~~[(o)]~~ (xv) abuse as defined in Section 80-1-102; and
- 915 ~~[(p)]~~ (xvi) neglect as defined in Section 80-1-102.
- 916 **(b) A properly used emergency safety intervention is not considered a cruel, severe,**
- 917 **unusual, or unnecessary practice.**
- 918 (2) Before a congregate care program may use a restraint~~[-or]~~ , seclusion, or emergency
- 919 safety intervention, the congregate care program shall:
- 920 (a) develop and implement written policies and procedures that:
- 921 (i) describe the circumstances under which a staff member may use a restraint~~[-or]~~ ,
- 922 seclusion, or emergency safety intervention;
- 923 (ii) describe which staff members are authorized to use a restraint~~[-or]~~ , seclusion, or
- 924 emergency safety intervention;
- 925 (iii) describe procedures for monitoring a child that is restrained or in seclusion;
- 926 (iv) describe time limitations on the use of a restraint or seclusion;
- 927 (v) require immediate and continuous review of the decision to use a restraint~~[-or]~~ ,
- 928 seclusion, or emergency safety intervention;
- 929 (vi) require documenting the use of a restraint~~[-or]~~ , seclusion, or emergency safety
- 930 intervention;
- 931 (vii) describe record keeping requirements for records related to the use of a restraint[
- 932 ~~or]~~ , seclusion, or emergency safety intervention;
- 933 (viii) to the extent practicable, require debriefing the following individuals if
- 934 debriefing would not interfere with an ongoing investigation, violate any law or
- 935 regulation, or conflict with a child's treatment plan:
- 936 (A) each witness to the event;
- 937 (B) each staff member involved; and
- 938 (C) the child who was restrained or in seclusion;
- 939 (ix) include a procedure for complying with Subsection (5); and
- 940 (x) provide an administrative review process and required follow up actions after a
- 941 child is restrained or put in seclusion; and
- 942 (b) consult with the office to ensure that the congregate care program's written policies
- 943 and procedures align with applicable law.
- 944 (3) A congregate care program:
- 945 (a) may use a passive physical restraint only if the passive physical restraint is supported

- 946 by a nationally or regionally recognized curriculum focused on non-violent
947 interventions and de-escalation techniques;
- 948 (b) may not use a chemical or mechanical restraint unless the office has authorized the
949 congregate care program to use a chemical or mechanical restraint;
- 950 (c) shall ensure that a staff member that uses a restraint on a child is:
- 951 (i) properly trained to use the restraint; and
952 (ii) familiar with the child and if the child has a treatment plan, the child's treatment
953 plan; and
- 954 (d) shall train each staff member on how to intervene if another staff member fails to
955 follow correct procedures when using a restraint.
- 956 (4) (a) A congregate care program:
- 957 (i) may use seclusion if:
- 958 (A) the purpose for the seclusion is to ensure the immediate safety of the child or
959 others; and
960 (B) no less restrictive intervention is likely to ensure the safety of the child or
961 others; and
- 962 (ii) may not use seclusion:
- 963 (A) for coercion, retaliation, or humiliation; or
964 (B) due to inadequate staffing or for the staff's convenience.
- 965 (b) While a child is in seclusion, a staff member who is familiar to the child shall
966 actively supervise the child for the duration of the seclusion.
- 967 (5) Subject to the office's review and approval, a congregate care program shall develop:
- 968 (a) suicide prevention policies and procedures that describe:
- 969 (i) how the congregate care program will respond in the event a child exhibits
970 self-injurious, self-harm, or suicidal behavior;
- 971 (ii) warning signs of suicide;
- 972 (iii) emergency protocol and contacts;
- 973 (iv) training requirements for staff, including suicide prevention training;
- 974 (v) procedures for implementing additional supervision precautions and for removing
975 any additional supervision precautions;
- 976 (vi) suicide risk assessment procedures;
- 977 (vii) documentation requirements for a child's suicide ideation and self-harm;
- 978 (viii) special observation precautions for a child exhibiting warning signs of suicide;
- 979 (ix) communication procedures to ensure all staff are aware of a child who exhibits

- 980 warning signs of suicide;
- 981 (x) a process for tracking suicide behavioral patterns; and
- 982 (xi) a post-intervention plan with identified resources; and
- 983 (b) based on state law and industry best practices, policies and procedures for managing
- 984 a child's behavior during the child's participation in the congregate care program.
- 985 (6) (a) A congregate care program:
- 986 (i) subject to Subsection (6)(b), shall facilitate weekly confidential voice-to-voice
- 987 communication between a child and the child's parents, guardian, foster parents,
- 988 and siblings, as applicable;
- 989 (ii) shall ensure that the communication described in Subsection (6)(a)(i) complies
- 990 with the child's treatment plan, if any; and
- 991 (iii) may not use family contact as an incentive for proper behavior or withhold
- 992 family contact as a punishment.
- 993 (b) For the communication described in Subsection (6)(a)(i), a congregate care program
- 994 may not:
- 995 (i) deny the communication unless state law or a court order prohibits the
- 996 communication; or
- 997 (ii) modify the frequency or form of the communication unless:
- 998 (A) the office approves the modification; or
- 999 (B) state law or a court order prohibits the frequency or the form of the
- 1000 communication.

1001 Section 6. Section **26B-2-222** is amended to read:

1002 **26B-2-222 . Licensing of a new nursing care facility -- Approval for a licensed**

1003 **bed in an existing nursing care facility -- Fine for excess Medicare**

1004 **inpatient revenue.**

- 1005 (1) Notwithstanding Section 26B-2-201, as used in this section:
- 1006 (a) "Medicaid" means the Medicaid program, as that term is defined in Section
- 1007 26B-3-101.
- 1008 (b) "Medicaid certification" means the same as that term is defined in Section 26B-3-301.
- 1009 (c) "Nursing care facility" and "small health care facility":
- 1010 (i) mean the following facilities licensed by the department under this part:
- 1011 (A) a skilled nursing facility;
- 1012 (B) an intermediate care facility; or
- 1013 (C) a small health care facility with four to 16 beds functioning as a skilled

- 1014 nursing facility; and
- 1015 (ii) do not mean:
- 1016 (A) an intermediate care facility for the intellectually disabled;
- 1017 (B) a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2)
- 1018 (1998);
- 1019 (C) a small health care facility that is hospital based; or
- 1020 (D) a small health care facility other than a skilled nursing care facility with no
- 1021 more than 16 beds.
- 1022 (d) "Rural county" means the same as that term is defined in Section 26B-3-301.
- 1023 (2) Except as provided in Subsection (6) and Section 26B-2-227, a new nursing care facility
- 1024 shall be approved for a health facility license only if:
- 1025 (a) under the provisions of Section 26B-3-311 the facility's nursing care facility program
- 1026 has received Medicaid certification or will receive Medicaid certification for each
- 1027 bed in the facility;
- 1028 (b) the facility's nursing care facility program has received or will receive approval for
- 1029 Medicaid certification under Subsection 26B-3-311(5), if the facility is located in a
- 1030 rural county; or
- 1031 (c) (i) the applicant submits to the department the information described in
- 1032 Subsection (3); and
- 1033 (ii) based on that information, and in accordance with Subsection (4), the department
- 1034 determines that approval of the license best meets the needs of the current and
- 1035 future patients of nursing care facilities within the area impacted by the new
- 1036 facility.
- 1037 (3) A new nursing care facility seeking licensure under Subsection (2) shall submit to the
- 1038 department the following information:
- 1039 (a) proof of the following as reasonable evidence that bed capacity provided by nursing
- 1040 care facilities within the county or group of counties that would be impacted by the
- 1041 facility is insufficient:
- 1042 (i) nursing care facility occupancy within the county or group of counties:
- 1043 (A) has been at least 75% during each of the past two years for all existing
- 1044 facilities combined; and
- 1045 (B) is projected to be at least 75% for all nursing care facilities combined that
- 1046 have been approved for licensure but are not yet operational;
- 1047 (ii) there is no other nursing care facility within a 35-mile radius of the new nursing

- 1048 care facility seeking licensure under Subsection (2); and
- 1049 (b) a feasibility study that:
- 1050 (i) shows the facility's annual Medicare inpatient revenue, including Medicare
- 1051 Advantage revenue, will not exceed 49% of the facility's annual total revenue
- 1052 during each of the first three years of operation;
- 1053 (ii) shows the facility will be financially viable if the annual occupancy rate is at least
- 1054 88%;
- 1055 (iii) shows the facility will be able to achieve financial viability;
- 1056 (iv) shows the facility will not:
- 1057 (A) have an adverse impact on existing or proposed nursing care facilities within
- 1058 the county or group of counties that would be impacted by the facility; or
- 1059 (B) be within a three-mile radius of an existing nursing care facility or a new
- 1060 nursing care facility that has been approved for licensure but is not yet
- 1061 operational;
- 1062 (v) is based on reasonable and verifiable demographic and economic assumptions;
- 1063 (vi) is based on data consistent with department or other publicly available data; and
- 1064 (vii) is based on existing sources of revenue.
- 1065 (4) When determining under Subsection (2)(c) whether approval of a license for a new
- 1066 nursing care facility best meets the needs of the current and future patients of nursing
- 1067 care facilities within the area impacted by the new facility, the department shall consider:
- 1068 (a) whether the county or group of counties that would be impacted by the facility is
- 1069 underserved by specialized or unique services that would be provided by the facility;
- 1070 and
- 1071 (b) how additional bed capacity should be added to the long-term care delivery system to
- 1072 best meet the needs of current and future nursing care facility patients within the
- 1073 impacted area.
- 1074 (5) The department may approve the addition of a licensed bed in an existing nursing care
- 1075 facility only if:
- 1076 (a) each time the facility seeks approval for the addition of a licensed bed, the facility
- 1077 satisfies each requirement for licensure of a new nursing care facility in Subsections
- 1078 (2)(c), (3), and (4); or
- 1079 (b) the bed has been approved for Medicaid certification under Section 26B-3-311 or
- 1080 26B-3-313.
- 1081 (6) Subsection (2) does not apply to a nursing care facility that:

- 1082 (a) has, by the effective date of this act, submitted to the department schematic
1083 drawings, and paid applicable fees, for a particular site or a site within a three-mile
1084 radius of that site;
- 1085 (b) before July 1, 2016:
- 1086 (i) filed an application with the department for licensure under this section and paid
1087 all related fees due to the department; and
- 1088 (ii) submitted to the department architectural plans and specifications, as defined by
1089 the department by administrative rule, for the facility;
- 1090 (c) applies for a license within three years of closing for renovation;
- 1091 (d) replaces a nursing care facility that:
- 1092 (i) closed within the past three years; or
- 1093 (ii) is located within five miles of the facility;
- 1094 (e) is undergoing a change of ownership, even if a government entity designates the
1095 facility as a new nursing care facility; or
- 1096 (f) is a state-owned veterans home, regardless of who operates the home.
- 1097 (7) (a) For each year the annual Medicare inpatient revenue, including Medicare
1098 Advantage revenue, of a nursing care facility approved for a health facility license
1099 under Subsection (2)(c) exceeds 49% of the facility's total revenue for the year, the
1100 facility shall be subject to a fine of \$50,000, payable to the department.
- 1101 (b) A nursing care facility approved for a health facility license under Subsection (2)(c)
1102 shall submit to the department the information necessary for the department to
1103 annually determine whether the facility is subject to the fine in Subsection (7)(a).
- 1104 (c) The department:
- 1105 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
1106 Rulemaking Act, specifying the information a nursing care facility shall submit to
1107 the department under Subsection (7)(b);
- 1108 (ii) shall annually determine whether a facility is subject to the fine in Subsection
1109 (7)(a);
- 1110 (iii) may take one or more of the actions in Section 26B-2-202 or [~~26B-2-208~~]
1111 26B-2-703 against a facility for nonpayment of a fine due under Subsection (7)(a);
1112 and
- 1113 (iv) shall deposit fines paid to the department under Subsection (7)(a) into the
1114 Nursing Care Facilities Provider Assessment Fund, created in Section 26B-3-405.
- 1115 Section 7. Section ~~26B-2-701~~ is enacted to read:

1116

Part 7. Penalties and Investigations

1117

26B-2-701 . Definitions.

1118

As used in this part:

1119

(1) "Certificate" means a residential child care certificate issued by the office.

1120

(2) "Certification" means an approval to operate in compliance with local or federal

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requirements or regulations, completed by the office or on behalf of the office for a local

1122

or federal agency.

1123

(3) "Client" means an individual, resident, or patient who receives services from a provider.

1124

(4) "Program or facility" means the settings, activities, services, procedures, and premises

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used by a provider to provide services regulated by the department.

1126

(5) "Provider" means a license holder, certificate holder, or legally responsible person that

1127

provides services regulated by the department.

1128

Section 8. Section **26B-2-702** is enacted to read:

1129

26B-2-702 . Licensure.

1130

(1) A person that operates a program or facility that requires a license, certificate, or

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certification under this chapter is subject to this part regardless of whether the person

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holds a license, certificate, or certification.

1133

(2) A person may not offer a service, operate or provide services, or engage in any activity

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regulated by this chapter without holding a license, certificate, or certification issued or

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approved under this chapter.

1136

(3) A person who holds a license, certificate, or certification under this chapter may only

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provide services to the extent allowed by the license, certificate, or certification.

1138

(4) A person may not advertise or represent that the person holds a license, certificate, or

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certification required by this chapter unless the person holds that license, certificate, or

1140

certification.

1141

(5) A person who violates this section is subject to Section 26B-1-224.

1142

Section 9. Section **26B-2-703** is enacted to read:

1143

26B-2-703 . Sanctions -- Penalties and adjudicative procedure -- Rulemaking.

1144

(1) If the department has reason to believe that a provider has failed to comply with this

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chapter or rules made pursuant to this chapter, the department may serve a notice of

1146

agency action to commence an adjudicative proceeding in accordance with Title 63G,

1147

Chapter 4, Administrative Procedures Act.

1148

(2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the

- 1149 department may deny, place conditions on, suspend, or revoke a license, certificate, or
1150 certification, and invoke penalties, including restricting or prohibiting new admissions to
1151 a program or facility, if the department finds that there has been:
- 1152 (a) a failure to comply with:
- 1153 (i) rules established under this chapter; or
1154 (ii) any lawful order of the department or a local health department, or applicable
1155 rule, statute, regulation, or requirement;
- 1156 (b) aiding, abetting, or permitting the commission of any illegal act;
1157 (c) conduct adverse to the standards required to provide services and promote public
1158 trust, including aiding, abetting, or permitting the commission of abuse, neglect,
1159 exploitation, harm, mistreatment, or fraud; or
- 1160 (d) a failure to provide applicable health and safety services for clients.
- 1161 (3) (a) The department may act on an emergency basis if the department determines
1162 immediate action is necessary to protect a client.
- 1163 (b) Immediate action taken under Subsection (3)(a) may include restricting new
1164 admissions to a program or facility, or increased monitoring of the operations of a
1165 program or facility.
- 1166 (4) The department may impose civil monetary penalties against any person, in a sum not to
1167 exceed \$10,000 per violation, in:
- 1168 (a) an administrative action in accordance with Title 63G, Chapter 4, Administrative
1169 Procedures Act;
- 1170 (b) a similar administrative proceeding adopted by a county or local government; or
1171 (c) a judicial civil proceeding.
- 1172 (5) Assessment of a civil penalty or administrative penalty does not preclude the
1173 department or a local health department from:
- 1174 (a) seeking criminal penalties;
1175 (b) denying, revoking, imposing conditions on, or refusing to renew a license,
1176 certificate, or certification; or
1177 (c) seeking injunctive or equitable remedies.
- 1178 (6) If the department revokes a license, certificate, or certification, the office may not grant
1179 a new license, certificate, or certification unless:
- 1180 (a) at least five years have passed since the day on which the provider was served with
1181 final notice that the provider's license, certificate, or certification was revoked; and
1182 (b) the office determines that the interests of the public will not be jeopardized by

- 1183 granting the provider a new license, certificate, or certification.
- 1184 (7) If the department does not renew a license, certificate, or certification because of
1185 noncompliance with the provisions of this part or rules adopted under this part, the
1186 department may not issue a new license, certificate, or certification unless:
- 1187 (a) at least one year has passed since the day on which the renewal was denied;
1188 (b) the provider complies with all renewal requirements; and
1189 (c) the office determines that the interests of the public will not be jeopardized by
1190 issuing a new license, certificate, or certification.
- 1191 (8) The office may suspend a license, certificate, or certification for up to three years.
- 1192 (9) When a license, certificate, or certification has been suspended, the office may restore,
1193 or restore subject to conditions, the suspended license, certificate, or certification upon a
1194 determination that the:
- 1195 (a) conditions upon which the suspension were based have been completely or partially
1196 corrected; and
1197 (b) interests of the public will not be jeopardized by restoration of the license, certificate,
1198 or certification.
- 1199 (10) If a provider fails to comply with the provisions of this chapter, the department may
1200 impose a penalty on the provider that is less than or equal to the cost incurred by the
1201 department, which may include:
- 1202 (a) the cost to continue providing services, including ensuring client safety and
1203 relocating clients through the transition or closure of a program or facility;
1204 (b) the cost to place an administrator or department representative as a monitor in a
1205 program or facility; or
1206 (c) the cost to assess to the provider those costs incurred by the department.
- 1207 (11) If a congregate care program or facility knowingly fails to comply with the provisions
1208 of Section 26B-2-124, the office may impose a penalty on the congregate care program
1209 or facility that is less than or equal to the cost of care incurred by the state for a
1210 private-placement child described in Subsection 26B-2-124(3).
- 1211 (12) If the department finds that an abortion has been performed in violation of Section
1212 76-7-314 or 76-7a-201, the department shall deny or revoke the license.
- 1213 (13) A provider, program or facility, or person may commence adjudicative proceedings in
1214 accordance with Title 63G, Chapter 4, Administrative Procedures Act, regarding all
1215 agency actions that determine the legal rights, duties, privileges, immunities, or other
1216 legal interests of the provider, program or facility, or persons associated with the

1217 provider, including all office actions to grant, deny, place conditions on, revoke,
 1218 suspend, withdraw, or amend an authority, right, license, certificate, or certification
 1219 under this part.

1220 (14) Subject to the requirements of federal and state law, the office shall make rules in
 1221 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish
 1222 sanctions, penalties, and adjudicative proceedings as described in this chapter.

1223 Section 10. Section **26B-2-704**, which is renumbered from Section 26B-2-209 is renumbered
 1224 and amended to read:

1225 **[26B-2-209] 26B-2-704. . Failure to follow certain health care claims practices -- Penalties.**

1226 (1) The department may assess a fine of up to \$500 per violation against a health care
 1227 facility that violates Section 31A-26-313.

1228 (2) The department shall waive the fine described in Subsection (1) if:

1229 (a) the health care facility demonstrates to the department that the health care facility
 1230 mitigated and reversed any damage to the insured caused by the health care facility or
 1231 third party's violation; or

1232 (b) the insured does not pay the full amount due on the bill that is the subject of the
 1233 violation, including any interest, fees, costs, and expenses, within 120 days after the
 1234 day on which the health care facility or third party makes a report to a credit bureau
 1235 or takes an action in violation of Section 31A-26-313.

1236 Section 11. Section **26B-2-705**, which is renumbered from Section 26B-2-214 is renumbered
 1237 and amended to read:

1238 **[26B-2-214] 26B-2-705. . Immediate access restriction.**

1239 (1) If, in any program or facility requiring a license, certificate, or certification under this
 1240 part, the department finds a condition[in any licensed health care facility] that is a clear
 1241 hazard to the public health or safety, the department may immediately order that [facility
 1242 closed] the facility restrict access and may prevent the entrance of any [resident or patient]
 1243 client onto the premises of that facility until the condition is eliminated.

1244 (2) Parties aggrieved by the actions of the department under this section may obtain an
 1245 adjudicative proceeding and judicial review.

1246 Section 12. Section **26B-2-706**, which is renumbered from Section 26B-2-114 is renumbered
 1247 and amended to read:

1248 **[26B-2-114] 26B-2-706. . Action by department for injunction.**

1249 [In addition to, and notwithstanding,] Notwithstanding the existence of any other
 1250 remedy[provided by law] , the department may, in [a] the manner provided by law and

1251 upon the advice of the attorney general, who shall represent the department in the
 1252 proceedings, maintain an action in the name of the state for injunction or other process
 1253 against any person or governmental unit to restrain or prevent the establishment, conduct,
 1254 management, or operation of a[~~human services~~] program or facility in violation of
 1255 this [~~part~~] chapter or rules established under this [~~part~~] chapter.

1256 Section 13. Section **26B-2-707**, which is renumbered from Section 26B-2-113 is renumbered
 1257 and amended to read:

1258 **[26B-2-113]26B-2-707. . Operating a program or facility in violation of this chapter --**
 1259 **Criminal penalties.**

1260 (1) (a) [A] In addition to the penalties in Section 26B-1-224, any person who owns,
 1261 establishes, conducts, maintains, manages, or operates a[~~human services~~] program or
 1262 facility in violation of this [~~part~~] chapter is guilty of a class A misdemeanor[~~if the~~
 1263 violation endangers or harms the health, welfare, or safety of persons participating in
 1264 that program].

1265 (b) Conviction in a criminal proceeding does not preclude the office from:

1266 (i) assessing a civil penalty or an administrative penalty;

1267 (ii) denying, placing conditions on, suspending, or revoking a license, certificate, or
 1268 certification; or

1269 (iii) seeking injunctive or equitable relief.

1270 [~~(2) Any person that violates a provision of this part, lawful orders of the office, or rules~~
 1271 ~~adopted under this part may be assessed a penalty not to exceed the sum of \$10,000 per~~
 1272 ~~violation, in:]~~

1273 [~~(a) a judicial civil proceeding; or]~~

1274 [~~(b) an administrative action in accordance with Title 63G, Chapter 4, Administrative~~
 1275 ~~Procedures Act.]~~

1276 [(~~3~~)] (2) Assessment of a judicial penalty or an administrative penalty does not preclude the
 1277 office from:

1278 (a) seeking criminal penalties;

1279 (b) denying, placing conditions on, suspending, or revoking a license, certificate, or
 1280 certification; or

1281 (c) seeking injunctive or equitable relief.

1282 [(~~4~~)] ~~The office may assess the human services program the cost incurred by the office in~~
 1283 ~~placing a monitor.]~~

1284 [(~~5~~)] (3) Notwithstanding Subsection (1)(a) and subject to [~~Subsections~~] Subsection (1)(b)[

- 1285 ~~and (2)]~~, an individual is guilty of a class A misdemeanor if the individual knowingly
1286 and willfully offers, pays, promises to pay, solicits, or receives any remuneration,
1287 including any commission, bonus, kickback, bribe, or rebate, directly or indirectly,
1288 overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return
1289 for:
- 1290 (a) referring an individual to a person for the furnishing or arranging for the furnishing
1291 of any item or service for the treatment of a substance use disorder;
 - 1292 (b) receiving a referred individual for the furnishing or arranging for the furnishing of
1293 any item or service for the treatment of a substance use disorder; or
 - 1294 (c) referring a clinical sample to a person, including a laboratory, for testing that is used
1295 toward the furnishing of any item or service for the treatment of a substance use
1296 disorder.
- 1297 ~~[(6)] (4)~~ Subsection ~~[(5)] (3)~~ does not prohibit:
- 1298 (a) any discount, payment, waiver of payment, or payment practice not prohibited by 42
1299 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);
 - 1300 (b) patient referrals within a practice group;
 - 1301 (c) payments by a health insurer who reimburses, provides, offers to provide, or
1302 administers health, mental health, or substance use disorder goods or services under a
1303 health benefit plan;
 - 1304 (d) payments to or by a health care provider, practice group, or substance use disorder
1305 treatment program that has contracted with a local mental health authority, a local
1306 substance abuse authority, a health insurer, a health care purchasing group, or the
1307 Medicare or Medicaid program to provide health, mental health, or substance use
1308 disorder services;
 - 1309 (e) payments by a health care provider, practice group, or substance use disorder
1310 treatment program to a health, mental health, or substance use disorder information
1311 service that provides information upon request and without charge to consumers
1312 about providers of health care goods or services to enable consumers to select
1313 appropriate providers or facilities, if the information service:
 - 1314 (i) does not attempt, through standard questions for solicitation of consumer criteria
1315 or through any other means, to steer or lead a consumer to select or consider
1316 selection of a particular health care provider, practice group, or substance use
1317 disorder treatment program;
 - 1318 (ii) does not provide or represent that the information service provides diagnostic or

- 1319 counseling services or assessments of illness or injury and does not make any
 1320 promises of cure or guarantees of treatment; and
- 1321 (iii) charges and collects fees from a health care provider, practice group, or
 1322 substance use disorder treatment program participating in information services
 1323 that:
- 1324 (A) are set in advance;
- 1325 (B) are consistent with the fair market value for those information services; and
- 1326 (C) are not based on the potential value of the goods or services that a health care
 1327 provider, practice group, or substance use disorder treatment program may
 1328 provide to a patient; or
- 1329 (f) payments by a laboratory to a person that:
- 1330 (i) does not have a financial interest in or with a facility or person who refers a
 1331 clinical sample to the laboratory;
- 1332 (ii) is not related to an owner of a facility or a person who refers a clinical sample to
 1333 the laboratory;
- 1334 (iii) is not related to and does not have a financial relationship with a health care
 1335 provider who orders the laboratory to conduct a test that is used toward the
 1336 furnishing of an item or service for the treatment of a substance use disorder;
- 1337 (iv) identifies, in advance of providing marketing or sales services, the types of
 1338 clinical samples that each laboratory will receive, if the person provides marketing
 1339 or sales services to more than one laboratory;
- 1340 (v) the person does not identify as or hold itself out to be a laboratory or part of a
 1341 network with an insurance payor, if the person provides marketing or sales
 1342 services under a contract with a laboratory, as described in Subsection [
 1343 ~~(6)(f)(vii)(B)~~] (4)(f)(vii)(B);
- 1344 (vi) the person identifies itself in all marketing materials as a salesperson for a
 1345 licensed laboratory and identifies each laboratory that the person represents, if the
 1346 person provides marketing or sales services under a contract with a laboratory, as
 1347 described in Subsection [~~(6)(f)(vii)(B)~~] (4)(f)(vii)(B); and
- 1348 (vii) (A) is a sales person employed by the laboratory to market or sell the
 1349 laboratory's services to a person who provides substance use disorder
 1350 treatment; or
- 1351 (B) is a person under contract with the laboratory to market or sell the laboratory's
 1352 services to a person who provides substance use disorder treatment, if the total

1353 compensation paid by the laboratory does not exceed the total compensation
 1354 that the laboratory pays to employees of the laboratory for similar marketing or
 1355 sales services.

1356 ~~[(7)]~~ (5) (a) A person may not knowingly or willfully, in exchange for referring an
 1357 individual to a youth transportation company:

1358 (i) offer, pay, promise to pay, solicit, or receive any remuneration directly or
 1359 indirectly, overtly or covertly, in cash or in kind, including:

1360 (A) a commission;

1361 (B) a bonus;

1362 (C) a kickback;

1363 (D) a bribe; or

1364 (E) a rebate; or

1365 (ii) engage in any split-fee arrangement.

1366 (b) A person who violates Subsection ~~[(7)(a)]~~ (5)(a) is guilty of a class A misdemeanor
 1367 and shall be assessed a penalty in accordance with ~~[Subsection (2)]~~ this part.

1368 Section 14. Section **26B-2-708**, which is renumbered from Section 26B-2-133 is renumbered
 1369 and amended to read:

1370 ~~[26B-2-133]~~ **26B-2-708. . Injunctive relief and civil penalty for unlawful child placing --**
 1371 **Enforcement by county attorney or attorney general.**

1372 (1) The office or another interested person may commence an action in court to enjoin any
 1373 person~~[-, agency, firm, corporation, or association]~~ from violating Section 26B-2-127.

1374 (2) The office shall:

1375 (a) solicit information from the public relating to violations of Section 26B-2-127; and

1376 (b) upon identifying a violation of Section 26B-2-127:

1377 (i) send a written notice to the person who violated Section 26B-2-127 that describes
 1378 the alleged violation; and

1379 (ii) notify the following persons of the alleged violation:

1380 (A) the local county attorney; and

1381 (B) the Division of Professional Licensing.

1382 (3) (a) A county attorney or the attorney general shall institute legal action as necessary
 1383 to enforce the provisions of Section 26B-2-127 after being informed of an alleged
 1384 violation.

1385 (b) If a county attorney does not take action within 30 days after the day on which the
 1386 county attorney is informed of an alleged violation of Section 26B-2-127, the

- 1387 attorney general may be requested to take action, and shall then institute legal
 1388 proceedings in place of the county attorney.
- 1389 (4) (a) In addition to the remedies provided in Subsections (1) and (3), any person[;
 1390 agency, firm, corporation, or association] found to be in violation of Section
 1391 26B-2-127 shall forfeit all proceeds identified as resulting from the transaction, and
 1392 may also be assessed a civil penalty of not more than \$10,000 for each violation.
- 1393 (b) Each act in violation of Section 26B-2-127, including each placement or attempted
 1394 placement of a child, is a separate violation.
- 1395 (5) (a) The amount recovered as a penalty under Subsection (4) shall be placed in the
 1396 General Fund of the prosecuting county, or in the state General Fund if the attorney
 1397 general prosecutes.
- 1398 (b) If two or more governmental entities are involved in the prosecution, the court shall
 1399 apportion the penalty among the entities, according to the entities' involvement.
- 1400 (6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a
 1401 lien when recorded in the judgment docket, and has the same effect and is subject to the
 1402 same rules as a judgment for money in a civil action.

1403 Section 15. Section **26B-2-709**, which is renumbered from Section 26B-2-408 is renumbered
 1404 and amended to read:

1405 **[26B-2-408] 26B-2-709. . Complaint investigations -- Records.**

- 1406 (1) As used in this section:
- 1407 (a) "Anonymous complainant" means a complainant for whom the department does not
 1408 have the minimum personal identifying information necessary, including the
 1409 complainant's full name, to attempt to communicate with the complainant after a
 1410 complaint has been made.
- 1411 (b) "Child care program" means the same as that term is defined in Section 26B-2-401.
- 1412 ~~(b)~~ (c) "Confidential complainant" means a complainant for whom the department has
 1413 the minimum personal identifying information necessary, including the complainant's
 1414 full name, to attempt to communicate with the complainant after a complaint has
 1415 been made, but who elects under Subsection (3)(c) not to be identified to the subject
 1416 of the complaint.
- 1417 (d) "Exempt provider" means the same as that term is defined in Section 26B-2-401.
- 1418 ~~(e)~~ (e) "Subject of the complaint" means the ~~[licensee or certificate holder]~~ provider
 1419 about whom the complainant is informing the department.
- 1420 (2) The department may conduct investigations necessary to enforce the provisions of this [

1421 ~~part~~] chapter.

1422 (3) (a) If the department receives a complaint about a ~~child-care~~ program or facility or
1423 an exempt provider, the department shall:

1424 (i) solicit information from the complainant to determine whether the complaint
1425 suggests actions or conditions that could pose a serious risk to the safety or
1426 well-being of a ~~qualifying child~~ client;

1427 (ii) as necessary:

1428 (A) encourage the complainant to disclose the minimum personal identifying
1429 information necessary, including the complainant's full name, for the
1430 department to attempt to subsequently communicate with the complainant;

1431 (B) if the complaint is against a child care program or an exempt provider, inform
1432 the complainant that the department may not investigate an anonymous
1433 complaint;

1434 (C) if the complaint is not against a child care program or an exempt provider,
1435 inform the complainant that the department may not use information provided
1436 by the complainant to substantiate an alleged violation of state law or
1437 department rule unless the department independently corroborates the
1438 information;

1439 ~~[(C)]~~ (D) inform the complainant that the identity of a confidential complainant
1440 may be withheld from the subject of a complaint only as provided in
1441 Subsection ~~[(3)(e)(ii)]~~ (3)(c)(iii); and

1442 ~~[(D)]~~ (E) inform the complainant that the department may be limited in its use of
1443 information provided by a confidential complainant, as provided in Subsection [
1444 ~~(3)(e)(ii)(B)]~~ (3)(c)(iii)(B); and

1445 (iii) inform the complainant that a person is guilty of a class B misdemeanor under
1446 Section 76-8-506 if the person gives false information to the department with the
1447 purpose of inducing a change in that person's or another person's ~~licensing or~~
1448 certification license, certificate, or certification status.

1449 (b) If the complainant elects to be an anonymous complainant, or if the complaint
1450 concerns events ~~which~~ that occurred more than six ~~weeks~~ months before the
1451 complainant contacted the department, the department:

1452 (i) shall refer the information in the complaint to the Division of Child and Family
1453 Services within the department, law enforcement, or any other appropriate agency,
1454 if the complaint suggests actions or conditions which could pose a serious risk to

- 1455 the safety or well-being of a ~~[child]~~ client;
- 1456 (ii) may not investigate or substantiate the complaint if the complaint is against a
 1457 child care program or an exempt provider; and
- 1458 (iii) may, during a regularly scheduled annual survey, inform the~~[-exempt]~~ provider~~[-~~
 1459 ~~licensee, or certificate holder]~~ that is the subject of the complaint of allegations or
 1460 concerns raised by~~[: (A)]~~ the anonymous complainant~~[-or]~~ .
 1461 ~~[(B) the complainant who reported events more than six weeks after the events~~
 1462 ~~occurred.]~~
- 1463 (c) (i) If the complainant elects to be a confidential complainant, the department shall
 1464 determine whether the complainant wishes to remain confidential:
 1465 (A) only until the investigation of the complaint has been completed; or
 1466 (B) indefinitely.
- 1467 (ii) ~~[(A)]~~ If the complainant elects to remain confidential only until the
 1468 investigation of the complaint has been completed, the department shall
 1469 disclose the name of the complainant to the subject of the complaint at the
 1470 completion of the investigation, but no sooner.
- 1471 ~~[(B)]~~ (iii) If the complainant elects to remain confidential indefinitely, the department:
 1472 ~~[(H)]~~ (A) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name
 1473 of the complainant, including to the subject of the complaint; and
 1474 ~~[(H)]~~ (B) may not use information provided by the complainant to substantiate an
 1475 alleged violation of state law or department rule unless the department
 1476 independently corroborates the information.
- 1477 (4) (a) Prior to conducting an investigation of a~~[-child-care]~~ program or facility or an
 1478 exempt provider in response to a complaint, a department investigator shall review
 1479 the complaint with the investigator's supervisor.
- 1480 (b) The investigator may proceed with the investigation only if:
 1481 (i) the supervisor determines the complaint is credible;
 1482 (ii) the complaint is not from an anonymous complainant and against a child care
 1483 program or an exempt provider; and
 1484 (iii) prior to the investigation, the investigator informs the subject of the complaint of:
 1485 (A) except as provided in Subsection (3)(c), the name of the complainant; and
 1486 (B) except as provided in Subsection (4)(c), the substance of the complaint.
- 1487 (c) An investigator is not required to inform the subject of a complaint of the substance
 1488 of the complaint prior to an investigation if doing so would jeopardize the

1489 investigation. However, the investigator shall inform the subject of the complaint of
 1490 the substance of the complaint as soon as doing so will no longer jeopardize the
 1491 investigation.

1492 (5) If the department is unable to substantiate a complaint, any record related to the
 1493 complaint or the investigation of the complaint:

1494 (a) shall be classified under Title 63G, Chapter 2, Government Records Access and
 1495 Management Act, as:

1496 (i) a private or controlled record if appropriate under Section 63G-2-302 or
 1497 63G-2-304; or

1498 (ii) a protected record under Section 63G-2-305; and

1499 (b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an
 1500 individual [~~child care program, exempt provider, licensee, certificate holder,~~
 1501 ~~provider, exempt provider,~~ or complainant.

1502 (6) Any record of the department related to a complaint[~~by an anonymous complainant~~] is
 1503 a protected record under Title 63G, Chapter 2, Government Records Access and
 1504 Management Act, and, notwithstanding Subsection 63G-2-201(5)(b), may not be
 1505 disclosed in a manner that identifies an individual[~~child care~~] program or facility,
 1506 exempt provider, [~~licensee, certificate holder~~] provider, or complainant.

1507 Section 16. Section **26B-4-502** is amended to read:

1508 **26B-4-502 . Emergency contraception services for a victim of sexual assault.**

1509 (1) Except as provided in Subsection (2), a designated facility shall provide the following
 1510 services to a victim of sexual assault:

1511 (a) provide the victim with written and oral medical information regarding emergency
 1512 contraception that is unbiased, accurate, and generally accepted by the medical
 1513 community as being scientifically valid;

1514 (b) orally inform the victim of sexual assault that the victim may obtain emergency
 1515 contraception at the designated facility;

1516 (c) offer a complete regimen of emergency contraception to a victim of sexual assault;

1517 (d) provide, at the designated facility, emergency contraception to the victim of sexual
 1518 assault upon her request;

1519 (e) maintain a protocol, prepared by a physician, for the administration of emergency
 1520 contraception at the designated facility to a victim of sexual assault; and

1521 (f) develop and implement a written policy to ensure that a person is present at the
 1522 designated facility, or on-call, who:

- 1523 (i) has authority to dispense or prescribe emergency contraception, independently, or
1524 under the protocol described in Subsection (1)(e), to a victim of sexual assault; and
1525 (ii) is trained to comply with the requirements of this section.
- 1526 (2) A freestanding urgent care center is exempt from the requirements of Subsection (1) if:
1527 (a) there is a general acute hospital or a critical access hospital within 30 miles of the
1528 freestanding urgent care center; and
1529 (b) an employee of the freestanding urgent care center provides the victim with:
1530 (i) written and oral medical information regarding emergency contraception that is
1531 unbiased, accurate, and generally accepted by the medical community as being
1532 scientifically valid; and
1533 (ii) the name and address of the general acute hospital or critical access hospital
1534 described in Subsection (2)(a).
- 1535 (3) A practitioner shall comply with Subsection (4) with regard to a person who is a victim
1536 of sexual assault, if the person presents to receive medical care, or receives medical care,
1537 from the practitioner at a location that is not a designated facility.
- 1538 (4) A practitioner described in Subsection (3) shall:
1539 (a) provide the victim with written and oral medical information regarding emergency
1540 contraception that is unbiased, accurate, and generally accepted by the medical
1541 community as being scientifically valid; and
1542 (b) (i) (A) orally inform the victim of sexual assault that the victim may obtain
1543 emergency contraception at the facility where the practitioner is located; and
1544 (B) provide emergency contraception to the victim of sexual assault, if she
1545 requests emergency contraception; or
1546 (ii) inform the victim of sexual assault of the nearest location where she may obtain
1547 emergency contraception.
- 1548 (5) (a) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
1549 Administrative Rulemaking Act, to enforce the provisions of this section.
1550 (b) The department shall, in an expeditious manner, investigate any complaint received
1551 by the department regarding the failure of a health care facility to comply with a
1552 requirement of this section.
1553 (c) If the department finds a violation of this section or any rules adopted under this
1554 section, the department may take one or more of the actions described in Section [
1555 ~~26B-2-208~~] 26B-2-703.
1556 Section 17. Section **63G-2-305** is amended to read:

1557 **63G-2-305 . Protected records.**

1558 The following records are protected if properly classified by a governmental entity:

- 1559 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
1560 provided the governmental entity with the information specified in Section 63G-2-309;
- 1561 (2) commercial information or nonindividual financial information obtained from a person
1562 if:
- 1563 (a) disclosure of the information could reasonably be expected to result in unfair
1564 competitive injury to the person submitting the information or would impair the
1565 ability of the governmental entity to obtain necessary information in the future;
- 1566 (b) the person submitting the information has a greater interest in prohibiting access than
1567 the public in obtaining access; and
- 1568 (c) the person submitting the information has provided the governmental entity with the
1569 information specified in Section 63G-2-309;
- 1570 (3) commercial or financial information acquired or prepared by a governmental entity to
1571 the extent that disclosure would lead to financial speculations in currencies, securities, or
1572 commodities that will interfere with a planned transaction by the governmental entity or
1573 cause substantial financial injury to the governmental entity or state economy;
- 1574 (4) records, the disclosure of which could cause commercial injury to, or confer a
1575 competitive advantage upon a potential or actual competitor of, a commercial project
1576 entity as defined in Subsection 11-13-103(4);
- 1577 (5) test questions and answers to be used in future license, certification, registration,
1578 employment, or academic examinations;
- 1579 (6) records, the disclosure of which would impair governmental procurement proceedings
1580 or give an unfair advantage to any person proposing to enter into a contract or agreement
1581 with a governmental entity, except, subject to Subsections (1) and (2), that this
1582 Subsection (6) does not restrict the right of a person to have access to, after the contract
1583 or grant has been awarded and signed by all parties:
- 1584 (a) a bid, proposal, application, or other information submitted to or by a governmental
1585 entity in response to:
- 1586 (i) an invitation for bids;
- 1587 (ii) a request for proposals;
- 1588 (iii) a request for quotes;
- 1589 (iv) a grant; or
- 1590 (v) other similar document; or

- 1591 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- 1592 (7) information submitted to or by a governmental entity in response to a request for
1593 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not
1594 restrict the right of a person to have access to the information, after:
- 1595 (a) a contract directly relating to the subject of the request for information has been
1596 awarded and signed by all parties; or
- 1597 (b) (i) a final determination is made not to enter into a contract that relates to the
1598 subject of the request for information; and
- 1599 (ii) at least two years have passed after the day on which the request for information
1600 is issued;
- 1601 (8) records that would identify real property or the appraisal or estimated value of real or
1602 personal property, including intellectual property, under consideration for public
1603 acquisition before any rights to the property are acquired unless:
- 1604 (a) public interest in obtaining access to the information is greater than or equal to the
1605 governmental entity's need to acquire the property on the best terms possible;
- 1606 (b) the information has already been disclosed to persons not employed by or under a
1607 duty of confidentiality to the entity;
- 1608 (c) in the case of records that would identify property, potential sellers of the described
1609 property have already learned of the governmental entity's plans to acquire the
1610 property;
- 1611 (d) in the case of records that would identify the appraisal or estimated value of
1612 property, the potential sellers have already learned of the governmental entity's
1613 estimated value of the property; or
- 1614 (e) the property under consideration for public acquisition is a single family residence
1615 and the governmental entity seeking to acquire the property has initiated negotiations
1616 to acquire the property as required under Section 78B-6-505;
- 1617 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
1618 transaction of real or personal property including intellectual property, which, if
1619 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
1620 value of the subject property, unless:
- 1621 (a) the public interest in access is greater than or equal to the interests in restricting
1622 access, including the governmental entity's interest in maximizing the financial
1623 benefit of the transaction; or
- 1624 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of

- 1625 the value of the subject property have already been disclosed to persons not
1626 employed by or under a duty of confidentiality to the entity;
- 1627 (10) records created or maintained for civil, criminal, or administrative enforcement
1628 purposes or audit purposes, or for discipline, licensing, certification, or registration
1629 purposes, if release of the records:
- 1630 (a) reasonably could be expected to interfere with investigations undertaken for
1631 enforcement, discipline, licensing, certification, or registration purposes;
- 1632 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1633 proceedings;
- 1634 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1635 hearing;
- 1636 (d) reasonably could be expected to disclose the identity of a source who is not generally
1637 known outside of government and, in the case of a record compiled in the course of
1638 an investigation, disclose information furnished by a source not generally known
1639 outside of government if disclosure would compromise the source; or
- 1640 (e) reasonably could be expected to disclose investigative or audit techniques,
1641 procedures, policies, or orders not generally known outside of government if
1642 disclosure would interfere with enforcement or audit efforts;
- 1643 (11) records the disclosure of which would jeopardize the life or safety of an individual;
- 1644 (12) records the disclosure of which would jeopardize the security of governmental
1645 property, governmental programs, or governmental recordkeeping systems from
1646 damage, theft, or other appropriation or use contrary to law or public policy;
- 1647 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
1648 facility, or records relating to incarceration, treatment, probation, or parole, that would
1649 interfere with the control and supervision of an offender's incarceration, treatment,
1650 probation, or parole;
- 1651 (14) records that, if disclosed, would reveal recommendations made to the Board of
1652 Pardons and Parole by an employee of or contractor for the Department of Corrections,
1653 the Board of Pardons and Parole, or the Department of Health and Human Services that
1654 are based on the employee's or contractor's supervision, diagnosis, or treatment of any
1655 person within the board's jurisdiction;
- 1656 (15) records and audit workpapers that identify audit, collection, and operational procedures
1657 and methods used by the State Tax Commission, if disclosure would interfere with
1658 audits or collections;

- 1659 (16) records of a governmental audit agency relating to an ongoing or planned audit until
1660 the final audit is released;
- 1661 (17) records that are subject to the attorney client privilege;
- 1662 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
1663 employee, or agent of a governmental entity for, or in anticipation of, litigation or a
1664 judicial, quasi-judicial, or administrative proceeding;
- 1665 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
1666 from a member of the Legislature; and
1667 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
1668 legislative action or policy may not be classified as protected under this section;
1669 and
- 1670 (b) (i) an internal communication that is part of the deliberative process in connection
1671 with the preparation of legislation between:
1672 (A) members of a legislative body;
1673 (B) a member of a legislative body and a member of the legislative body's staff; or
1674 (C) members of a legislative body's staff; and
1675 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
1676 legislative action or policy may not be classified as protected under this section;
- 1677 (20) (a) records in the custody or control of the Office of Legislative Research and
1678 General Counsel, that, if disclosed, would reveal a particular legislator's
1679 contemplated legislation or contemplated course of action before the legislator has
1680 elected to support the legislation or course of action, or made the legislation or course
1681 of action public; and
1682 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
1683 Office of Legislative Research and General Counsel is a public document unless a
1684 legislator asks that the records requesting the legislation be maintained as protected
1685 records until such time as the legislator elects to make the legislation or course of
1686 action public;
- 1687 (21) research requests from legislators to the Office of Legislative Research and General
1688 Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in
1689 response to these requests;
- 1690 (22) drafts, unless otherwise classified as public;
- 1691 (23) records concerning a governmental entity's strategy about:
1692 (a) collective bargaining; or

- 1693 (b) imminent or pending litigation;
- 1694 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
1695 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
1696 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 1697 (25) records, other than personnel evaluations, that contain a personal recommendation
1698 concerning an individual if disclosure would constitute a clearly unwarranted invasion
1699 of personal privacy, or disclosure is not in the public interest;
- 1700 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
1701 resources that if known would jeopardize the security of those resources or of valuable
1702 historic, scientific, educational, or cultural information;
- 1703 (27) records of independent state agencies if the disclosure of the records would conflict
1704 with the fiduciary obligations of the agency;
- 1705 (28) records of an institution within the state system of higher education defined in Section
1706 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
1707 retention decisions, and promotions, which could be properly discussed in a meeting
1708 closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided
1709 that records of the final decisions about tenure, appointments, retention, promotions, or
1710 those students admitted, may not be classified as protected under this section;
- 1711 (29) records of the governor's office, including budget recommendations, legislative
1712 proposals, and policy statements, that if disclosed would reveal the governor's
1713 contemplated policies or contemplated courses of action before the governor has
1714 implemented or rejected those policies or courses of action or made them public;
- 1715 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
1716 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
1717 recommendations in these areas;
- 1718 (31) records provided by the United States or by a government entity outside the state that
1719 are given to the governmental entity with a requirement that they be managed as
1720 protected records if the providing entity certifies that the record would not be subject to
1721 public disclosure if retained by it;
- 1722 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
1723 public body except as provided in Section 52-4-206;
- 1724 (33) records that would reveal the contents of settlement negotiations but not including final
1725 settlements or empirical data to the extent that they are not otherwise exempt from
1726 disclosure;

- 1727 (34) memoranda prepared by staff and used in the decision-making process by an
1728 administrative law judge, a member of the Board of Pardons and Parole, or a member of
1729 any other body charged by law with performing a quasi-judicial function;
- 1730 (35) records that would reveal negotiations regarding assistance or incentives offered by or
1731 requested from a governmental entity for the purpose of encouraging a person to expand
1732 or locate a business in Utah, but only if disclosure would result in actual economic harm
1733 to the person or place the governmental entity at a competitive disadvantage, but this
1734 section may not be used to restrict access to a record evidencing a final contract;
- 1735 (36) materials to which access must be limited for purposes of securing or maintaining the
1736 governmental entity's proprietary protection of intellectual property rights including
1737 patents, copyrights, and trade secrets;
- 1738 (37) the name of a donor or a prospective donor to a governmental entity, including an
1739 institution within the state system of higher education defined in Section 53B-1-102, and
1740 other information concerning the donation that could reasonably be expected to reveal
1741 the identity of the donor, provided that:
- 1742 (a) the donor requests anonymity in writing;
- 1743 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1744 classified protected by the governmental entity under this Subsection (37); and
- 1745 (c) except for an institution within the state system of higher education defined in
1746 Section 53B-1-102, the governmental unit to which the donation is made is primarily
1747 engaged in educational, charitable, or artistic endeavors, and has no regulatory or
1748 legislative authority over the donor, a member of the donor's immediate family, or
1749 any entity owned or controlled by the donor or the donor's immediate family;
- 1750 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- 1751 (39) a notification of workers' compensation insurance coverage described in Section
1752 34A-2-205;
- 1753 (40) (a) the following records of an institution within the state system of higher
1754 education defined in Section 53B-1-102, which have been developed, discovered,
1755 disclosed to, or received by or on behalf of faculty, staff, employees, or students of
1756 the institution:
- 1757 (i) unpublished lecture notes;
- 1758 (ii) unpublished notes, data, and information:
- 1759 (A) relating to research; and
- 1760 (B) of:

- 1761 (I) the institution within the state system of higher education defined in Section
1762 53B-1-102; or
- 1763 (II) a sponsor of sponsored research;
- 1764 (iii) unpublished manuscripts;
- 1765 (iv) creative works in process;
- 1766 (v) scholarly correspondence; and
- 1767 (vi) confidential information contained in research proposals;
- 1768 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information
1769 required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 1770 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 1771 (41) (a) records in the custody or control of the Office of the Legislative Auditor
1772 General that would reveal the name of a particular legislator who requests a
1773 legislative audit prior to the date that audit is completed and made public; and
- 1774 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1775 Office of the Legislative Auditor General is a public document unless the legislator
1776 asks that the records in the custody or control of the Office of the Legislative Auditor
1777 General that would reveal the name of a particular legislator who requests a
1778 legislative audit be maintained as protected records until the audit is completed and
1779 made public;
- 1780 (42) records that provide detail as to the location of an explosive, including a map or other
1781 document that indicates the location of:
- 1782 (a) a production facility; or
- 1783 (b) a magazine;
- 1784 (43) information contained in the statewide database of the Division of Aging and Adult
1785 Services created by Section 26B-6-210;
- 1786 (44) information contained in the Licensing Information System described in Title 80,
1787 Chapter 2, Child Welfare Services;
- 1788 (45) information regarding National Guard operations or activities in support of the
1789 National Guard's federal mission;
- 1790 (46) records provided by any pawn or secondhand business to a law enforcement agency or
1791 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand
1792 Merchandise, and Catalytic Converter Transaction Information Act;
- 1793 (47) information regarding food security, risk, and vulnerability assessments performed by
1794 the Department of Agriculture and Food;

- 1795 (48) except to the extent that the record is exempt from this chapter pursuant to Section
 1796 63G-2-106, records related to an emergency plan or program, a copy of which is
 1797 provided to or prepared or maintained by the Division of Emergency Management, and
 1798 the disclosure of which would jeopardize:
- 1799 (a) the safety of the general public; or
 - 1800 (b) the security of:
 - 1801 (i) governmental property;
 - 1802 (ii) governmental programs; or
 - 1803 (iii) the property of a private person who provides the Division of Emergency
 1804 Management information;
- 1805 (49) records of the Department of Agriculture and Food that provides for the identification,
 1806 tracing, or control of livestock diseases, including any program established under Title
 1807 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
 1808 of Animal Disease;
- 1809 (50) as provided in Section [~~26B-2-408~~] 26B-2-709:
- 1810 (a) information or records held by the Department of Health and Human Services related
 1811 to a complaint regarding a [~~child care program or residential child care~~] provider,
 1812 program, or facility which the department is unable to substantiate; and
 - 1813 (b) information or records related to a complaint received by the Department of Health
 1814 and Human Services from an anonymous complainant regarding a [~~child care~~
 1815 ~~program or residential child care~~] provider, program, or facility;
- 1816 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
 1817 under Section 41-1a-116, an individual's home address, home telephone number, or
 1818 personal mobile phone number, if:
- 1819 (a) the individual is required to provide the information in order to comply with a law,
 1820 ordinance, rule, or order of a government entity; and
 - 1821 (b) the subject of the record has a reasonable expectation that this information will be
 1822 kept confidential due to:
 - 1823 (i) the nature of the law, ordinance, rule, or order; and
 - 1824 (ii) the individual complying with the law, ordinance, rule, or order;
- 1825 (52) the portion of the following documents that contains a candidate's residential or
 1826 mailing address, if the candidate provides to the filing officer another address or phone
 1827 number where the candidate may be contacted:
- 1828 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,

- 1829 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,
1830 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 1831 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
- 1832 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 1833 (53) the name, home address, work addresses, and telephone numbers of an individual that
1834 is engaged in, or that provides goods or services for, medical or scientific research that is:
- 1835 (a) conducted within the state system of higher education, as defined in Section
1836 53B-1-102; and
- 1837 (b) conducted using animals;
- 1838 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
1839 Evaluation Commission concerning an individual commissioner's vote, in relation to
1840 whether a judge meets or exceeds minimum performance standards under Subsection
1841 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 1842 (55) information collected and a report prepared by the Judicial Performance Evaluation
1843 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,
1844 Judicial Performance Evaluation Commission Act, requires disclosure of, or makes
1845 public, the information or report;
- 1846 (56) records provided or received by the Public Lands Policy Coordinating Office in
1847 furtherance of any contract or other agreement made in accordance with Section
1848 63L-11-202;
- 1849 (57) information requested by and provided to the 911 Division under Section 63H-7a-302;
- 1850 (58) in accordance with Section 73-10-33:
- 1851 (a) a management plan for a water conveyance facility in the possession of the Division
1852 of Water Resources or the Board of Water Resources; or
- 1853 (b) an outline of an emergency response plan in possession of the state or a county or
1854 municipality;
- 1855 (59) the following records in the custody or control of the Office of Inspector General of
1856 Medicaid Services, created in Section 63A-13-201:
- 1857 (a) records that would disclose information relating to allegations of personal
1858 misconduct, gross mismanagement, or illegal activity of a person if the information
1859 or allegation cannot be corroborated by the Office of Inspector General of Medicaid
1860 Services through other documents or evidence, and the records relating to the
1861 allegation are not relied upon by the Office of Inspector General of Medicaid
1862 Services in preparing a final investigation report or final audit report;

- 1863 (b) records and audit workpapers to the extent they would disclose the identity of a
1864 person who, during the course of an investigation or audit, communicated the
1865 existence of any Medicaid fraud, waste, or abuse, or a violation or suspected
1866 violation of a law, rule, or regulation adopted under the laws of this state, a political
1867 subdivision of the state, or any recognized entity of the United States, if the
1868 information was disclosed on the condition that the identity of the person be
1869 protected;
- 1870 (c) before the time that an investigation or audit is completed and the final investigation
1871 or final audit report is released, records or drafts circulated to a person who is not an
1872 employee or head of a governmental entity for the person's response or information;
- 1873 (d) records that would disclose an outline or part of any investigation, audit survey plan,
1874 or audit program; or
- 1875 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1876 investigation or audit;
- 1877 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1878 Services, the fraud unit, or the Department of Health and Human Services, to discover
1879 Medicaid fraud, waste, or abuse;
- 1880 (61) information provided to the Department of Health and Human Services or the Division
1881 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1882 58-68-304(3) and (4);
- 1883 (62) a record described in Section 63G-12-210;
- 1884 (63) captured plate data that is obtained through an automatic license plate reader system
1885 used by a governmental entity as authorized in Section 41-6a-2003;
- 1886 (64) any record in the custody of the Utah Office for Victims of Crime relating to a victim,
1887 including:
- 1888 (a) a victim's application or request for benefits;
- 1889 (b) a victim's receipt or denial of benefits; and
- 1890 (c) any administrative notes or records made or created for the purpose of, or used to,
1891 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime
1892 Victim Reparations Fund;
- 1893 (65) an audio or video recording created by a body-worn camera, as that term is defined in
1894 Section 77-7a-103, that records sound or images inside a hospital or health care facility
1895 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,
1896 as that term is defined in Section 78B-3-403, or inside a human service program as that

- 1897 term is defined in Section 26B-2-101, except for recordings that:
- 1898 (a) depict the commission of an alleged crime;
- 1899 (b) record any encounter between a law enforcement officer and a person that results in
- 1900 death or bodily injury, or includes an instance when an officer fires a weapon;
- 1901 (c) record any encounter that is the subject of a complaint or a legal proceeding against a
- 1902 law enforcement officer or law enforcement agency;
- 1903 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);
- 1904 or
- 1905 (e) have been requested for reclassification as a public record by a subject or authorized
- 1906 agent of a subject featured in the recording;
- 1907 (66) a record pertaining to the search process for a president of an institution of higher
- 1908 education described in Section 53B-2-102, except for application materials for a publicly
- 1909 announced finalist;
- 1910 (67) an audio recording that is:
- 1911 (a) produced by an audio recording device that is used in conjunction with a device or
- 1912 piece of equipment designed or intended for resuscitating an individual or for treating
- 1913 an individual with a life-threatening condition;
- 1914 (b) produced during an emergency event when an individual employed to provide law
- 1915 enforcement, fire protection, paramedic, emergency medical, or other first responder
- 1916 service:
- 1917 (i) is responding to an individual needing resuscitation or with a life-threatening
- 1918 condition; and
- 1919 (ii) uses a device or piece of equipment designed or intended for resuscitating an
- 1920 individual or for treating an individual with a life-threatening condition; and
- 1921 (c) intended and used for purposes of training emergency responders how to improve
- 1922 their response to an emergency situation;
- 1923 (68) records submitted by or prepared in relation to an applicant seeking a recommendation
- 1924 by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the
- 1925 Audit Subcommittee, established under Section 36-12-8, for an employment position
- 1926 with the Legislature;
- 1927 (69) work papers as defined in Section 31A-2-204;
- 1928 (70) a record made available to Adult Protective Services or a law enforcement agency
- 1929 under Section 61-1-206;
- 1930 (71) a record submitted to the Insurance Department in accordance with Section

- 1931 31A-37-201;
- 1932 (72) a record described in Section 31A-37-503;
- 1933 (73) any record created by the Division of Professional Licensing as a result of Subsection
- 1934 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- 1935 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
- 1936 involving an amusement ride;
- 1937 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a
- 1938 political petition, or on a request to withdraw a signature from a political petition,
- 1939 including a petition or request described in the following titles:
- 1940 (a) Title 10, Utah Municipal Code;
- 1941 (b) Title 17, Counties;
- 1942 (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
- 1943 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 1944 (e) Title 20A, Election Code;
- 1945 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a
- 1946 voter registration record;
- 1947 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature
- 1948 described in Subsection (75) or (76), in the custody of the lieutenant governor or a local
- 1949 political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 1950 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5,
- 1951 Victims Guidelines for Prosecutors Act;
- 1952 (79) a record submitted to the Insurance Department under Section 31A-48-103;
- 1953 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
- 1954 prohibited under Section 63G-26-103;
- 1955 (81) an image taken of an individual during the process of booking the individual into jail,
- 1956 unless:
- 1957 (a) the individual is convicted of a criminal offense based upon the conduct for which
- 1958 the individual was incarcerated at the time the image was taken;
- 1959 (b) a law enforcement agency releases or disseminates the image:
- 1960 (i) after determining that the individual is a fugitive or an imminent threat to an
- 1961 individual or to public safety and releasing or disseminating the image will assist
- 1962 in apprehending the individual or reducing or eliminating the threat; or
- 1963 (ii) to a potential witness or other individual with direct knowledge of events relevant
- 1964 to a criminal investigation or criminal proceeding for the purpose of identifying or

- 1965 locating an individual in connection with the criminal investigation or criminal
1966 proceeding; or
- 1967 (c) a judge orders the release or dissemination of the image based on a finding that the
1968 release or dissemination is in furtherance of a legitimate law enforcement interest;
- 1969 (82) a record:
- 1970 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 1971 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1972 representative from another state or the federal government as provided in Section
1973 63M-14-205; and
- 1974 (c) the disclosure of which would:
- 1975 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1976 Colorado River system;
- 1977 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
1978 negotiate the best terms and conditions regarding the use of water in the Colorado
1979 River system; or
- 1980 (iii) give an advantage to another state or to the federal government in negotiations
1981 regarding the use of water in the Colorado River system;
- 1982 (83) any part of an application described in Section 63N-16-201 that the Governor's Office
1983 of Economic Opportunity determines is nonpublic, confidential information that if
1984 disclosed would result in actual economic harm to the applicant, but this Subsection (83)
1985 may not be used to restrict access to a record evidencing a final contract or approval
1986 decision;
- 1987 (84) the following records of a drinking water or wastewater facility:
- 1988 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
1989 and
- 1990 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
1991 drinking water or wastewater facility uses to secure, or prohibit access to, the records
1992 described in Subsection (84)(a);
- 1993 (85) a statement that an employee of a governmental entity provides to the governmental
1994 entity as part of the governmental entity's personnel or administrative investigation into
1995 potential misconduct involving the employee if the governmental entity:
- 1996 (a) requires the statement under threat of employment disciplinary action, including
1997 possible termination of employment, for the employee's refusal to provide the
1998 statement; and

- 1999 (b) provides the employee assurance that the statement cannot be used against the
 2000 employee in any criminal proceeding;
- 2001 (86) any part of an application for a Utah Fits All Scholarship account described in Section
 2002 53F-6-402 or other information identifying a scholarship student as defined in Section
 2003 53F-6-401; and
- 2004 (87) a record:
- 2005 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 2006 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
 2007 person concerning the claim, including a representative from another state or the
 2008 federal government; and
- 2009 (c) the disclosure of which would:
- 2010 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
 2011 Great Salt Lake;
- 2012 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
 2013 and conditions regarding the use of water in the Great Salt Lake; or
- 2014 (iii) give an advantage to another person including another state or to the federal
 2015 government in negotiations regarding the use of water in the Great Salt Lake.
- 2016 Section 18. Section **76-7-314** is amended to read:
- 2017 **76-7-314 . Violations of abortion laws -- Classifications.**
- 2018 (1) An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311,
 2019 or 76-7-312 is a felony of the third degree.
- 2020 (2) A violation of Section 76-7-326 is a felony of the third degree.
- 2021 (3) A violation of Section 76-7-314.5 is a felony of the second degree.
- 2022 (4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a)
 2023 through (c), and (e), is a class A misdemeanor.
- 2024 (5) The Department of Health and Human Services shall report a physician's violation of
 2025 any provision of this part to the Physicians Licensing Board, described in Section
 2026 58-67-201.
- 2027 (6) Any person with knowledge of a physician's violation of any provision of this part may
 2028 report the violation to the Physicians Licensing Board, described in Section 58-67-201.
- 2029 (7) In addition to the penalties described in this section, the department may take any action
 2030 described in Section [~~26B-2-208~~] 26B-2-703 against a health care facility if a violation of
 2031 this chapter occurs at the health care facility.
- 2032 Section 19. Section **80-2-909** is amended to read:

2033 **80-2-909 . Existing authority for child placement continues.**
2034 Any person who, under any law of this state other than this part or the Interstate
2035 Compact on the Placement of Children established under Section 80-2-905, has
2036 authority to make or assist in making the placement of a child, shall continue to have the
2037 ability lawfully to make or assist in making that placement, and the provisions of
2038 Sections 26B-2-127, 26B-2-131, 26B-2-132, [~~26B-2-133~~] and 26B-2-708, Subsections
2039 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and Title 78B, Chapter
2040 6, Part 1, Utah Adoption Act, continue to apply.

2041 Section 20. **Repealer.**
2042 This bill repeals:
2043 Section **26B-2-110, License revocation -- Suspension.**
2044 Section **26B-2-111, Adjudicative proceedings.**
2045 Section **26B-2-112, Violations -- Penalties.**
2046 Section **26B-2-208, Violations -- Denial or revocation of license -- Restricting or**
2047 **prohibiting new admissions -- Monitor.**
2048 Section **26B-2-210, Issuance of new license after revocation -- Restoration.**
2049 Section **26B-2-211, License issued to facility in compliance or substantial compliance**
2050 **with part and rules.**
2051 Section **26B-2-215, Action by department for injunction.**
2052 Section **26B-2-216, Operating facility in violation of part a misdemeanor.**
2053 Section **26B-2-409, License violations -- Penalties.**
2054 Section **26B-2-410, Offering or providing care in violation of part -- Misdemeanor.**
2055 Section 21. **Effective date.**
2056 This bill takes effect on May 1, 2024.