

Ryan D. Wilcox proposes the following substitute bill:

Criminal Offenses Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor:

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3 **LONG TITLE**

4 **General Description:**

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

6 **Highlighted Provisions:**

7 This bill:

8 ▶ amends the enhancement for offenses committed in concert with three or more persons or
9 in relation to a criminal street gang;

10 ▶ amends certain theft, retail theft, and prostitution sentencing enhancements to include
11 prior convictions in other state, federal, or military courts;

12 ▶ clarifies that in sentencing for an offense related to retail theft, the value of the stolen item
13 is determined by the item's retail value;

14 ▶ amends the offense of sexual extortion;

15 ▶ adds offenses that may be charged as part of a pattern of unlawful activity;

16 ▶ increases the fine for an individual who is convicted of the offense of patronizing a
17 prostitute;

18 ▶ increases penalties for an individual who:

19 • acts to bring a minor into a criminal street gang in certain circumstances; and

20 • acts to intimidate a minor into remaining in a criminal street gang in certain

21 circumstances; and

22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

- 29 **76-3-203.1**, as last amended by Laws of Utah 2024, Chapter 96
- 30 **76-5b-204**, as last amended by Laws of Utah 2024, Chapter 127
- 31 **76-6-404**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 32 Coordination Clause, Laws of Utah 2023, Chapter 407
- 33 **76-6-404.5**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 34 Coordination Clause, Laws of Utah 2023, Chapter 407
- 35 **76-6-404.7**, as last amended by Laws of Utah 2023, Chapter 111
- 36 **76-6-405**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 37 Coordination Clause, Laws of Utah 2023, Chapter 407
- 38 **76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 39 Coordination Clause, Laws of Utah 2023, Chapter 407
- 40 **76-6-407**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 41 Coordination Clause, Laws of Utah 2023, Chapter 407
- 42 **76-6-408**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 43 Coordination Clause, Laws of Utah 2023, Chapter 407
- 44 **76-6-409**, as last amended by Laws of Utah 2023, Chapter 111
- 45 **76-6-409.3**, as last amended by Laws of Utah 2023, Chapter 111
- 46 **76-6-410**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 47 Coordination Clause, Laws of Utah 2023, Chapter 407
- 48 **76-6-602**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 49 Coordination Clause, Laws of Utah 2023, Chapter 407
- 50 **76-6-608**, as last amended by Laws of Utah 2023, Chapter 111
- 51 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96
- 52 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15
- 53 **76-10-1302**, as last amended by Laws of Utah 2023, Chapter 111
- 54 **76-10-1303**, as last amended by Laws of Utah 2024, Chapter 140
- 55 **76-10-1304**, as last amended by Laws of Utah 2018, Chapter 308
- 56 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96
- 57 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207
- 58 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207
- 59 ENACTS:
- 60 **76-9-803.1**, Utah Code Annotated 1953
- 61 **76-9-803.2**, Utah Code Annotated 1953
- 62 **76-9-803.3**, Utah Code Annotated 1953

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

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

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

(1) As used in this section:

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

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

(i) the [~~defendant~~] actor was aided or encouraged by [~~at least three other persons~~] at least two other individuals in committing [~~the~~] an offense and was aware of this aid or encouragement; and

(ii) [~~each of the other persons~~] each of the other individuals:

(A) was physically present; and

(B) participated as a party to [~~any~~] an offense listed in Subsection [~~(4);~~] (5) [~~, or (6)~~].

(c) "In concert with [~~three~~] two or more [~~persons~~] individuals" means, regarding intent:

(i) any other [~~persons~~] individual participating as [~~parties~~] a party need not have the intent to engage in the same offense or degree of offense as the [~~defendant~~] actor; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(d) "Organized criminal group" means a group of three or more individuals, whether operating formally or informally, that:

(i) has as one of the group's purposes the commission of criminal offenses; and

(ii) whose members collectively engage in committing criminal offenses for the financial or other material benefit of the members or group.

(2) [~~A person~~] An actor who commits [~~any offense in accordance with this section~~] an offense listed in Subsection (5) is subject to an enhanced penalty for the offense as provided in Subsection (4) [~~, (5), or (6)~~] if the trier of fact finds beyond a reasonable doubt that the [~~person~~] actor acted:

(a) in concert with [~~three~~] two or more [~~persons~~] individuals;

(b) for the benefit of, at the direction of, or in association with [~~any~~] a criminal street gang [~~as defined in Section 76-9-802~~] or other organized criminal group; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang [~~as defined in Section 76-9-802~~] or other organized criminal group.

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

97 subscribed upon the information or indictment notice that the [defendant] actor is subject
 98 to the enhanced penalties provided under this section.

99 ~~[(4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:]~~

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

101 ~~[(ii) for a class A misdemeanor, as a third degree felony.]~~

102 ~~[(b) The following offenses are subject to Subsection (4)(a):]~~

103 ~~[(i) criminal mischief as described in Section 76-6-106;]~~

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

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

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

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

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

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

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

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

112 ~~[(ii) any offense of obstructing government operations under Chapter 8, Part 3,~~
 113 ~~Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,~~
 114 ~~76-8-307, 76-8-308, and 76-8-312;]~~

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

116 ~~[(iv) retaliation against a witness, victim, or informant, or other violation of Section~~
 117 ~~76-8-508.3;]~~

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

119 ~~[(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section~~
 120 ~~76-8-509;]~~

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

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

123 ~~[(6) (4)(a) For an offense listed in Subsection [(6)(b)] (5), [a person] an actor may be~~
 124 ~~charged as follows:~~

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

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

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

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

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

- 131 (a) criminal solicitation of a minor as described in Section 76-4-205;
 132 ~~[(i)]~~ (b) [assault and related offenses under] an offense described in Chapter 5, Part 1,
 133 Assault and Related Offenses;
 134 ~~[(ii)]~~ (c) [any criminal homicide offense under] an offense described in Chapter 5, Part 2,
 135 Criminal Homicide;
 136 ~~[(iii)]~~ (d) [kidnapping and related offenses under] a felony offense described in Chapter 5,
 137 Part 3, Kidnapping, Trafficking, and Smuggling;
 138 ~~[(iv)]~~ (e) [any felony sexual offense under] a felony offense described in Chapter 5, Part
 139 4, Sexual Offenses;
 140 ~~[(v)]~~ sexual exploitation of a minor as defined in Section 76-5b-201;
 141 ~~[(vi)]~~ aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;
 142 (f) an offense described in Chapter 6, Part 1, Property Destruction;
 143 ~~[(vii)]~~ (g) robbery as described in Section 76-6-202;
 144 (h) ~~[-and-]~~ aggravated robbery [under Chapter 6, Part 3, Robbery; and] as described in
 145 Section 76-6-203;
 146 (i) burglary as described in Subsection 76-6-202(3)(b);
 147 (j) aggravated burglary as described in Section 76-6-203;
 148 (k) an offense described in Chapter 6, Part 4, Theft;
 149 (l) an offense described in Chapter 6, Part 6, Retail Theft;
 150 (m) an offense described in Chapter 6, Part 11, Identity Fraud Act;
 151 (n) an offense described in Chapter 10, Part 5, Weapons;
 152 (o) a felony violation of aiding prostitution as described in Section 76-10-1304;
 153 (p) exploiting prostitution as described in Section 76-10-1305;
 154 ~~[(viii)]~~ (q) aggravated exploitation of prostitution under Section 76-10-1306[-];
 155 (r) communications fraud as described in Section 76-10-1801;
 156 (s) an offense described in Chapter 10, Part 19, Money Laundering and Currency
 157 Transaction Reporting Act;
 158 (t) burglary of a research facility as described in Section 76-10-2002; and
 159 (u) transporting or harboring aliens as described in Section 76-10-2901.
 160 ~~[(7)]~~ (6) [The] A court may, if not otherwise prohibited from doing so by another section of
 161 the code, suspend a sentence imposed under [Subsection (4), (5), or (6)] may be
 162 suspended] this section and place the [individual placed] actor on probation[-for the
 163 higher level of offense].
 164 ~~[(8)]~~ (7) It is not a bar to imposing the enhanced penalties under this section that the [persons]

165 individuals with whom the actor is alleged to have acted in concert are not identified,
166 apprehended, charged, or convicted, or that any of those [~~persons~~] individuals are
167 charged with or convicted of a different or lesser offense.

168 Section 2. Section **76-5b-204** is amended to read:

169 **76-5b-204 . Sexual extortion -- Penalties.**

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

171 (i) "Adult" means an individual 18 years old or older.

172 (ii) "Child" means any individual under the age of 18.

173 (iii) "Intimate image" means the same as that term is defined in Section 76-5b-203.

174 (iv) "Position of special trust" means the same as that term is defined in Section
175 76-5-404.1.

176 (v) "Sexually explicit conduct" means the same as that term is defined in Section
177 76-5b-203.

178 (vi) "Simulated sexually explicit conduct" means the same as that term is defined in
179 Section 76-5b-203.

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

181 (2)(a) An actor commits the offense of sexual extortion if the actor:

182 (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit
183 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
184 distribute an image, video, or other recording of any individual naked or engaged
185 in sexually explicit conduct, communicates by any means a threat:

186 (A) to the victim's person, property, or reputation; or

187 (B) to distribute an intimate image or video of the victim;

188 (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit
189 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
190 distribute any image, video, or other recording of any individual naked or engaged
191 in sexually explicit conduct by means of a threat:

192 (A) to the victim's person, property, or reputation; or

193 (B) to distribute an intimate image or video of the victim; or

194 (iii) with intent to obtain a thing of value from a victim communicates, by any means,
195 a threat to distribute an intimate image or video of the victim.

196 (b) An actor commits aggravated sexual extortion when, in conjunction with the offense
197 described in Subsection (2)(a), any of the following circumstances have been charged
198 and admitted or found true in the action for the offense:

- 199 (i) the victim is a child or vulnerable adult;
- 200 (ii) the offense was committed by the use of a dangerous weapon or by violence,
201 intimidation, menace, fraud, or threat of physical harm, or was committed during
202 the course of a kidnapping;
- 203 (iii) ~~[the actor caused-]~~ the victim suffered bodily injury or severe psychological
204 injury ~~[to the victim-]~~ during, or as a result of, the offense;
- 205 (iv) the actor was a stranger to the victim, or became a friend of the victim, for the
206 purpose of committing the offense;
- 207 (v) the actor, before sentencing for the offense, was previously convicted of any
208 sexual offense;
- 209 (vi) the actor occupied a position of special trust in relation to the victim;
- 210 (vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or
211 sexual acts by the victim with any other individual, or sexual performance by the
212 victim before any other individual, human trafficking, or human smuggling; or
- 213 (viii) the actor caused the penetration, however slight, of the genital or anal opening
214 of the victim by any part or parts of the human body, or by any other object.

215 (3)(a) If the actor is an adult:

- 216 (i) ~~[A]~~ a violation of Subsection (2)(a) is a third degree felony.
- 217 (ii) ~~[A]~~ a violation of Subsection ~~[(2)(b)]~~ (2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in
218 which the victim is an adult is a second degree felony.
- 219 (iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first
220 degree felony.
- 221 ~~[(iii)]~~ (iv) ~~[A]~~ a violation of Subsection (2)(b) in which the victim is a child or a
222 vulnerable adult is a first degree felony.

223 (b) If the actor is a child:

- 224 (i) ~~[A]~~ a violation of Subsection (2)(a) is a class A misdemeanor.
- 225 (ii) ~~[A]~~ a violation of Subsection (2)(b) is a third degree felony if there is more than a
226 two-year age gap between the actor and the victim.

227 (c) An actor commits a separate offense under this section:

- 228 (i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and
229 (ii) for each separate time the actor subjects a victim to the offense outlined
230 Subsection (2)(a).

231 (d) This section does not preclude an actor from being charged and convicted of a
232 separate criminal act if the actor commits the separate criminal act while the

233 individual violates or attempts to violate this section.

234 (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to
235 liability under this section related to content provided by a user of the interactive
236 computer service.

237 Section 3. Section **76-6-404** is amended to read:

238 **76-6-404 . Theft -- Elements.**

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

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

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

243 (a) a second degree felony if the:

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

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

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

247 (b) a third degree felony if:

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

249 (ii) the property is:

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

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

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

253 aluminum or copper and is not a lead battery;

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

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

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

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

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

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

264 (B), or (C);

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

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

- 267 within the past five years; and
- 268 (C) the offender has received written notice from the merchant prohibiting the
- 269 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 270 (v) the actor has been previously convicted of a felony violation of any of the
- 271 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
- 272 prior offense was committed within 10 years before the date of the current
- 273 conviction or the date of the offense upon which the current conviction is based;
- 274 (c) a class A misdemeanor if:
- 275 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 276 (ii)(A) the value of property is less than \$500;
- 277 (B) the theft occurs on a property where the offender has committed any theft
- 278 within the past five years; and
- 279 (C) the offender has received written notice from the merchant prohibiting the
- 280 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 281 (iii) the actor has been twice before convicted of any of the offenses listed in
- 282 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
- 283 committed within 10 years before the date of the current conviction or the date of
- 284 the offense upon which the current conviction is based; or
- 285 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 286 theft is not an offense under Subsection (3)(c).

287 Section 4. Section **76-6-404.5** is amended to read:

288 **76-6-404.5 . Unauthorized possession of property.**

- 289 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 290 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
- 291 unauthorized control over another person's property, without the consent of the
- 292 property's owner or legal custodian, and with the intent to temporarily appropriate,
- 293 possess, or use the property or to temporarily deprive the property's owner or legal
- 294 custodian of possession of the property.
- 295 (3) A violation of Subsection (2) is:
- 296 (a) a third degree felony if:
- 297 (i) the value of the property is or exceeds \$5,000;
- 298 (ii) the property is a firearm or an operable motor vehicle; or
- 299 (iii) the property is taken from the person of another;
- 300 (b) a class A misdemeanor if:

- 301 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 302 (ii) the property is:
- 303 (A) a catalytic converter as defined under Section 76-6-1402; or
- 304 (B) 25 pounds or more of a suspect metal item is defined under Section 76-6-1402
- 305 if the value is less than \$5,000 and the suspect metal is made of or contains
- 306 aluminum or copper and is not a lead battery;
- 307 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 308 convicted of any of the following offenses, if each prior offense was committed
- 309 within 10 years before the date of the current conviction or the date of the offense
- 310 upon which the current conviction is based and at least one of those convictions is
- 311 for a class A misdemeanor:
- 312 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 313 (B) any offense under Part 5, Fraud;[-~~or~~]
- 314 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 315 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 316 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 317 (B), or (C);
- 318 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 319 (B) the unauthorized possession of property occurs on a property where the
- 320 offender has committed any theft within the past five years; and
- 321 (C) the offender has received written notice from the merchant prohibiting the
- 322 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 323 (v) the actor has been previously convicted of a felony violation of any of the
- 324 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 325 prior offense was committed within 10 years before the date of the current
- 326 conviction or the date of the offense upon which the current conviction is based;
- 327 (c) a class B misdemeanor if:
- 328 (i) the value of the property is or exceeds \$500 but is less than \$1,500;
- 329 (ii)(A) the value of property is less than \$500;
- 330 (B) the unauthorized possession of property occurs on a property where the
- 331 offender has committed any theft within the past five years; and
- 332 (C) the offender has received written notice from the merchant prohibiting the
- 333 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 334 (iii) the actor has been twice before convicted of any of the offenses listed in

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

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

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

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

345 Section 5. Section **76-6-404.7** is amended to read:

346 **76-6-404.7 . Theft of motor vehicle fuel.**

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

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

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

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

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

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

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

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

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

362 (b) a third degree felony if:

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

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

- 369 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 370 (B) any offense under Part 5, Fraud;[-ør]
- 371 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 372 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 373 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 374 (B), or (C);
- 375 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
- 376 \$1,500;
- 377 (B) the theft occurs on a property where the offender has committed any theft
- 378 within the past five years; and
- 379 (C) the offender has received written notice from the merchant prohibiting the
- 380 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 381 (iv) the actor has been previously convicted of a felony violation of any of the
- 382 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~], (D), if the prior
- 383 offense was committed within 10 years before the date of the current conviction or
- 384 the date of the offense upon which the current conviction is based;
- 385 (c) a class A misdemeanor if:
- 386 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 387 (ii)(A) the value of the motor vehicle fuel is less than \$500;
- 388 (B) the theft occurs on a property where the offender has committed any theft
- 389 within the past five years; and
- 390 (C) the offender has received written notice from the merchant prohibiting the
- 391 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 392 (iii) the actor has been twice before convicted of any of the offenses listed in
- 393 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~], (D), if each prior offense was
- 394 committed within 10 years before the date of the current conviction or the date of
- 395 the offense upon which the current conviction is based; or
- 396 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the
- 397 theft is not an offense under Subsection (3)(c).
- 398 (4)(a) In addition to the penalties described in Subsection (3), the sentencing court may
- 399 order the suspension of the driver license of an actor convicted of theft of motor
- 400 vehicle fuel.
- 401 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
- 402 provided in Section 53-3-220.

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

404 **76-6-405 . Theft by deception.**

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

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

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

410 (i) by deception; and

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

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

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

415 (a) a second degree felony if the:

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

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

418 (b) a third degree felony if:

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

420 (ii) the property:

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

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

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

424 aluminum or copper and is not a lead battery;

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

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

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

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

429 for a class A misdemeanor:

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

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

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

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

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

435 (B), or (C);

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

- 437 (B) the theft occurs on a property where the offender has committed any theft
 438 within the past five years; and
- 439 (C) the offender has received written notice from the merchant prohibiting the
 440 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 441 (v) the actor has been previously convicted of a felony violation of any of the
 442 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if the
 443 prior offense was committed within 10 years before the date of the current
 444 conviction or the date of the offense upon which the current conviction is based;
- 445 (c) a class A misdemeanor if:
- 446 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 447 (ii)(A) the value of property is less than \$500;
- 448 (B) the theft occurs on a property where the offender has committed any theft
 449 within the past five years; and
- 450 (C) the offender has received written notice from the merchant prohibiting the
 451 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 452 (iii) the actor has been twice before convicted of any of the offenses listed in
 453 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
 454 committed within 10 years before the date of the current conviction or the date of
 455 the offense upon which the current conviction is based; or
- 456 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 457 theft is not an offense under Subsection (3)(c).
- 458 (4) Theft by deception does not occur when there is only:
- 459 (a) falsity as to matters having no pecuniary significance; or
- 460 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.
- 461 Section 7. Section **76-6-406** is amended to read:
- 462 **76-6-406 . Theft by extortion.**
- 463 (1)(a) As used in this section, extortion occurs when an actor threatens to:
- 464 (i) cause physical harm in the future to the person threatened, to any other person, or
 465 to property at any time;
- 466 (ii) subject the person threatened or any other person to physical confinement or
 467 restraint;
- 468 (iii) engage in other conduct constituting a crime;
- 469 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
 470 ridicule;

- 471 (v) reveal any information sought to be concealed by the person threatened;
- 472 (vi) testify, provide information, or withhold testimony or information with respect to
- 473 a person's legal claim or defense;
- 474 (vii) take action as an official against anyone or anything, or withhold official action,
- 475 or cause such action or withholding;
- 476 (viii) bring about or continue a strike, boycott, or other similar collective action to
- 477 obtain property that is not demanded or received for the benefit of the group that
- 478 the actor purports to represent; or
- 479 (ix) do any other act which would not in itself substantially benefit the actor but
- 480 which would harm substantially any other person with respect to that person's
- 481 health, safety, business, calling, career, financial condition, reputation, or personal
- 482 relationships.
- 483 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 484 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
- 485 property of another person by extortion and with a purpose to deprive the person of the
- 486 person's property.
- 487 (3) A violation of Subsection (2) is:
- 488 (a) a second degree felony if the:
- 489 (i) value of the property is or exceeds \$5,000;
- 490 (ii) property stolen is a firearm or an operable motor vehicle; or
- 491 (iii) property is stolen from the person of another;
- 492 (b) a third degree felony if:
- 493 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 494 (ii) the property is:
- 495 (A) a catalytic converter as defined under Section 76-6-1402; or
- 496 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 497 if the value is less than \$5,000 and the suspect metal is made of or contains
- 498 aluminum or copper and is not a lead battery;
- 499 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 500 convicted of any of the following offenses, if each prior offense was committed
- 501 within 10 years before the date of the current conviction or the date of the offense
- 502 upon which the current conviction is based and at least one of those convictions is
- 503 for a class A misdemeanor:
- 504 (A) any theft, any robbery, or any burglary with intent to commit theft;

- 505 (B) any offense under Part 5, Fraud;~~[-or]~~
- 506 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 507 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 508 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 509 (B), or (C);
- 510 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 511 (B) the theft occurs on a property where the offender has committed any theft
- 512 within the past five years; and
- 513 (C) the offender has received written notice from the merchant prohibiting the
- 514 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 515 (v) the actor has been previously convicted of a felony violation of any of the
- 516 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 517 prior offense was committed within 10 years before the date of the current
- 518 conviction or the date of the offense upon which the current conviction is based;
- 519 (c) a class A misdemeanor if:
- 520 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 521 (ii)(A) the value of property is less than \$500;
- 522 (B) the theft occurs on a property where the offender has committed any theft
- 523 within the past five years; and
- 524 (C) the offender has received written notice from the merchant prohibiting the
- 525 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 526 (iii) the actor has been twice before convicted of any of the offenses listed in
- 527 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
- 528 committed within 10 years before the date of the current conviction or the date of
- 529 the offense upon which the current conviction is based; or
- 530 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 531 theft is not an offense under Subsection (3)(c).
- 532 (4)(a) A person who is adversely impacted by the conduct prohibited in Subsection (2)
- 533 may bring a civil action for equitable relief and damages.
- 534 (b) In accordance with Section 78B-2-305, a person who brings an action under
- 535 Subsection (4)(a) shall commence the action within three years after the day on
- 536 which the cause of action arises.
- 537 Section 8. Section **76-6-407** is amended to read:
- 538 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**

- 539 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 540 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:
- 541 (a) obtains another person's property and knows the property to have been lost or
- 542 mislaid, or to have been delivered under a mistake as to the identity of the recipient
- 543 or as to the nature or amount of the property, without taking reasonable measures to
- 544 return the property to the owner; and
- 545 (b) has the purpose to deprive the owner of the property when the actor obtains the
- 546 property or at any time before taking the measures described in Subsection (2)(a).
- 547 (3) A violation of Subsection (2) is:
- 548 (a) a second degree felony if the:
- 549 (i) value of the property is or exceeds \$5,000;
- 550 (ii) property stolen is a firearm or an operable motor vehicle; or
- 551 (iii) property is stolen from the person of another;
- 552 (b) a third degree felony if:
- 553 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 554 (ii) the property is:
- 555 (A) a catalytic converter as defined under Section 76-6-1402; or
- 556 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 557 if the value is less than \$5,000 and the suspect metal is made of or contains
- 558 aluminum or copper and is not a lead battery;
- 559 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 560 convicted of any of the following offenses, if each prior offense was committed
- 561 within 10 years before the date of the current conviction or the date of the offense
- 562 upon which the current conviction is based and at least one of those convictions is
- 563 for a class A misdemeanor:
- 564 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 565 (B) any offense under Part 5, Fraud; ~~or~~
- 566 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 567 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 568 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 569 (B), or (C);
- 570 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 571 (B) the theft occurs on a property where the offender has committed any theft
- 572 within the past five years; and

- 573 (C) the offender has received written notice from the merchant prohibiting the
 574 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 575 (v) the actor has been previously convicted of a felony violation of any of the
 576 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 577 prior offense was committed within 10 years before the date of the current
 578 conviction or the date of the offense upon which the current conviction is based;
 579 (c) a class A misdemeanor if:
 580 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
 581 (ii)(A) the value of property is less than \$500;
 582 (B) the theft occurs on a property where the offender has committed any theft
 583 within the past five years; and
 584 (C) the offender has received written notice from the merchant prohibiting the
 585 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 586 (iii) the actor has been twice before convicted of any of the offenses listed in
 587 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 588 committed within 10 years before the date of the current conviction or the date of
 589 the offense upon which the current conviction is based; or
 590 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 591 theft is not an offense under Subsection (3)(c).

592 Section 9. Section **76-6-408** is amended to read:

593 **76-6-408 . Theft by receiving stolen property -- Duties of pawnbrokers,**
 594 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

- 595 (1)(a) As used in this section:
 596 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
 597 13-32a-102.
 598 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
 599 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
 600 (iv) "Receives" means acquiring possession, control, title, or lending on the security
 601 of the property.
 602 (v) "Scrap metal processor" means the same as that term is defined in Section
 603 76-6-1402.
 604 (vi) "Secondhand actor" means:
 605 (A) a pawnbroker;
 606 (B) a person who has or operates a business dealing in or collecting used or

- 607 secondhand merchandise or personal property; or
- 608 (C) an agent, employee, or representative of a pawnbroker or person who buys,
- 609 receives, or obtains property.
- 610 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 611 (2) An actor commits theft by receiving stolen property if the actor receives, retains, or
- 612 disposes of the property of another knowing that the property is stolen, or believing that
- 613 the property is probably stolen, or who conceals, sells, withholds, or aids in concealing,
- 614 selling, or withholding the property from the owner, knowing or believing the property
- 615 to be stolen, intending to deprive the owner of the property.
- 616 (3) A violation of Subsection (2) is:
- 617 (a) a second degree felony if:
- 618 (i) the value of the property is or exceeds \$5,000; or
- 619 (ii) the property is a firearm or an operable motor vehicle;
- 620 (b) a third degree felony if:
- 621 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 622 (ii) the property is:
- 623 (A) a catalytic converter as defined under Section 76-6-1402; or
- 624 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 625 if the value is less the \$5,000 and the suspect metal is made of or contains
- 626 aluminum or copper and is not a lead battery;
- 627 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 628 convicted of any of the following offenses, if each prior offense was committed
- 629 within 10 years before the date of the current conviction or the date of the offense
- 630 upon which the current conviction is based and at least one of those convictions is
- 631 for a class A misdemeanor:
- 632 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 633 (B) any offense under Part 5, Fraud;[-or]
- 634 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 635 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 636 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 637 (B), or (C); or
- 638 (iv) the actor has been previously convicted of a felony violation of any of the
- 639 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 640 prior offense was committed within 10 years before the date of the current

- 641 conviction or the date of the offense upon which the current conviction is based;
- 642 (c) a class A misdemeanor if:
- 643 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
- 644 (ii) the actor has been twice before convicted of any of the offenses listed in
- 645 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~,] (D), if each prior offense was
- 646 committed within 10 years before the date of the current conviction or the date of
- 647 the offense upon which the current conviction is based; or
- 648 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
- 649 not an offense under Subsection (3)(c).
- 650 (4) Except as provided in Subsection (5), the knowledge or belief required under
- 651 Subsection (2) is presumed in the case of an actor who:
- 652 (a) is found in possession or control of other property stolen on a separate occasion; or
- 653 (b) has received other stolen property within the year preceding the receiving offense
- 654 charged.
- 655 (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of a
- 656 secondhand actor if the secondhand actor does not substantially comply with the
- 657 material requirements of Section 13-32a-104.
- 658 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
- 659 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the
- 660 coin dealer does not substantially comply with the requirements of Section
- 661 13-32a-104.5.
- 662 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
- 663 catalytic converter purchaser if the catalytic converter purchaser does not
- 664 substantially comply with the material requirements of Section 13-32a-104.7.
- 665 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a
- 666 scrap metal processor.
- 667 (7) This section does not preclude the admission of evidence in accordance with the Utah
- 668 Rules of Evidence.
- 669 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
- 670 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
- 671 attorney fees.

672 Section 10. Section **76-6-409** is amended to read:

673 **76-6-409 . Theft of service.**

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

- 675 (i) labor, professional service, a public utility or transportation service, restaurant,
 676 hotel, motel, tourist cabin, rooming house, and like accommodations, the
 677 supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph
 678 service, steam, admission to entertainment, an exhibition, a sporting event, or
 679 other event for which a charge is made;
- 680 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
 681 obtained by threat, force, or a form of deception not described in Section
 682 76-6-409.3; and
- 683 (iii) telephone service, only if the service is obtained by threat, force, or a form of
 684 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
 685 76-6-409.9.
- 686 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 687 (2) An actor commits theft of service if:
- 688 (a) the actor, by deception, threat, force, or another means designed to avoid due
 689 payment, obtains a service that the actor knows is available only for compensation; or
- 690 (b) the actor:
- 691 (i) has control over the disposition of another person's service; and
- 692 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
 693 the actor is not entitled to the service; or
- 694 (B) diverts the other person's service to the benefit of a third person, knowing that
 695 the third person is not entitled to the service.
- 696 (3) A violation of Subsection (2) is:
- 697 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 698 (b) a third degree felony if:
- 699 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 700 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
 701 convicted of any of the following offenses, if each prior offense was committed
 702 within 10 years before the date of the current conviction or the date of the offense
 703 upon which the current conviction is based and at least one of those convictions is
 704 for a class A misdemeanor:
- 705 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 706 (B) any offense under Part 5, Fraud;~~[-or]~~
- 707 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 708 (D) any offense in another jurisdiction, including a state, federal, or military court,

- 709 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
 710 (B), or (C);
- 711 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;
 712 (B) the theft occurs on a property where the offender has committed any theft
 713 within the past five years; and
 714 (C) the offender has received written notice from the merchant prohibiting the
 715 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 716 (iv) the actor has been previously convicted of a felony violation of any of the
 717 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if the prior
 718 offense was committed within 10 years before the date of the current conviction or
 719 the date of the offense upon which the current conviction is based;
- 720 (c) a class A misdemeanor if:
 721 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
 722 (ii)(A) the value of the service is less than \$500;
 723 (B) the theft occurs on a property where the offender has committed any theft
 724 within the past five years; and
 725 (C) the offender has received written notice from the merchant prohibiting the
 726 offender from entering the property pursuant to Subsection 78B-3-108(4); or
 727 (iii) the actor has been twice before convicted of any of the offenses listed in
 728 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if each prior offense was
 729 committed within 10 years before the date of the current conviction or the date of
 730 the offense upon which the current conviction is based; or
- 731 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
 732 an offense under Subsection (3)(c).

733 Section 11. Section **76-6-409.3** is amended to read:

734 **76-6-409.3 . Theft of utility or cable television services -- Restitution -- Civil**
 735 **action for damages.**

- 736 (1)(a) As used in this section:
- 737 (i) "Cable television service" means an audio, video, or data service provided for
 738 payment by a cable television company over the cable company's cable system
 739 facilities, but does not include the use of a satellite dish or antenna.
- 740 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
 741 part of a building, whether alone or with others.
- 742 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or

- 743 tenant by the entirety of the whole or a part of a building and the property on
744 which the building is located.
- 745 (iv) "Person" means an individual, firm, partnership, corporation, company,
746 association, or other legal entity.
- 747 (v) "Tenant" includes a person, including the owner, who occupies the whole or part
748 of any building, whether alone or with others.
- 749 (vi) "Utility" means any public utility, municipally owned utility, or cooperative
750 utility that provides electricity, gas, water, or sewer, or any combination of
751 electricity, gas, water, or sewer, for sale to consumers.
- 752 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 753 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due
754 payment to the utility or cable television company, the actor makes gas, electricity,
755 water, sewer, or cable television available to a tenant or occupant, including to the actor,
756 by committing any of the following acts:
- 757 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or
758 other instrument used for conducting gas, electricity, water, sewer, or cable television
759 in a manner as permits the use of the gas, electricity, water, sewer, or cable television
760 without the gas, electricity, water, sewer, or cable television passing through a meter
761 or other instrument recording the usage for billing;
- 762 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
763 other instrument used for measuring quantities of gas, electricity, water, or sewer
764 service, or making or maintaining any modification or alteration to any device
765 installed with the authorization of a cable television company for the purpose of
766 intercepting or receiving any program or other service carried by the company that
767 the actor is not authorized by the company to receive;
- 768 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
769 otherwise restoring service when one or more of those utilities or cable service has
770 been lawfully disconnected or turned off by the provider of the utility or cable service;
- 771 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
772 device, or other part of a metering device for recording usage of gas, electricity,
773 water, or sewer service, or a security system for the recording device, or a cable
774 television control device;
- 775 (e) removing a metering device designed to measure quantities of gas, electricity, water,
776 or sewer service;

- 777 (f) transferring from one location to another location a metering device for measuring
778 quantities of public utility services of gas, electricity, water, or sewer service;
- 779 (g) changing the indicated consumption, jamming the measuring device, bypassing the
780 meter or measuring device with a jumper so that it does not indicate use or registers
781 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
782 service from the utility without the gas, electricity, water, or sewer service passing
783 through a metering device for measuring quantities of consumption for billing
784 purposes;
- 785 (h) using a metering device belonging to the utility that has not been assigned to the
786 location and installed by the utility;
- 787 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
788 utility service diversion, meter tampering, meter thefts, and unauthorized cable
789 television service;
- 790 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
791 television service without payment of all lawful compensation to the company
792 providing the service;
- 793 (k) making or maintaining a connection or connections, whether physical, electrical,
794 mechanical, acoustical, or by other means, with a cable, wire, component, or other
795 device used for the distribution of cable television services without authority from the
796 cable television company; or
- 797 (l) possessing without authority any device or printed circuit board designed in whole or
798 in part to receive any cable television programming or service offered for sale over a
799 cable television system, unless the device or printed circuit board includes the use of
800 a satellite dish or antenna, with the intent that the device or printed circuit be used for
801 the reception of the cable television company's services without payment.
- 802 (3)(a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
- 803 (i) a second degree felony if:
- 804 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000;
- 805 or
- 806 (B) if the actor previously has been convicted of a violation of this section;
- 807 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is
808 or exceeds \$1,500 but is not more than \$5,000;
- 809 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service
810 is or exceeds \$500 but is not more than \$1,500; or

- 811 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service
 812 is less than \$500.
- 813 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
 814 is:
- 815 (i) a second degree felony if the value of the service is or exceeds \$5,000;
- 816 (ii) a third degree felony if:
- 817 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 818 (B) the value of the service is or exceeds \$500 and the actor has been twice before
 819 convicted of any of the following offenses, if each prior offense was committed
 820 within 10 years before the date of the current conviction or the date of the
 821 offense upon which the current conviction is based and at least one of those
 822 convictions is for a class A misdemeanor:
- 823 (I) any theft, any robbery, or any burglary with intent to commit theft;
- 824 (II) any offense under Part 5, Fraud;[~~or~~]
- 825 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);
- 826 or
- 827 (IV) any offense in another jurisdiction, including a state, federal, or military
 828 court, that is substantially equivalent to an offense under Subsection
 829 (3)(b)(ii)(B)(I), (II), or (III); or
- 830 (C) the actor has been previously convicted of a felony violation of any of the
 831 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV),
 832 if the prior offense was committed within 10 years before the date of the
 833 current conviction or the date of the offense upon which the current conviction
 834 is based;
- 835 (iii) a class A misdemeanor if:
- 836 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
- 837 (B) the actor has been twice before convicted of any of the offenses listed in
 838 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(III),~~] (IV), if each prior
 839 offense was committed within 10 years before the date of the current
 840 conviction or the date of the offense upon which the current conviction is
 841 based; or
- 842 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
 843 not an offense under Subsection (3)(b)(iii).
- 844 (c)(i) An actor who violates this section shall make restitution to the utility or cable

- 845 television company for the value of the gas, electricity, water, sewer, or cable
846 television service consumed in violation of this section plus all reasonable
847 expenses and costs incurred on account of the violation of this section.
- 848 (ii) Reasonable expenses and costs include expenses and costs for investigation,
849 disconnection, reconnection, service calls, employee time, and equipment use.
- 850 (4)(a) The presence on property in the possession of an actor of a device or alteration
851 that permits the diversion or use of utility or cable service to avoid the registration of
852 the use by or on a meter installed by the utility or to otherwise avoid the recording of
853 use of the service for payment or otherwise avoid payment gives rise to an inference
854 that the actor in possession of the property installed the device or caused the
855 alteration if:
- 856 (i) the presence of the device or alteration can be attributed only to a deliberate act in
857 furtherance of an intent to avoid payment for utility or cable television service; and
- 858 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
859 utility or cable television service.
- 860 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
861 76-2-202.
- 862 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
863 cable television company to bring a civil action for redress for damages suffered as a
864 result of the commission of any of the acts prohibited by this section.
- 865 (b) This section does not abridge or alter any other right, action, or remedy otherwise
866 available to a utility or cable television company.
- 867 Section 12. Section **76-6-410** is amended to read:
- 868 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**
- 869 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 870 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
871 if:
- 872 (a)(i) the actor has custody of property pursuant to an agreement between the actor or
873 another person and the property's owner;
- 874 (ii) the actor or another person is to perform for compensation a specific service for
875 the property's owner involving the maintenance, repair, or use of the owner's
876 property; and
- 877 (iii) the actor intentionally uses or operates the owner's property, without the consent
878 of the owner, for the actor's own purposes in a manner constituting a gross

- 879 deviation from the agreed purpose; or
- 880 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in
- 881 which the property is to be returned in a specified manner or at a specified time;
- 882 and
- 883 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
- 884 return so as to render such failure a gross deviation from the agreement.
- 885 (3) A violation of Subsection (2) is:
- 886 (a) a second degree felony if the:
- 887 (i) value of the property is or exceeds \$5,000; or
- 888 (ii) property stolen is a firearm or an operable motor vehicle;
- 889 (b) a third degree felony if:
- 890 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 891 (ii) the property is:
- 892 (A) a catalytic converter as defined under Section 76-6-1402; or
- 893 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 894 if the value is less than \$5,000 and the suspect metal is made of or contains
- 895 aluminum or copper and is not a lead battery;
- 896 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 897 convicted of any of the following offenses, if each prior offense was committed
- 898 within 10 years before the date of the current conviction or the date of the offense
- 899 upon which the current conviction is based and at least one of those convictions is
- 900 for a class A misdemeanor:
- 901 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 902 (B) any offense under Part 5, Fraud;[-or]
- 903 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 904 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 905 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 906 (B), or (C); or
- 907 (iv) the actor has been previously convicted of a felony violation of any of the
- 908 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 909 prior offense was committed within 10 years before the date of the current
- 910 conviction or the date of the offense upon which the current conviction is based;
- 911 (c) a class A misdemeanor if:
- 912 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or

- 913 (ii) the actor has been twice before convicted of any of the offenses listed in
914 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~], (D), if each prior offense was
915 committed within 10 years before the date of the current conviction or the date of
916 the offense upon which the current conviction is based; or
917 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
918 theft is not an offense under Subsection (3)(c).

919 Section 13. Section **76-6-602** is amended to read:

920 **76-6-602 . Retail theft.**

921 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

922 (2) An actor commits retail theft if the actor knowingly:

923 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
924 transferred, any merchandise displayed, held, stored, or offered for sale in a retail
925 mercantile establishment with the intention of:

926 (i) retaining the merchandise; or

927 (ii) depriving the merchant permanently of the possession, use or benefit of such
928 merchandise without paying the retail value of the merchandise;

929 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or
930 any other markings which aid in determining value of any merchandise displayed,
931 held, stored, or offered for sale, in a retail mercantile establishment; and

932 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
933 or in consort with another at less than the retail value with the intention of
934 depriving the merchant of the retail value of the merchandise;

935 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
936 mercantile establishment from the container in or on which the merchandise is
937 displayed to any other container with the intention of depriving the merchant of the
938 retail value of the merchandise;

939 (d) under-rings with the intention of depriving the merchant of the retail value of the
940 merchandise; or

941 (e) removes a shopping cart from the premises of a retail mercantile establishment with
942 the intent of depriving the merchant of the possession, use, or benefit of the shopping
943 cart.

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

945 (a) a second degree felony if the:

946 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;

- 947 (ii) merchandise stolen is a firearm or an operable motor vehicle;~~[-or]~~
- 948 (b) a third degree felony if:
- 949 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;
- 950 (ii) the merchandise is:
- 951 (A) a catalytic converter as defined under Section 76-6-1402; or
- 952 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 953 if the retail value is less than \$5,000 and the suspect metal is made of or
- 954 contains aluminum or copper and is not a lead battery;
- 955 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
- 956 actor has been twice before convicted of any of the following offenses, if each
- 957 prior offense was committed within 10 years before the date of the current
- 958 conviction or the date of the offense upon which the current conviction is based
- 959 and at least one of those convictions is for a class A misdemeanor:
- 960 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 961 (B) any offense under Part 5, Fraud;~~[-or]~~
- 962 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 963 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 964 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 965 (B), or (C);
- 966 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
- 967 less than \$1,500;
- 968 (B) the theft occurs in a retail mercantile establishment or on the premises of a
- 969 retail mercantile establishment where the offender has committed any theft
- 970 within the past five years; and
- 971 (C) the offender has received written notice from the merchant prohibiting the
- 972 offender from entering the retail mercantile establishment or premises of a
- 973 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 974 (v) the actor has been previously convicted of a felony violation of any of the
- 975 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 976 prior offense was committed within 10 years before the date of the current
- 977 conviction or the date of the offense upon which the current conviction is based;
- 978 (c) a class A misdemeanor if:
- 979 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
- 980 is less than \$1,500;

- 981 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
- 982 (B) the theft occurs in a retail mercantile establishment or premises of a retail
- 983 mercantile establishment where the offender has committed any theft within
- 984 the past five years; and
- 985 (C) the offender has received written notice from the merchant prohibiting the
- 986 offender from entering the retail mercantile establishment or premises of a
- 987 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 988 (iii) the actor has been twice before convicted of any of the offenses listed in
- 989 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
- 990 committed within 10 years before the date of the current conviction or the date of
- 991 the offense upon which the current conviction is based; or
- 992 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
- 993 is less than \$500 and the theft is not an offense under Subsection (3)(c).

994 Section 14. Section **76-6-608** is amended to read:

995 **76-6-608 . Theft detection shielding devices prohibited.**

- 996 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
- 997 (2) An actor commits the unlawful shielding of a theft detection device if the actor
- 998 knowingly:
- 999 (a) makes or possesses any container or device used for, intended for use for, or
- 1000 represented as having the purpose of shielding merchandise from any electronic or
- 1001 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
- 1002 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any
- 1003 container or device intended for use for or represented as having the purpose of
- 1004 shielding merchandise from any electronic or magnetic theft alarm sensor;
- 1005 (c) possesses any tool or instrument designed to remove any theft detection device from
- 1006 any merchandise, with the intent to use the tool or instrument to remove any theft
- 1007 detection device from any merchandise without the permission of the merchant or the
- 1008 person owning or in possession of the merchandise; or
- 1009 (d) intentionally removes a theft detection device from merchandise prior to purchase
- 1010 and without the permission of the merchant.
- 1011 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.
- 1012 (b) A violation of Subsection (2)(d) is a:
- 1013 (i) class B misdemeanor if the retail value of the merchandise from which the theft
- 1014 detection device is removed is less than \$500; or

1015 (ii) class A misdemeanor if the retail value of the merchandise from which the theft
1016 detection device is removed is or exceeds \$500.

1017 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
1018 Theft, or Part 6, Retail Theft.

1019 (5) Criminal prosecutions under this section do not affect any person's right of civil action
1020 for redress for damages suffered as a result of any violation of this section.

1021 Section 15. Section **76-9-802** is amended to read:

1022 **76-9-802 . Definitions.**

1023 As used in this part:

1024 (1) "Criminal street gang" means an organization, association in fact, or group of three or
1025 more ~~[persons]~~ individuals, whether operated formally or informally:

1026 (a) that is currently in operation;

1027 (b) that has as one of its primary activities the commission of ~~[one or more predicate~~
1028 ~~gang crimes]~~ a criminal offense;

1029 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

1030 (d) whose members, acting individually or in concert with other members, engage in or
1031 have engaged in a pattern of criminal gang activity.

1032 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
1033 harm for the purpose of causing an individual to act or refrain from acting.

1034 (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.

1035 (4) "Pattern of criminal gang activity" means:

1036 (a) committing, attempting to commit, conspiring to commit, or soliciting the
1037 commission of two or more ~~[predicate gang crimes]~~ criminal offenses within five
1038 years;

1039 (b) the ~~[predicate gang crimes]~~ criminal offenses are:

1040 (i) committed by two or more ~~[persons]~~ individuals; or

1041 (ii) committed by an individual at the direction of, or in association with a criminal
1042 street gang; and

1043 (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to
1044 promote, further, or assist in any criminal conduct by members of the criminal street
1045 gang.

1046 ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~

1047 ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~

1048 ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an~~

- 1049 identification number;]
- 1050 [(B) Section 41-1a-1315, regarding false evidence of title and registration;]
- 1051 [(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]
- 1052 [(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
- 1053 identification number; or]
- 1054 [(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
- 1055 number;]
- 1056 [(ii) any criminal violation of the following provisions:]
- 1057 [(A) Title 58, Chapter 37, Utah Controlled Substances Act;]
- 1058 [(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]
- 1059 [(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]
- 1060 [(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]
- 1061 [(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]
- 1062 [(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]
- 1063 [(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
- 1064 offenses;]
- 1065 [(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]
- 1066 [(vii) Title 76, Chapter 6, Part 1, Property Destruction;]
- 1067 [(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]
- 1068 [(ix) Title 76, Chapter 6, Part 3, Robbery;]
- 1069 [(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,
- 1070 Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407,
- 1071 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8,
- 1072 76-6-409.9, 76-6-410, and 76-6-410.5;]
- 1073 [(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,
- 1074 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,
- 1075 76-6-517, 76-6-518, and 76-6-520;]
- 1076 [(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]
- 1077 [(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except
- 1078 Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]
- 1079 [(xiv) tampering with a witness under Section 76-8-508;]
- 1080 [(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]
- 1081 [(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 1082 [(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]

- 1083 [~~(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the~~
 1084 ~~violation occurs at an official meeting;~~]
- 1085 [~~(xix) Title 76, Chapter 10, Part 3, Explosives;~~]
- 1086 [~~(xx) Title 76, Chapter 10, Part 5, Weapons;~~]
- 1087 [~~(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;~~]
- 1088 [~~(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]
- 1089 [~~(xxiii) communications fraud under Section 76-10-1801;~~]
- 1090 [~~(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction~~
 1091 ~~Reporting Act; or]~~
- 1092 [~~(xxv) burglary of a research facility under Section 76-10-2002.]~~
- 1093 [(b) "Predicate gang crime" also includes:]
- 1094 [(i) any state or federal criminal offense that by its nature involves a substantial risk
 1095 that physical force may be used against another in the course of committing the
 1096 offense; and]
- 1097 [(ii) any felony violation of a criminal statute of any other state, the United States, or
 1098 any district, possession, or territory of the United States which would constitute a
 1099 violation of any offense in Subsection (4)(a) if committed in this state.]
- 1100 Section 16. Section **76-9-803** is amended to read:
- 1101 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
 1102 **criminal street gang.**
- 1103 [(1) It is a class B misdemeanor to:]
- 1104 [(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether
 1105 or not the minor actually joins the criminal street gang;]
- 1106 [(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor
 1107 to join a criminal street gang; or]
- 1108 [(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal
 1109 street gang or ending the minor's affiliation with a criminal street gang.]
- 1110 [(2) It is a class A misdemeanor for any person who is a member of or actively involved
 1111 with a criminal street gang to:]
- 1112 [(a) intimidate or otherwise cause a minor to commit or attempt to commit any
 1113 misdemeanor criminal offense; or]
- 1114 [(b) commit a violation of Subsection (1)(a):]
- 1115 [(i) more than once;]
- 1116 [(ii) regarding the same minor; and]

- 1117 ~~[(iii) within a period of 180 days.]~~
- 1118 ~~[(3) Prosecution for any offense under this section does not prohibit prosecution for any~~
- 1119 ~~other criminal offense.]~~
- 1120 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1121 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a
- 1122 criminal street gang if the actor:
- 1123 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
- 1124 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a
- 1125 minor to join a criminal street gang.
- 1126 (3) A violation of Subsection (2) is:
- 1127 (a) a class A misdemeanor if the actor is a minor; or
- 1128 (b) a third degree felony if the actor is 18 years old or older.
- 1129 (4) It is not a defense to a prosecution under this section that the minor did not join the
- 1130 criminal street gang.

1131 Section 17. Section **76-9-803.1** is enacted to read:

1132 **76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to**

1133 **join a criminal street gang.**

- 1134 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1135 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to
- 1136 join a criminal street gang if, in the course of committing an offense under Section
- 1137 76-9-803, the offense:
- 1138 (a) involves the use of a dangerous weapon;
- 1139 (b) results in serious bodily injury to any individual; or
- 1140 (c) results in serious emotional distress to any individual.
- 1141 (3) A violation of Subsection (2) is:
- 1142 (a) a third degree felony if the actor is a minor; or
- 1143 (b) a second degree felony if the actor is 18 years old or older.
- 1144 (4) It is not a defense to a prosecution under this section that the minor did not join the
- 1145 criminal street gang.

1146 Section 18. Section **76-9-803.2** is enacted to read:

1147 **76-9-803.2 . Intimidating a minor to remain in a criminal street gang.**

- 1148 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
- 1149 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor
- 1150 intimidates a minor to prevent the minor from leaving a criminal street gang or ending

1151 the minor's affiliation with a criminal street gang.

1152 (3) A violation of Subsection (2) is:

1153 (a) a class A misdemeanor if the actor is a minor; or

1154 (b) a third degree felony if the actor is 18 years old or older.

1155 (4) It is not a defense to a prosecution under this section that the minor described in

1156 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1157 Section 19. Section **76-9-803.3** is enacted to read:

1158 **76-9-803.3 . Aggravated intimidating a minor to remain in a criminal street gang.**

1159 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

1160 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if,

1161 in the course of committing an offense under Section 76-9-803.2, the offense:

1162 (a) involves the use of a dangerous weapon;

1163 (b) results in serious bodily injury to any individual; or

1164 (c) results in serious emotional distress to any individual.

1165 (3) A violation of Subsection (2) is:

1166 (a) a third degree felony if the actor is a minor; or

1167 (b) a second degree felony if the actor is 18 years old or older.

1168 (4) It is not a defense to a prosecution under this section that the minor described in

1169 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1170 Section 20. Section **76-10-1302** is amended to read:

1171 **76-10-1302 . Prostitution.**

1172 (1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the

1173 actor engages in sexual activity with another individual for a fee, or the functional

1174 equivalent of a fee.

1175 (2)(a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of

1176 Subsection (1) is a class B misdemeanor.

1177 (b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time,~~

1178 ~~and on all subsequent convictions, of a subsequent offense of prostitution under this~~

1179 ~~section or] A violation of Subsection (1) is a class A misdemeanor if the actor has~~

1180 previously been convicted of:

1181 (i) a violation of Subsection (1);

1182 (ii) [~~under~~] a local ordinance adopted [under] in accordance with Section 76-10-1307[;

1183 ~~is guilty of a class A misdemeanor] addressing the same or similar type of~~

1184 violation to the violation described in Subsection (1); or

1185 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1186 court, that is substantially equivalent to the violation described in Subsection (1).

- 1187 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor
 1188 engages in a violation of Subsection (1) at or near the time the actor witnesses or is a
 1189 victim of any of the following offenses, or an attempt to commit any of the following
 1190 offenses, and the actor reports the offense or attempt to law enforcement in good faith:
- 1191 (a) assault, Section 76-5-102;
 - 1192 (b) aggravated assault, Section 76-5-103;
 - 1193 (c) mayhem, Section 76-5-105;
 - 1194 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
 1195 homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;
 - 1196 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
 1197 aggravated human trafficking, human smuggling or aggravated human smuggling, or
 1198 human trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and
 1199 Smuggling;
 - 1200 (f) rape, Section 76-5-402;
 - 1201 (g) rape of a child, Section 76-5-402.1;
 - 1202 (h) object rape, Section 76-5-402.2;
 - 1203 (i) object rape of a child, Section 76-5-402.3;
 - 1204 (j) forcible sodomy, Section 76-5-403;
 - 1205 (k) sodomy on a child, Section 76-5-403.1;
 - 1206 (l) forcible sexual abuse, Section 76-5-404;
 - 1207 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
 1208 Section 76-5-404.3;
 - 1209 (n) aggravated sexual assault, Section 76-5-405;
 - 1210 (o) sexual exploitation of a minor, Section 76-5b-201;
 - 1211 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
 - 1212 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
 - 1213 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and
 1214 Criminal Trespass;
 - 1215 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or
 - 1216 (t) theft by extortion under Section 76-6-406 under the circumstances described in
 1217 Subsection 76-6-406(1)(a)(i) or (ii).
- 1218 Section 21. Section **76-10-1303** is amended to read:

1219 **76-10-1303 . Patronizing a prostitute.**

- 1220 (1) An actor is guilty of patronizing a prostitute if the actor:
- 1221 (a) pays or offers or agrees to pay a prostituted individual, or an individual the actor
- 1222 believes to be a prostituted individual, a fee, or the functional equivalent of a fee, for
- 1223 the purpose of engaging in an act of sexual activity; or
- 1224 (b) enters or remains in a place of prostitution for the purpose of engaging in sexual
- 1225 activity.
- 1226 [~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3),~~
- 1227 ~~(4), or (5) or Section 76-10-1309.]~~
- 1228 [~~(3) A violation of this section that is preceded by a conviction under this section or a~~
- 1229 ~~conviction under a local ordinance adopted under Section 76-10-1307 is a class A~~
- 1230 ~~misdemeanor.]~~
- 1231 [~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307~~
- 1232 ~~is a third degree felony.]~~
- 1233 (2)(a) Except as provided in Subsection (2)(b), (3), or Section 76-10-1309, a violation of
- 1234 Subsection (1) is a class A misdemeanor with a mandatory fine of not less than
- 1235 \$5,000.
- 1236 (b) A violation of Subsection (1) is a third degree felony, with a mandatory fine of not
- 1237 less than \$10,000, if the actor has previously been convicted two or more times of:
- 1238 (i) a violation of Subsection (1);
- 1239 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
- 1240 same or similar type of violation to the violation described in Subsection (1); or
- 1241 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
- 1242 court, that is substantially equivalent to the violation described in Subsection (1).
- 1243 [~~(5)] (3)(a) Except as provided in Subsection [~~(5)(d)] (3)(d), if the patronizing of a~~~~
- 1244 prostitute under Subsection (1)(a) involves a child as the other individual, a violation
- 1245 of Subsection (1)(a) is a second degree felony.
- 1246 (b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under
- 1247 Subsection [~~(5)(a)] (3)(a) that the actor mistakenly believed the individual to be 18~~
- 1248 years old or older at the time of the offense or was unaware of the individual's true
- 1249 age.
- 1250 (c) An actor's belief that the individual was under 18 years old at the time of the offense,
- 1251 even if the individual was 18 years old or older, is a violation of Subsection [~~(5)(a)]~~
- 1252 (3)(a).

1253 (d) If the act committed under Subsection ~~[(5)(a)]~~ (3)(a) amounts to an offense that is
 1254 subject to a greater penalty under another provision of state law than is provided
 1255 under Subsection ~~[(5)(a)]~~ (3)(a), this Subsection ~~[(5)]~~ (3) does not prohibit prosecution
 1256 and sentencing for the more serious offense.

1257 ~~[(6)]~~ (4) Upon a conviction for a violation of this section, the court shall order:

1258 (a) the maximum fine amount and may not waive or suspend the fine; and

1259 (b) the defendant to pay for and complete a court-approved educational program about
 1260 the negative effects on an individual involved with prostitution or human trafficking.

1261 Section 22. Section **76-10-1304** is amended to read:

1262 **76-10-1304 . Aiding prostitution.**

1263 (1) An individual is guilty of aiding prostitution if the individual:

1264 (a)(i) solicits an individual to patronize a prostitute, or to patronize an individual the
 1265 actor believes to be a prostitute;

1266 (ii) procures or attempts to procure a prostitute, or an individual the actor believes to
 1267 be a prostitute, for a patron;

1268 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
 1269 association with another, to be used for prostitution or the promotion of
 1270 prostitution; or

1271 (iv) provides any service or commits any act that enables another individual to
 1272 commit a violation of this Subsection (1)(a) or facilitates another individual's
 1273 ability to commit any violation of this Subsection (1)(a); or

1274 (b) solicits, receives, or agrees to receive any benefit for committing any of the acts
 1275 prohibited by Subsection (1)(a).

1276 ~~[(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~

1277 ~~[(3) An individual who is convicted a second time, and on all subsequent convictions, under
 1278 this section or under a local ordinance adopted in compliance with Section 76-10-1307
 1279 is guilty of a third degree felony.]~~

1280 (2)(a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A
 1281 misdemeanor.

1282 (b) A violation of Subsection (1) is a third degree felony if the actor has previously been
 1283 convicted of:

1284 (i) a violation of Subsection (1);

1285 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing the
 1286 same or similar type of violation to the violation described in Subsection (1); or

1287 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
 1288 court, that is substantially equivalent to the violation described in Subsection (1).

1289 [~~4~~] (3) Upon a conviction for a violation of this section, the court shall order [~~the~~
 1290 ~~maximum fine amount~~] a fine of not less than \$10,000 and may not waive or suspend the
 1291 fine.

1292 Section 23. Section **76-10-1602** is amended to read:

1293 **76-10-1602 . Definitions.**

1294 As used in this part:

- 1295 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
 1296 business trust, association, or other legal entity, and any union or group of individuals
 1297 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 1298 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
 1299 commission of at least three episodes of unlawful activity, which episodes are not
 1300 isolated, but have the same or similar purposes, results, participants, victims, or methods
 1301 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
 1302 together, the episodes shall demonstrate continuing unlawful conduct and be related
 1303 either to each other or to the enterprise. At least one of the episodes comprising a
 1304 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
 1305 constituting part of a pattern of unlawful activity as defined by this part shall have
 1306 occurred within five years of the commission of the next preceding act alleged as part of
 1307 the pattern.
- 1308 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
 1309 interest in property, including state, county, and local governmental entities.
- 1310 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
 1311 encourage, or intentionally aid another person to engage in conduct which would
 1312 constitute any offense described by the following crimes or categories of crimes, or to
 1313 attempt or conspire to engage in an act which would constitute any of those offenses,
 1314 regardless of whether the act is in fact charged or indicted by any authority or is
 1315 classified as a misdemeanor or a felony:
- 1316 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
 1317 Recording Practices Act;
- 1318 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
 1319 Code, Sections 19-1-101 through 19-7-109;
- 1320 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose

- 1321 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
 1322 Section 23A-5-311;
- 1323 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,
 1324 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
- 1325 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
 1326 Offenses and Procedure Act;
- 1327 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
 1328 Uniform Land Sales Practices Act;
- 1329 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
 1330 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
 1331 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
 1332 Chapter 37d, Clandestine Drug Lab Act;
- 1333 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
 1334 Securities Act;
- 1335 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
 1336 Procurement Code;
- 1337 (j) assault under Section_76-5-102;
- 1338 (k) aggravated assault under Section 76-5-103;
- 1339 (l) a threat of terrorism under Section 76-5-107.3;
- 1340 (m) a criminal homicide offense under Section 76-5-201;
- 1341 (n) kidnapping under Section_76-5-301;
- 1342 (o) aggravated kidnapping under Section_76-5-302;
- 1343 (p) human trafficking for labor under Section 76-5-308;
- 1344 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1345 (r) human smuggling under Section 76-5-308.3;
- 1346 (s) human trafficking of a child under Section76-5-308.5;
- 1347 (t) [~~benefiting~~] benefitting from trafficking and human smuggling under Section_76-5-309;
- 1348 (u) aggravated human trafficking under Section_76-5-310;
- 1349 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1350 (w) aggravated sexual exploitation of a minor under Section_76-5b-201.1;
- 1351 (x) sexual extortion under Section 76-5b-204;
- 1352 [~~(x)~~] (y) arson under Section 76-6-102;
- 1353 [~~(y)~~] (z) aggravated arson under Section_76-6-103;
- 1354 [~~(z)~~] (aa) causing a catastrophe under Section 76-6-105;

1355 [~~aa~~] (bb) burglary under Section 76-6-202;
 1356 [~~bb~~] (cc) aggravated burglary under Section 76-6-203;
 1357 [~~ee~~] (dd) burglary of a vehicle under Section 76-6-204;
 1358 [~~dd~~] (ee) manufacture or possession of an instrument for burglary or theft under Section
 1359 76-6-205;
 1360 [~~ee~~] (ff) robbery under Section 76-6-301;
 1361 [~~ff~~] (gg) aggravated robbery under Section 76-6-302;
 1362 [~~gg~~] (hh) theft under Section 76-6-404;
 1363 [~~hh~~] (ii) theft by deception under Section 76-6-405;
 1364 [~~ii~~] (jj) theft by extortion under Section 76-6-406;
 1365 [~~jj~~] (kk) receiving stolen property under Section 76-6-408;
 1366 [~~kk~~] (ll) theft of services under Section 76-6-409;
 1367 [~~ll~~] (mm) forgery under Section 76-6-501;
 1368 [~~mm~~] (nn) unlawful use of financial transaction card under Section 76-6-506.2;
 1369 [~~nn~~] (oo) unlawful acquisition, possession, or transfer of financial transaction card
 1370 under Section 76-6-506.3;
 1371 [~~oo~~] (pp) financial transaction card offenses under Section 76-6-506.6;
 1372 [~~pp~~] (qq) deceptive business practices under Section 76-6-507;
 1373 [~~qq~~] (rr) bribery or receiving bribe by person in the business of selection, appraisal, or
 1374 criticism of goods under Section 76-6-508;
 1375 [~~rr~~] (ss) bribery of a labor official under Section 76-6-509;
 1376 [~~ss~~] (tt) defrauding creditors under Section 76-6-511;
 1377 [~~tt~~] (uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
 1378 [~~uu~~] (vv) unlawful dealing with property by fiduciary under Section 76-6-513;
 1379 [~~vv~~] (ww) bribery or threat to influence contest under Section 76-6-514;
 1380 [~~ww~~] (xx) making a false credit report under Section 76-6-517;
 1381 [~~xx~~] (yy) criminal simulation under Section 76-6-518;
 1382 [~~yy~~] (zz) criminal usury under Section 76-6-520;
 1383 [~~zz~~] (aaa) insurance fraud under Section 76-6-521;
 1384 [~~aaa~~] (bbb) retail theft under Section 76-6-602;
 1385 [~~bbb~~] (ccc) computer crimes under Section 76-6-703;
 1386 [~~eee~~] (ddd) identity fraud under Section 76-6-1102;
 1387 [~~ddd~~] (eee) mortgage fraud under Section 76-6-1203;
 1388 [~~eee~~] (fff) sale of a child under Section 76-7-203;

1389 [~~(fff)~~] (ggg) bribery to influence official or political actions under Section 76-8-103;
 1390 [~~(ggg)~~] (hhh) threat to influence official or political action under Section 76-8-104;
 1391 [~~(hhh)~~] (iii) receiving bribe or bribery by public servant under Section 76-8-105;
 1392 [~~(iii)~~] (jjj) receiving bribe for endorsement of person as a public servant under Section
 1393 76-8-106;
 1394 [~~(jjj)~~] (kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
 1395 [~~(kkk)~~] (lll) official misconduct based on unauthorized act or failure of duty under Section
 1396 76-8-201;
 1397 [~~(lll)~~] (mmm) official misconduct concerning inside information under Section 76-8-202;
 1398 [~~(mmm)~~] (nnn) obstruction of justice in a criminal investigation or proceeding under
 1399 Section 76-8-306;
 1400 [~~(nnn)~~] (ooo) acceptance of bribe or bribery to prevent criminal prosecution under
 1401 Section 76-8-308;
 1402 [~~(ooo)~~] (ppp) harboring or concealing offender who has escaped from official custody
 1403 under Section 76-8-309.2;
 1404 [~~(ppp)~~] (qqq) making a false or inconsistent material statement under Section 76-8-502;
 1405 [~~(qqq)~~] (rrr) making a false or inconsistent statement under Section 76-8-503;
 1406 [~~(rrr)~~] (sss) making a written false statement under Section 76-8-504;
 1407 [~~(sss)~~] (ttt) tampering with a witness under Section 76-8-508;
 1408 [~~(ttt)~~] (uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 1409 [~~(uuu)~~] (vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 1410 [~~(vvv)~~] (www) extortion or bribery to dismiss a criminal proceeding under Section
 1411 76-8-509;
 1412 [~~(www)~~] (xxx) tampering with evidence under Section 76-8-510.5;
 1413 [~~(xxx)~~] (yyy) falsification or alteration of a government record under Section 76-8-511, if
 1414 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
 1415 Lobbyist Disclosure and Regulation Act;
 1416 [~~(yyy)~~] (zzz) public assistance fraud by an applicant for public assistance under Section
 1417 76-8-1203.1;
 1418 [~~(zzz)~~] (aaa) public assistance fraud by a recipient of public assistance under Section
 1419 76-8-1203.3;
 1420 [~~(aaa)~~] (bbb) public assistance fraud by a provider under Section 76-8-1203.5;
 1421 [~~(bbb)~~] (ccc) fraudulently misappropriating public assistance funds under Section
 1422 76-8-1203.7;

1423 [(eeee)] (dddd) false statement to obtain or increase unemployment compensation under
 1424 Section 76-8-1301;

1425 [(~~dddd~~)] (eeee) false statement to prevent or reduce unemployment compensation or
 1426 liability under Section 76-8-1302;

1427 [(eeee)] (ffff) unlawful failure to comply with Employment Security Act requirements
 1428 under Section 76-8-1303;

1429 [(ffff)] (gggg) unlawful use or disclosure of employment information under Section
 1430 76-8-1304;

1431 [(gggg)] (hhhh) intentionally or knowingly causing one animal to fight with another
 1432 under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

1433 (iii) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang
 1434 under Section 76-9-803;

1435 (jjj) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
 1436 street gang under Section 76-9-803.1;

1437 (kkkk) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;
 1438 (lll) aggravated intimidating a minor to remain in a criminal street gang under Section
 1439 76-9-803.3;

1440 [(hhhh)] (mmmm) possession, use, or removal of explosives, chemical, or incendiary
 1441 devices or parts under Section 76-10-306;

1442 [(~~iiii~~)] (nnnn) delivery to common carrier, mailing, or placement on premises of an
 1443 incendiary device under Section 76-10-307;

1444 [(~~jjjj~~)] (oooo) possession of a deadly weapon with intent to assault under Section
 1445 76-10-507;

1446 [(~~kkkk~~)] (pppp) unlawful marking of pistol or revolver under Section 76-10-521;

1447 [(~~HHH~~)] (qqqq) alteration of number or mark on pistol or revolver under Section 76-10-522;

1448 [(~~mmmm~~)] (rrrr) forging or counterfeiting trademarks, trade name, or trade device under
 1449 Section 76-10-1002;

1450 [(~~nnnn~~)] (ssss) selling goods under counterfeited trademark, trade name, or trade devices
 1451 under Section 76-10-1003;

1452 [(~~oooo~~)] (ttt) sales in containers bearing registered trademark of substituted articles
 1453 under Section 76-10-1004;

1454 [(~~pppp~~)] (uuuu) selling or dealing with article bearing registered trademark or service
 1455 mark with intent to defraud under Section 76-10-1006;

1456 [(~~qqqq~~)] (vvvv) gambling under Section 76-10-1102;

1457 [(tttt)] (www) gambling fraud under Section 76-10-1103;
 1458 [(ssss)] (xxxx) gambling promotion under Section 76-10-1104;
 1459 [(tttt)] (yyyy) possessing a gambling device or record under Section 76-10-1105;
 1460 [(tttt)] (zzzz) confidence game under Section 76-10-1109;
 1461 [(vvvv)] (aaaa) distributing pornographic material under Section 76-10-1204;
 1462 [(www)] (bbbb) inducing acceptance of pornographic material under Section
 1463 76-10-1205;
 1464 [(xxxx)] (cccc) dealing in harmful material to a minor under Section 76-10-1206;
 1465 [(yyyy)] (dddd) distribution of pornographic films under Section 76-10-1222;
 1466 [(zzzz)] (eeee) indecent public displays under Section 76-10-1228;
 1467 [(aaaa)] (ffff) prostitution under Section 76-10-1302;
 1468 [(bbbb)] (gggg) aiding prostitution under Section 76-10-1304;
 1469 [(eeee)] (hhhh) exploiting prostitution under Section 76-10-1305;
 1470 [(dddd)] (iiii) aggravated exploitation of prostitution under Section 76-10-1306;
 1471 [(eeee)] (jjjj) communications fraud under Section 76-10-1801;
 1472 [(ffff)] (kkkk) an act prohibited by the criminal provisions of Part 19, Money
 1473 Laundering and Currency Transaction Reporting Act;
 1474 [(gggg)] (llll) vehicle compartment for contraband under Section 76-10-2801;
 1475 [(hhhh)] (mmmm) an act prohibited by the criminal provisions of the laws governing
 1476 taxation in this state; or
 1477 [(iiii)] (nnnn) an act illegal under the laws of the United States and enumerated in 18
 1478 U.S.C. [See.] Secs. 1961(1)(B), (C), and (D).
 1479 Section 24. Section **78B-6-1101** is amended to read:
 1480 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**
 1481 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
 1482 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
 1483 of life or property. A nuisance may be the subject of an action.
 1484 (2) A nuisance may include the following:
 1485 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
 1486 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
 1487 (c) criminal activity committed in concert with [three] two or more [persons] individuals
 1488 as provided in Section 76-3-203.1;
 1489 (d) criminal activity committed for the benefit of, at the direction of, or in association
 1490 with any criminal street gang as defined in Section 76-9-802;

- 1491 (e) criminal activity committed to gain recognition, acceptance, membership, or
 1492 increased status with a criminal street gang as defined in Section 76-9-802;
- 1493 (f) party houses that frequently create conditions defined in Subsection (1); and
 1494 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1495 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
 1496 person rents, leases, or owns, from another residential or commercial unit and the smoke:
 1497 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
 1498 (b) creates any of the conditions under Subsection (1).
- 1499 (4) Subsection (3) does not apply to:
 1500 (a) a residential rental unit available for temporary rental, such as for a vacation, or
 1501 available for only 30 or fewer days at a time; or
 1502 (b) a hotel or motel room.
- 1503 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
 1504 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
 1505 57-19-2.
- 1506 (6) An action may be brought by a person whose property is injuriously affected, or whose
 1507 personal enjoyment is lessened by the nuisance.
- 1508 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
 1509 44, Agricultural Operations Nuisances Act.
- 1510 (8) "Critical infrastructure materials operations" means the same as that term is defined in
 1511 Section 10-9a-901.
- 1512 (9) "Manufacturing facility" means a factory, plant, or other facility including its
 1513 appurtenances, where the form of raw materials, processed materials, commodities, or
 1514 other physical objects is converted or otherwise changed into other materials,
 1515 commodities, or physical objects or where such materials, commodities, or physical
 1516 objects are combined to form a new material, commodity, or physical object.
- 1517 Section 25. Section **78B-6-1107** is amended to read:
 1518 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
 1519 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 1520 (1) Every building or place is a nuisance where:
 1521 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
 1522 acquisition occurs of any controlled substance, precursor, or analog specified in Title
 1523 58, Chapter 37, Utah Controlled Substances Act;
 1524 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title

- 1525 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
1526 defined in Subsection 78B-6-1101(1);
- 1527 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals
1528 as provided in Section 76-3-203.1;
- 1529 (d) criminal activity is committed for the benefit of, at the direction of, or in association
1530 with any criminal street gang as defined in Section 76-9-802;
- 1531 (e) criminal activity is committed to gain recognition, acceptance, membership, or
1532 increased status with a criminal street gang as defined in Section 76-9-802;
- 1533 (f) parties occur frequently which create the conditions of a nuisance as defined in
1534 Subsection 78B-6-1101(1);
- 1535 (g) prostitution or promotion of prostitution is regularly carried on by one or more
1536 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and
- 1537 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.
- 1538 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
1539 defendant is lawfully entitled to possession of a controlled substance.
- 1540 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
1541 nuisance as defined in Subsection (1).

1542 Section 26. **Effective Date.**

1543 This bill takes effect on May 7, 2025.