

Ryan D. Wilcox proposes the following substitute bill:

Criminal Offenses Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor:

2

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 ▶ amends the definition of "financial transaction card" in Section 76-6-506;

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

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

19 ▶ increases penalties for an individual who:

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

21 • acts to intimidate a minor into remaining in a criminal street gang in certain
22 circumstances;

23 ▶ includes coordination clauses to coordinate changes between this bill, H.B. 21, Criminal
24 Code Recodification and Cross References, and H.B. 22, Prostitution Offense

25 Amendments; and

26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides coordination clauses.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **76-3-203.1**, as last amended by Laws of Utah 2024, Chapter 96

34 **76-5b-204**, as last amended by Laws of Utah 2024, Chapter 127

35 **76-6-401**, as last amended by Laws of Utah 2021, Chapter 57

36 **76-6-404**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
37 Coordination Clause, Laws of Utah 2023, Chapter 407

38 **76-6-404.5**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
39 Coordination Clause, Laws of Utah 2023, Chapter 407

40 **76-6-404.7**, as last amended by Laws of Utah 2023, Chapter 111

41 **76-6-405**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
42 Coordination Clause, Laws of Utah 2023, Chapter 407

43 **76-6-406**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
44 Coordination Clause, Laws of Utah 2023, Chapter 407

45 **76-6-407**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
46 Coordination Clause, Laws of Utah 2023, Chapter 407

47 **76-6-408**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
48 Coordination Clause, Laws of Utah 2023, Chapter 407

49 **76-6-409**, as last amended by Laws of Utah 2023, Chapter 111

50 **76-6-409.3**, as last amended by Laws of Utah 2023, Chapter 111

51 **76-6-410**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
52 Coordination Clause, Laws of Utah 2023, Chapter 407

53 **76-6-506**, as last amended by Laws of Utah 2023, Chapter 111

54 **76-6-602**, as last amended by Laws of Utah 2023, Chapter 111 and last amended by
55 Coordination Clause, Laws of Utah 2023, Chapter 407

56 **76-6-608**, as last amended by Laws of Utah 2023, Chapter 111

57 **76-9-802**, as last amended by Laws of Utah 2024, Chapter 96

58 **76-9-803**, as enacted by Laws of Utah 2008, Chapter 15

59 **76-10-1302**, as last amended by Laws of Utah 2023, Chapter 111

60 **76-10-1303**, as last amended by Laws of Utah 2024, Chapter 140

61 **76-10-1304**, as last amended by Laws of Utah 2018, Chapter 308

62 **76-10-1602**, as last amended by Laws of Utah 2024, Chapter 96

63 **78B-6-1101**, as last amended by Laws of Utah 2021, Chapter 207

64 **78B-6-1107**, as last amended by Laws of Utah 2021, Chapter 207

65 ENACTS:

66 **76-9-803.1**, Utah Code Annotated 1953

67 **76-9-803.2**, Utah Code Annotated 1953

68 **76-9-803.3**, Utah Code Annotated 1953

69 **Utah Code Sections affected by Coordination Clause:**

70

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

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

73 **76-3-203.1 . Enhanced penalty for offenses committed in or for a certain group.**

74 (1) As used in this section:

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

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

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

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

81 (A) was physically present; and

82 (B) participated as a party to [~~any~~] an offense listed in Subsection [~~(4), (5), or (6)~~]
83 (6) or (7).

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

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

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

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

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

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

95 (e) "Principal place of residence" means the single location where an individual's

96 habitation is fixed and to which, whenever the individual is absent, the individual has

97 the intention of returning, as evidenced by:

98 (i) the intent expressed by the individual; and

99 (ii) acts of the individual that are consistent or inconsistent with the intent expressed
100 by the individual.

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

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

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

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

110 (3) An actor who commits an offense listed in Subsection (7) is subject to an enhanced
111 penalty for the offense as provided in Subsection (5) if the trier of fact finds beyond a
112 reasonable doubt that the actor:

113 (a)(i) acted in concert with two or more individuals; and

114 (ii)(A) traveled more than 50 miles from the actor's principal place of residence
115 for the purpose of the actor committing an offense listed in Subsection (7); or

116 (B) had previously been convicted of an offense listed in Subsection (7), or an
117 offense in another jurisdiction, including a state, federal, or military court, that
118 is substantially equivalent to an offense under Subsection (7);

119 (b) acted for the benefit of, at the direction of, or in association with a criminal street
120 gang or other organized criminal group; or

121 (c) acted to gain recognition, acceptance, membership, or increased status with a
122 criminal street gang or other organized criminal group.

123 ~~[(3)]~~ (4) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to
124 be subscribed upon the information or indictment notice that the ~~[defendant]~~ actor is
125 subject to the enhanced penalties provided under this section.

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

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

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

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

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

- 131 [(ii) property damage or destruction as described in Section 76-6-106.1; and]
- 132 [(iii) defacement by graffiti as described in Section 76-6-107.]
- 133 [(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:]
- 134 [(i) for a class B misdemeanor, as a class A misdemeanor;]
- 135 [(ii) for a class A misdemeanor, as a third degree felony; and]
- 136 [(iii) for a third degree felony, as a second degree felony.]
- 137 [(b) The following offenses are subject to Subsection (5)(a):]
- 138 [(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);]
- 139 [(ii) any offense of obstructing government operations under Chapter 8, Part 3,
- 140 Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303,
- 141 76-8-307, 76-8-308, and 76-8-312;]
- 142 [(iii) tampering with a witness under Section 76-8-508;]
- 143 [(iv) retaliation against a witness, victim, or informant, or other violation of Section
- 144 76-8-508.3;]
- 145 [(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]
- 146 [(vi) extortion or bribery to dismiss a criminal proceeding as defined in Section
- 147 76-8-509;]
- 148 [(vii) any weapons offense under Chapter 10, Part 5, Weapons; and]
- 149 [(viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.]
- 150 [(6) (5)(a) For an offense listed in Subsection [(6)(b), a person] (6) or (7), an actor may
- 151 be charged as follows:
- 152 [(i) (a) for a class B misdemeanor, as a class A misdemeanor;
- 153 [(ii) (b) for a class A misdemeanor, as a third degree felony;
- 154 [(iii) (c) for a third degree felony, as a second degree felony; and
- 155 [(iv) (d) for a second degree felony, as a first degree felony.
- 156 [(b) (6) The [following offenses are subject to Subsection (6)(a)] offenses referred to in
- 157 Subsection (2) are:
- 158 [(i) (a) [assault and related offenses under] an offense described in Chapter 5, Part 1,
- 159 Assault and Related Offenses;
- 160 [(ii) (b) [any criminal homicide offense under] an offense described in Chapter 5, Part 2,
- 161 Criminal Homicide;
- 162 [(iii) (c) [kidnapping and related offenses under] a felony offense described in Chapter 5,
- 163 Part 3, Kidnapping, Trafficking, and Smuggling;
- 164 [(iv) (d) [any felony sexual offense under] a felony offense described in Chapter 5, Part

- 165 4, Sexual Offenses;
- 166 [~~(v)~~ sexual exploitation of a minor as defined in Section 76-5b-201;]
- 167 [~~(vi)~~ aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;]
- 168 [~~(vii)~~ (e) robbery [~~and~~] as described in Section 76-6-202;
- 169 (f) aggravated robbery [~~under Chapter 6, Part 3, Robbery; and~~] as described in Section
- 170 76-6-203;
- 171 (g) burglary as described in Subsection 76-6-202(3)(b);
- 172 (h) aggravated burglary as described in Section 76-6-203;
- 173 (i) an offense described in Chapter 10, Part 5, Weapons;
- 174 (j) a felony violation of aiding prostitution as described in Section 76-10-1304;
- 175 (k) exploiting prostitution as described in Section 76-10-1305;
- 176 [~~(viii)~~ (l) aggravated exploitation of prostitution under Section 76-10-1306[-] ;
- 177 (m) burglary of a research facility as described in Section 76-10-2002; and
- 178 (n) transporting or harboring aliens as described in Section 76-10-2901.

179 (7) The offenses referred to in Subsection (3) are:

- 180 (a) criminal solicitation of a minor as described in Section 76-4-205;
- 181 (b) an offense described in Chapter 6, Part 1, Property Destruction;
- 182 (c) an offense described in Chapter 6, Part 4, Theft;
- 183 (d) an offense described in Chapter 6, Part 6, Retail Theft;
- 184 (e) an offense described in Chapter 6, Part 11, Identity Fraud Act;
- 185 (f) communications fraud as described in Section 76-10-1801; and
- 186 (g) an offense described in Chapter 10, Part 19, Money Laundering and Currency
- 187 Transaction Reporting Act.

188 [~~(7)~~ (8) [The] A court may, if not otherwise prohibited from doing so by another section of

189 the code, suspend a sentence imposed under [Subsection (4), (5), or (6)] may be

190 suspended] this section and place the [individual placed] actor on probation[for the

191 higher level of offense].

192 [~~(8)~~ (9) It is not a bar to imposing the enhanced penalties under this section that the [persons]

193 individuals with whom the actor is alleged to have acted in concert are not identified,

194 apprehended, charged, or convicted, or that any of those [persons] individuals are

195 charged with or convicted of a different or lesser offense.

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

197 **76-5b-204 . Sexual extortion -- Penalties.**

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

- 199 (i) "Adult" means an individual 18 years old or older.
- 200 (ii) "Child" means any individual under the age of 18.
- 201 (iii) "Intimate image" means the same as that term is defined in Section 76-5b-203.
- 202 (iv) "Position of special trust" means the same as that term is defined in Section
203 76-5-404.1.
- 204 (v) "Sexually explicit conduct" means the same as that term is defined in Section
205 76-5b-203.
- 206 (vi) "Simulated sexually explicit conduct" means the same as that term is defined in
207 Section 76-5b-203.
- 208 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 209 (2)(a) An actor commits the offense of sexual extortion if the actor:
- 210 (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit
211 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
212 distribute an image, video, or other recording of any individual naked or engaged
213 in sexually explicit conduct, communicates by any means a threat:
- 214 (A) to the victim's person, property, or reputation; or
215 (B) to distribute an intimate image or video of the victim;
- 216 (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit
217 conduct, or in simulated sexually explicit conduct, or to produce, provide, or
218 distribute any image, video, or other recording of any individual naked or engaged
219 in sexually explicit conduct by means of a threat:
- 220 (A) to the victim's person, property, or reputation; or
221 (B) to distribute an intimate image or video of the victim; or
- 222 (iii) with intent to obtain a thing of value from a victim communicates, by any means,
223 a threat to distribute an intimate image or video of the victim.
- 224 (b) An actor commits aggravated sexual extortion when, in conjunction with the offense
225 described in Subsection (2)(a), any of the following circumstances have been charged
226 and admitted or found true in the action for the offense:
- 227 (i) the victim is a child or vulnerable adult;
- 228 (ii) the offense was committed by the use of a dangerous weapon or by violence,
229 intimidation, menace, fraud, or threat of physical harm, or was committed during
230 the course of a kidnapping;
- 231 (iii) ~~the actor caused~~ the victim suffered bodily injury or severe psychological
232 injury ~~[to the victim]~~ during, or as a result of, the offense;

- 233 (iv) the actor was a stranger to the victim, or became a friend of the victim, for the
234 purpose of committing the offense;
- 235 (v) the actor, before sentencing for the offense, was previously convicted of any
236 sexual offense;
- 237 (vi) the actor occupied a position of special trust in relation to the victim;
- 238 (vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or
239 sexual acts by the victim with any other individual, or sexual performance by the
240 victim before any other individual, human trafficking, or human smuggling; or
- 241 (viii) the actor caused the penetration, however slight, of the genital or anal opening
242 of the victim by any part or parts of the human body, or by any other object.
- 243 (3)(a) If the actor is an adult:
- 244 (i) [A] a violation of Subsection (2)(a) is a third degree felony.
- 245 (ii) [A] a violation of Subsection [~~(2)(b)~~] (2)(b)(i), (ii), (iv), (v), (vi), (vii), or (viii) in
246 which the victim is an adult is a second degree felony.
- 247 (iii) a violation of Subsection (2)(b)(iii) in which the victim is an adult is a first
248 degree felony.
- 249 [~~(iii)~~] (iv) [A] a violation of Subsection (2)(b) in which the victim is a child or a
250 vulnerable adult is a first degree felony.
- 251 (b) If the actor is a child:
- 252 (i) [A] a violation of Subsection (2)(a) is a class A misdemeanor.
- 253 (ii) [A] a violation of Subsection (2)(b) is a third degree felony if there is more than a
254 two-year age gap between the actor and the victim.
- 255 (c) An actor commits a separate offense under this section:
- 256 (i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and
257 (ii) for each separate time the actor subjects a victim to the offense outlined
258 Subsection (2)(a).
- 259 (d) This section does not preclude an actor from being charged and convicted of a
260 separate criminal act if the actor commits the separate criminal act while the
261 individual violates or attempts to violate this section.
- 262 (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to
263 liability under this section related to content provided by a user of the interactive
264 computer service.

265 Section 3. Section **76-6-401** is amended to read:

266 **76-6-401 . Definitions.**

267 As used in this part:

268 (1) "Deception" occurs when a person intentionally:

269 (a) creates or confirms by words or conduct an impression of law or fact that is false and
270 that the actor does not believe to be true and that is likely to affect the judgment of
271 another in the transaction;

272 (b) fails to correct a false impression of law or fact that the actor previously created or
273 confirmed by words or conduct that is likely to affect the judgment of another and
274 that the actor does not now believe to be true;

275 (c) prevents another person from acquiring information likely to affect the person's
276 judgment in the transaction;

277 (d) sells or otherwise transfers or encumbers property without disclosing a lien, security
278 interest, adverse claim, or other legal impediment to the enjoyment of the property,
279 regardless of whether the lien, security interest, claim, or impediment is valid or is a
280 matter of official record; or

281 (e) promises performance that is likely to affect the judgment of another in the
282 transaction, which performance the actor does not intend to perform or knows will
283 not be performed, except that failure to perform the promise in issue without other
284 evidence of intent or knowledge is not sufficient proof that the actor did not intend to
285 perform or knew the promise would not be performed.

286 (2) "Gift card" means a card, code, or device that is:

287 (a) issued to a consumer on a prepaid basis in a specified amount, regardless of whether
288 that amount may be increased or reloaded in exchange for payment;

289 (b) activated or inactivated; and

290 (c) redeemable upon presentation:

291 (i) by a consumer at a single merchant or group of affiliated merchants; or

292 (ii) at multiple unaffiliated merchants for goods or services within the payment card
293 network.

294 [(2)] (3) "Livestock guardian dog" means the same as that term is defined in Section
295 76-6-111.

296 [(3)] (4) "Obtain" means, in relation to property, to bring about a transfer of possession or of
297 some other legally recognized interest in property, whether to the obtainer or another; in
298 relation to labor or services, to secure performance thereof; and in relation to a trade
299 secret, to make any facsimile, replica, photograph, or other reproduction.

300 [(4)] (5) "Obtain or exercise unauthorized control" means conduct originally defined or

301 known as common-law larceny by trespassory taking, larceny by conversion, larceny by
302 bailee, or embezzlement.

303 [~~(5)~~] (6)(a) "Property" means anything of value[;] ;

304 (b) "Property" includes:

305 (i) [~~including~~]real estate[;] ;

306 (ii) [-]tangible and intangible personal property[;] ;

307 (iii) [-]captured or domestic animals and birds[;] ;

308 (iv) [-]written instruments or other writings representing or embodying rights
309 concerning real or personal property, labor, services, or otherwise containing
310 anything of value to the owner[;] ;

311 (v) [-]commodities of a public utility nature such as telecommunications, gas,
312 electricity, steam, or water, and trade secrets, meaning the whole or any portion of
313 any scientific or technical information, design, process, procedure, formula, or
314 invention which the owner intends to be available only to persons selected by the
315 owner[;] ; and

316 (vi) a gift card.

317 [~~(6)~~] (7) "Purpose to deprive" means to have the conscious object:

318 (a) to withhold property permanently or for so extended a period or to use under such
319 circumstances that a substantial portion of its economic value, or of the use and
320 benefit thereof, would be lost;

321 (b) to restore the property only upon payment of a reward or other compensation; or

322 (c) to dispose of the property under circumstances that make it unlikely that the owner
323 will recover it.

324 Section 4. Section **76-6-404** is amended to read:

325 **76-6-404 . Theft -- Elements.**

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

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

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

330 (a) a second degree felony if the:

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

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

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

334 (b) a third degree felony if:

- 335 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 336 (ii) the property is:
- 337 (A) a catalytic converter as defined under Section 76-6-1402; or
- 338 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 339 if the value is less than \$5,000 and the suspect metal is made of or contains
- 340 aluminum or copper and is not a lead battery;
- 341 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 342 convicted of any of the following offenses, if each prior offense was committed
- 343 within 10 years before the date of the current conviction or the date of the offense
- 344 upon which the current conviction is based and at least one of those convictions is
- 345 for a class A misdemeanor:
- 346 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 347 (B) any offense under Part 5, Fraud;[-~~or~~]
- 348 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 349 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 350 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 351 (B), or (C);
- 352 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 353 (B) the theft occurs on a property where the offender has committed any theft
- 354 within the past five years; and
- 355 (C) the offender has received written notice from the merchant prohibiting the
- 356 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 357 (v) the actor has been previously convicted of a felony violation of any of the
- 358 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C);~~] (D), if the
- 359 prior offense was committed within 10 years before the date of the current
- 360 conviction or the date of the offense upon which the current conviction is based;
- 361 (c) a class A misdemeanor if:
- 362 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 363 (ii)(A) the value of property is less than \$500;
- 364 (B) the theft occurs on a property where the offender has committed any theft
- 365 within the past five years; and
- 366 (C) the offender has received written notice from the merchant prohibiting the
- 367 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 368 (iii) the actor has been twice before convicted of any of the offenses listed in

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

372 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 373 theft is not an offense under Subsection (3)(c).

374 Section 5. Section **76-6-404.5** is amended to read:

375 **76-6-404.5 . Unauthorized possession of property.**

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

377 (2) An actor commits unauthorized possession of property if the actor obtains or exercises
 378 unauthorized control over another person's property, without the consent of the
 379 property's owner or legal custodian, and with the intent to temporarily appropriate,
 380 possess, or use the property or to temporarily deprive the property's owner or legal
 381 custodian of possession of the property.

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

383 (a) a third degree felony if:

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

385 (ii) the property is a firearm or an operable motor vehicle; or

386 (iii) the property is taken from the person of another;

387 (b) a class A misdemeanor if:

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

389 (ii) the property is:

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

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

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

393 aluminum or copper and is not a lead battery;

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

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

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

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

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

403 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 404 (B), or (C);

405 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
 406 (B) the unauthorized possession of property occurs on a property where the
 407 offender has committed any theft within the past five years; and
 408 (C) the offender has received written notice from the merchant prohibiting the
 409 offender from entering the property pursuant to Subsection 78B-3-108(4); or

410 (v) the actor has been previously convicted of a felony violation of any of the
 411 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 412 prior offense was committed within 10 years before the date of the current
 413 conviction or the date of the offense upon which the current conviction is based;

414 (c) a class B misdemeanor if:

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

416 (ii)(A) the value of property is less than \$500;

417 (B) the unauthorized possession of property occurs on a property where the
 418 offender has committed any theft within the past five years; and

419 (C) the offender has received written notice from the merchant prohibiting the
 420 offender from entering the property pursuant to Subsection 78B-3-108(4); or

421 (iii) the actor has been twice before convicted of any of the offenses listed in
 422 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 423 committed within 10 years before the date of the current conviction or the date of
 424 the offense upon which the current conviction is based; or

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

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

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

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

433 **76-6-404.7 . Theft of motor vehicle fuel.**

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

- 437 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 438 (2) An actor commits theft of motor vehicle fuel if the actor:
- 439 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
- 440 retail sale when motor fuel has been dispensed into:
- 441 (i) the fuel tank of the motor vehicle; or
- 442 (ii) any other container that is then removed from the premises by means of the motor
- 443 vehicle; and
- 444 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
- 445 operator of the premises of the motor vehicle fuel without making full payment for
- 446 the fuel.
- 447 (3) A violation of Subsection (2) is:
- 448 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds \$5,000;
- 449 (b) a third degree felony if:
- 450 (i) the value of the motor vehicle fuel is or exceeds \$1,500 but is less than \$5,000; ~~or~~
- 451 (ii) the value of the motor vehicle fuel is or exceeds \$500 and the actor has been
- 452 twice before convicted of any of the following offenses, if each prior offense was
- 453 committed within 10 years before the date of the current conviction or the date of
- 454 the offense upon which the current conviction is based and at least one of those
- 455 convictions is for a class A misdemeanor:
- 456 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 457 (B) any offense under Part 5, Fraud; ~~or~~
- 458 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 459 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 460 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 461 (B), or (C);
- 462 (iii)(A) the value of the motor vehicle fuel is or exceeds \$500 but is less than
- 463 \$1,500;
- 464 (B) the theft occurs on a property where the offender has committed any theft
- 465 within the past five years; and
- 466 (C) the offender has received written notice from the merchant prohibiting the
- 467 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 468 (iv) the actor has been previously convicted of a felony violation of any of the
- 469 offenses listed in Subsections (3)(b)(ii)(A) through ~~[(3)(b)(ii)(C),] (D),~~ if the prior
- 470 offense was committed within 10 years before the date of the current conviction or

- 471 the date of the offense upon which the current conviction is based;
- 472 (c) a class A misdemeanor if:
- 473 (i) the value of the motor vehicle fuel is or exceeds \$500 but is less than \$1,500;
- 474 (ii)(A) the value of the motor vehicle fuel is less than \$500;
- 475 (B) the theft occurs on a property where the offender has committed any theft
- 476 within the past five years; and
- 477 (C) the offender has received written notice from the merchant prohibiting the
- 478 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 479 (iii) the actor has been twice before convicted of any of the offenses listed in
- 480 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if each prior offense was
- 481 committed within 10 years before the date of the current conviction or the date of
- 482 the offense upon which the current conviction is based; or
- 483 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than \$500 and the
- 484 theft is not an offense under Subsection (3)(c).

485 (4)(a) In addition to the penalties described in Subsection (3), the sentencing court may

486 order the suspension of the driver license of an actor convicted of theft of motor

487 vehicle fuel.

488 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as

489 provided in Section 53-3-220.

490 Section 7. Section **76-6-405** is amended to read:

491 **76-6-405 . Theft by deception.**

492 (1)(a) As used in this section, "puffing" means an exaggerated commendation of wares

493 or worth in a communication addressed to an individual, group, or the public.

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

495 (2)(a) An actor commits theft by deception if the actor obtains or exercises control over

496 property of another person:

497 (i) by deception; and

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

499 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in

500 Subsection (2)(a)(ii) may occur at separate times.

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

502 (a) a second degree felony if the:

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

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

- 505 (b) a third degree felony if:
- 506 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;
- 507 (ii) the property:
- 508 (A) is a catalytic converter as defined under Section 76-6-1402; or
- 509 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 510 if the value is less than \$5,000 and the suspect metal is made of or contains
- 511 aluminum or copper and is not a lead battery;
- 512 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 513 convicted of any of the following offenses, if each prior offense was committed
- 514 within 10 years before the date of the current conviction or the date of the offense
- 515 upon which the current conviction is based and at least one of those convictions is
- 516 for a class A misdemeanor:
- 517 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 518 (B) any offense under Part 5, Fraud;[-or]
- 519 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 520 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 521 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 522 (B), or (C);
- 523 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 524 (B) the theft occurs on a property where the offender has committed any theft
- 525 within the past five years; and
- 526 (C) the offender has received written notice from the merchant prohibiting the
- 527 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 528 (v) the actor has been previously convicted of a felony violation of any of the
- 529 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 530 prior offense was committed within 10 years before the date of the current
- 531 conviction or the date of the offense upon which the current conviction is based;
- 532 (c) a class A misdemeanor if:
- 533 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 534 (ii)(A) the value of property is less than \$500;
- 535 (B) the theft occurs on a property where the offender has committed any theft
- 536 within the past five years; and
- 537 (C) the offender has received written notice from the merchant prohibiting the
- 538 offender from entering the property pursuant to Subsection 78B-3-108(4); or

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

545 (4) Theft by deception does not occur when there is only:

546 (a) falsity as to matters having no pecuniary significance; or

547 (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

548 Section 8. Section **76-6-406** is amended to read:

549 **76-6-406 . Theft by extortion.**

550 (1)(a) As used in this section, extortion occurs when an actor threatens to:

551 (i) cause physical harm in the future to the person threatened, to any other person, or
 552 to property at any time;

553 (ii) subject the person threatened or any other person to physical confinement or
 554 restraint;

555 (iii) engage in other conduct constituting a crime;

556 (iv) accuse any person of a crime or expose any person to hatred, contempt, or
 557 ridicule;

558 (v) reveal any information sought to be concealed by the person threatened;

559 (vi) testify, provide information, or withhold testimony or information with respect to
 560 a person's legal claim or defense;

561 (vii) take action as an official against anyone or anything, or withhold official action,
 562 or cause such action or withholding;

563 (viii) bring about or continue a strike, boycott, or other similar collective action to
 564 obtain property that is not demanded or received for the benefit of the group that
 565 the actor purports to represent; or

566 (ix) do any other act which would not in itself substantially benefit the actor but
 567 which would harm substantially any other person with respect to that person's
 568 health, safety, business, calling, career, financial condition, reputation, or personal
 569 relationships.

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

571 (2) An actor commits theft by extortion if the actor obtains or exercises control over the
 572 property of another person by extortion and with a purpose to deprive the person of the

573 person's property.

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

575 (a) a second degree felony if the:

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

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

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

579 (b) a third degree felony if:

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

581 (ii) the property is:

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

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

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

585 aluminum or copper and is not a lead battery;

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

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

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

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

590 for a class A misdemeanor:

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

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

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

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

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

596 (B), or (C);

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

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

599 within the past five years; and

600 (C) the offender has received written notice from the merchant prohibiting the

601 offender from entering the property pursuant to Subsection 78B-3-108(4); or

602 (v) the actor has been previously convicted of a felony violation of any of the

603 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the

604 prior offense was committed within 10 years before the date of the current

605 conviction or the date of the offense upon which the current conviction is based;

606 (c) a class A misdemeanor if:

- 607 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 608 (ii)(A) the value of property is less than \$500;
- 609 (B) the theft occurs on a property where the offender has committed any theft
- 610 within the past five years; and
- 611 (C) the offender has received written notice from the merchant prohibiting the
- 612 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 613 (iii) the actor has been twice before convicted of any of the offenses listed in
- 614 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
- 615 committed within 10 years before the date of the current conviction or the date of
- 616 the offense upon which the current conviction is based; or
- 617 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
- 618 theft is not an offense under Subsection (3)(c).

619 (4)(a) A person who is adversely impacted by the conduct prohibited in Subsection (2)

620 may bring a civil action for equitable relief and damages.

621 (b) In accordance with Section 78B-2-305, a person who brings an action under

622 Subsection (4)(a) shall commence the action within three years after the day on

623 which the cause of action arises.

624 Section 9. Section **76-6-407** is amended to read:

625 **76-6-407 . Theft of lost, mislaid, or mistakenly delivered property.**

- 626 (1) Terms defined in Section 76-1-101.5 apply to this section.
- 627 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the actor:
- 628 (a) obtains another person's property and knows the property to have been lost or
- 629 mislaid, or to have been delivered under a mistake as to the identity of the recipient
- 630 or as to the nature or amount of the property, without taking reasonable measures to
- 631 return the property to the owner; and
- 632 (b) has the purpose to deprive the owner of the property when the actor obtains the
- 633 property or at any time before taking the measures described in Subsection (2)(a).
- 634 (3) A violation of Subsection (2) is:
- 635 (a) a second degree felony if the:
- 636 (i) value of the property is or exceeds \$5,000;
- 637 (ii) property stolen is a firearm or an operable motor vehicle; or
- 638 (iii) property is stolen from the person of another;
- 639 (b) a third degree felony if:
- 640 (i) the value of the property is or exceeds \$1,500 but is less than \$5,000;

- 641 (ii) the property is:
- 642 (A) a catalytic converter as defined under Section 76-6-1402; or
- 643 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 644 if the value is less than \$5,000 and the suspect metal is made of or contains
- 645 aluminum or copper and is not a lead battery;
- 646 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 647 convicted of any of the following offenses, if each prior offense was committed
- 648 within 10 years before the date of the current conviction or the date of the offense
- 649 upon which the current conviction is based and at least one of those convictions is
- 650 for a class A misdemeanor:
- 651 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 652 (B) any offense under Part 5, Fraud;[-~~or~~]
- 653 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 654 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 655 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 656 (B), or (C);
- 657 (iv)(A) the value of property is or exceeds \$500 but is less than \$1,500;
- 658 (B) the theft occurs on a property where the offender has committed any theft
- 659 within the past five years; and
- 660 (C) the offender has received written notice from the merchant prohibiting the
- 661 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 662 (v) the actor has been previously convicted of a felony violation of any of the
- 663 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 664 prior offense was committed within 10 years before the date of the current
- 665 conviction or the date of the offense upon which the current conviction is based;
- 666 (c) a class A misdemeanor if:
- 667 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 668 (ii)(A) the value of property is less than \$500;
- 669 (B) the theft occurs on a property where the offender has committed any theft
- 670 within the past five years; and
- 671 (C) the offender has received written notice from the merchant prohibiting the
- 672 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 673 (iii) the actor has been twice before convicted of any of the offenses listed in
- 674 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was

675 committed within 10 years before the date of the current conviction or the date of
676 the offense upon which the current conviction is based; or

677 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
678 theft is not an offense under Subsection (3)(c).

679 Section 10. Section **76-6-408** is amended to read:

680 **76-6-408 . Theft by receiving stolen property -- Duties of pawnbrokers,**
681 **secondhand businesses, coin dealers, and catalytic converter purchasers.**

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

683 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
684 13-32a-102.

685 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

686 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

687 (iv) "Receives" means acquiring possession, control, title, or lending on the security
688 of the property.

689 (v) "Scrap metal processor" means the same as that term is defined in Section
690 76-6-1402.

691 (vi) "Secondhand actor" means:

692 (A) a pawnbroker;

693 (B) a person who has or operates a business dealing in or collecting used or
694 secondhand merchandise or personal property; or

695 (C) an agent, employee, or representative of a pawnbroker or person who buys,
696 receives, or obtains property.

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

698 (2) An actor commits theft by receiving stolen property if the actor receives, retains, or
699 disposes of the property of another knowing that the property is stolen, or believing that
700 the property is probably stolen, or who conceals, sells, withholds, or aids in concealing,
701 selling, or withholding the property from the owner, knowing or believing the property
702 to be stolen, intending to deprive the owner of the property.

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

704 (a) a second degree felony if:

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

706 (ii) the property is a firearm or an operable motor vehicle;

707 (b) a third degree felony if:

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

- 709 (ii) the property is:
- 710 (A) a catalytic converter as defined under Section 76-6-1402; or
- 711 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
- 712 if the value is less the \$5,000 and the suspect metal is made of or contains
- 713 aluminum or copper and is not a lead battery;
- 714 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
- 715 convicted of any of the following offenses, if each prior offense was committed
- 716 within 10 years before the date of the current conviction or the date of the offense
- 717 upon which the current conviction is based and at least one of those convictions is
- 718 for a class A misdemeanor:
- 719 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 720 (B) any offense under Part 5, Fraud;[-~~or~~]
- 721 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 722 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 723 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
- 724 (B), or (C); or
- 725 (iv) the actor has been previously convicted of a felony violation of any of the
- 726 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
- 727 prior offense was committed within 10 years before the date of the current
- 728 conviction or the date of the offense upon which the current conviction is based;
- 729 (c) a class A misdemeanor if:
- 730 (i) the value of the property is or exceeds \$500 but is less than \$1,500; or
- 731 (ii) the actor has been twice before convicted of any of the offenses listed in
- 732 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
- 733 committed within 10 years before the date of the current conviction or the date of
- 734 the offense upon which the current conviction is based; or
- 735 (d) a class B misdemeanor if the value of the property is less than \$500 and the theft is
- 736 not an offense under Subsection (3)(c).
- 737 (4) Except as provided in Subsection (5), the knowledge or belief required under
- 738 Subsection (2) is presumed in the case of an actor who:
- 739 (a) is found in possession or control of other property stolen on a separate occasion; or
- 740 (b) has received other stolen property within the year preceding the receiving offense
- 741 charged.
- 742 (5)(a) The knowledge or belief required under Subsection (2) may only be presumed of a

743 secondhand actor if the secondhand actor does not substantially comply with the
744 material requirements of Section 13-32a-104.
745 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
746 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the
747 coin dealer does not substantially comply with the requirements of Section
748 13-32a-104.5.

749 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
750 catalytic converter purchaser if the catalytic converter purchaser does not
751 substantially comply with the material requirements of Section 13-32a-104.7.

752 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to a
753 scrap metal processor.

754 (7) This section does not preclude the admission of evidence in accordance with the Utah
755 Rules of Evidence.

756 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
757 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable
758 attorney fees.

759 Section 11. Section **76-6-409** is amended to read:

760 **76-6-409 . Theft of service.**

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

762 (i) labor, professional service, a public utility or transportation service, restaurant,
763 hotel, motel, tourist cabin, rooming house, and like accommodations, the
764 supplying of equipment, a tool, a vehicle, or a trailer for temporary use, telegraph
765 service, steam, admission to entertainment, an exhibition, a sporting event, or
766 other event for which a charge is made;

767 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
768 obtained by threat, force, or a form of deception not described in Section
769 76-6-409.3; and

770 (iii) telephone service, only if the service is obtained by threat, force, or a form of
771 deception not described in Section 76-6-409.6, 76-6-409.7, 76-6-409.8, or
772 76-6-409.9.

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

774 (2) An actor commits theft of service if:

775 (a) the actor, by deception, threat, force, or another means designed to avoid due
776 payment, obtains a service that the actor knows is available only for compensation; or

- 777 (b) the actor:
- 778 (i) has control over the disposition of another person's service; and
- 779 (ii)(A) diverts the other person's service to the benefit of the actor, knowing that
- 780 the actor is not entitled to the service; or
- 781 (B) diverts the other person's service to the benefit of a third person, knowing that
- 782 the third person is not entitled to the service.
- 783 (3) A violation of Subsection (2) is:
- 784 (a) a second degree felony if the value of the service is or exceeds \$5,000;
- 785 (b) a third degree felony if:
- 786 (i) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 787 (ii) the value of the service is or exceeds \$500 and the actor has been twice before
- 788 convicted of any of the following offenses, if each prior offense was committed
- 789 within 10 years before the date of the current conviction or the date of the offense
- 790 upon which the current conviction is based and at least one of those convictions is
- 791 for a class A misdemeanor:
- 792 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 793 (B) any offense under Part 5, Fraud;[-or]
- 794 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B); or
- 795 (D) any offense in another jurisdiction, including a state, federal, or military court,
- 796 that is substantially equivalent to an offense under Subsection (3)(b)(ii)(A),
- 797 (B), or (C);
- 798 (iii)(A) the value of the service is or exceeds \$500 but is less than \$1,500;
- 799 (B) the theft occurs on a property where the offender has committed any theft
- 800 within the past five years; and
- 801 (C) the offender has received written notice from the merchant prohibiting the
- 802 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 803 (iv) the actor has been previously convicted of a felony violation of any of the
- 804 offenses listed in Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C),~~] (D), if the prior
- 805 offense was committed within 10 years before the date of the current conviction or
- 806 the date of the offense upon which the current conviction is based;
- 807 (c) a class A misdemeanor if:
- 808 (i) the value of the service stolen is or exceeds \$500 but is less than \$1,500;
- 809 (ii)(A) the value of the service is less than \$500;
- 810 (B) the theft occurs on a property where the offender has committed any theft

- 811 within the past five years; and
- 812 (C) the offender has received written notice from the merchant prohibiting the
- 813 offender from entering the property pursuant to Subsection 78B-3-108(4); or
- 814 (iii) the actor has been twice before convicted of any of the offenses listed in
- 815 Subsections (3)(b)(ii)(A) through [~~(3)(b)(ii)(C)~~,] (D), if each prior offense was
- 816 committed within 10 years before the date of the current conviction or the date of
- 817 the offense upon which the current conviction is based; or
- 818 (d) a class B misdemeanor if the value of the service is less than \$500 and the theft is not
- 819 an offense under Subsection (3)(c).

820 Section 12. Section **76-6-409.3** is amended to read:

821 **76-6-409.3 . Theft of utility or cable television services -- Restitution -- Civil**
 822 **action for damages.**

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

- 824 (i) "Cable television service" means an audio, video, or data service provided for
- 825 payment by a cable television company over the cable company's cable system
- 826 facilities, but does not include the use of a satellite dish or antenna.
- 827 (ii) "Occupant" includes a person, including the owner, who occupies the whole or
- 828 part of a building, whether alone or with others.
- 829 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or
- 830 tenant by the entirety of the whole or a part of a building and the property on
- 831 which the building is located.
- 832 (iv) "Person" means an individual, firm, partnership, corporation, company,
- 833 association, or other legal entity.
- 834 (v) "Tenant" includes a person, including the owner, who occupies the whole or part
- 835 of any building, whether alone or with others.
- 836 (vi) "Utility" means any public utility, municipally owned utility, or cooperative
- 837 utility that provides electricity, gas, water, or sewer, or any combination of
- 838 electricity, gas, water, or sewer, for sale to consumers.

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

840 (2) An actor commits theft of a utility or cable television service if, with intent to avoid due

841 payment to the utility or cable television company, the actor makes gas, electricity,

842 water, sewer, or cable television available to a tenant or occupant, including to the actor,

843 by committing any of the following acts:

844 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or

- 845 other instrument used for conducting gas, electricity, water, sewer, or cable television
846 in a manner as permits the use of the gas, electricity, water, sewer, or cable television
847 without the gas, electricity, water, sewer, or cable television passing through a meter
848 or other instrument recording the usage for billing;
- 849 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
850 other instrument used for measuring quantities of gas, electricity, water, or sewer
851 service, or making or maintaining any modification or alteration to any device
852 installed with the authorization of a cable television company for the purpose of
853 intercepting or receiving any program or other service carried by the company that
854 the actor is not authorized by the company to receive;
- 855 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
856 otherwise restoring service when one or more of those utilities or cable service has
857 been lawfully disconnected or turned off by the provider of the utility or cable service;
- 858 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
859 device, or other part of a metering device for recording usage of gas, electricity,
860 water, or sewer service, or a security system for the recording device, or a cable
861 television control device;
- 862 (e) removing a metering device designed to measure quantities of gas, electricity, water,
863 or sewer service;
- 864 (f) transferring from one location to another location a metering device for measuring
865 quantities of public utility services of gas, electricity, water, or sewer service;
- 866 (g) changing the indicated consumption, jamming the measuring device, bypassing the
867 meter or measuring device with a jumper so that it does not indicate use or registers
868 use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer
869 service from the utility without the gas, electricity, water, or sewer service passing
870 through a metering device for measuring quantities of consumption for billing
871 purposes;
- 872 (h) using a metering device belonging to the utility that has not been assigned to the
873 location and installed by the utility;
- 874 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
875 utility service diversion, meter tampering, meter thefts, and unauthorized cable
876 television service;
- 877 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
878 television service without payment of all lawful compensation to the company

- 879 providing the service;
- 880 (k) making or maintaining a connection or connections, whether physical, electrical,
881 mechanical, acoustical, or by other means, with a cable, wire, component, or other
882 device used for the distribution of cable television services without authority from the
883 cable television company; or
- 884 (l) possessing without authority any device or printed circuit board designed in whole or
885 in part to receive any cable television programming or service offered for sale over a
886 cable television system, unless the device or printed circuit board includes the use of
887 a satellite dish or antenna, with the intent that the device or printed circuit be used for
888 the reception of the cable television company's services without payment.
- 889 (3)(a) A violation of Subsection (2), if the violation is a theft of a utility service, is:
- 890 (i) a second degree felony if:
- 891 (A) the value of the gas, electricity, water, or sewer service is or exceeds \$5,000;
892 or
- 893 (B) if the actor previously has been convicted of a violation of this section;
- 894 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is
895 or exceeds \$1,500 but is not more than \$5,000;
- 896 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service
897 is or exceeds \$500 but is not more than \$1,500; or
- 898 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service
899 is less than \$500.
- 900 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
901 is:
- 902 (i) a second degree felony if the value of the service is or exceeds \$5,000;
- 903 (ii) a third degree felony if:
- 904 (A) the value of the service is or exceeds \$1,500 but is less than \$5,000;
- 905 (B) the value of the service is or exceeds \$500 and the actor has been twice before
906 convicted of any of the following offenses, if each prior offense was committed
907 within 10 years before the date of the current conviction or the date of the
908 offense upon which the current conviction is based and at least one of those
909 convictions is for a class A misdemeanor:
- 910 (I) any theft, any robbery, or any burglary with intent to commit theft;
- 911 (II) any offense under Part 5, Fraud;[~~or~~]
- 912 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II);

- 913 or
- 914 (IV) any offense in another jurisdiction, including a state, federal, or military
- 915 court, that is substantially equivalent to an offense under Subsection
- 916 (3)(b)(ii)(B)(I), (II), or (III); or
- 917 (C) the actor has been previously convicted of a felony violation of any of the
- 918 offenses listed in Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(H),~~] (IV),
- 919 if the prior offense was committed within 10 years before the date of the
- 920 current conviction or the date of the offense upon which the current conviction
- 921 is based;
- 922 (iii) a class A misdemeanor if:
- 923 (A) the value of the service stolen is or exceeds \$500 but is less than \$1,500; or
- 924 (B) the actor has been twice before convicted of any of the offenses listed in
- 925 Subsections (3)(b)(ii)(B)(I) through [~~(3)(b)(ii)(B)(H),~~] (IV), if each prior
- 926 offense was committed within 10 years before the date of the current
- 927 conviction or the date of the offense upon which the current conviction is
- 928 based; or
- 929 (iv) a class B misdemeanor if the value of the service is less than \$500 and the theft is
- 930 not an offense under Subsection (3)(b)(iii).
- 931 (c)(i) An actor who violates this section shall make restitution to the utility or cable
- 932 television company for the value of the gas, electricity, water, sewer, or cable
- 933 television service consumed in violation of this section plus all reasonable
- 934 expenses and costs incurred on account of the violation of this section.
- 935 (ii) Reasonable expenses and costs include expenses and costs for investigation,
- 936 disconnection, reconnection, service calls, employee time, and equipment use.
- 937 (4)(a) The presence on property in the possession of an actor of a device or alteration
- 938 that permits the diversion or use of utility or cable service to avoid the registration of
- 939 the use by or on a meter installed by the utility or to otherwise avoid the recording of
- 940 use of the service for payment or otherwise avoid payment gives rise to an inference
- 941 that the actor in possession of the property installed the device or caused the
- 942 alteration if:
- 943 (i) the presence of the device or alteration can be attributed only to a deliberate act in
- 944 furtherance of an intent to avoid payment for utility or cable television service; and
- 945 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
- 946 utility or cable television service.

947 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
948 76-2-202.

949 (5)(a) Criminal prosecution under this section does not affect the right of a utility or
950 cable television company to bring a civil action for redress for damages suffered as a
951 result of the commission of any of the acts prohibited by this section.

952 (b) This section does not abridge or alter any other right, action, or remedy otherwise
953 available to a utility or cable television company.

954 Section 13. Section **76-6-410** is amended to read:

955 **76-6-410 . Theft by custodian of property pursuant to repair or rental agreement.**

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

957 (2) An actor commits theft by custodian of property pursuant to repair or rental agreement
958 if:

959 (a)(i) the actor has custody of property pursuant to an agreement between the actor or
960 another person and the property's owner;

961 (ii) the actor or another person is to perform for compensation a specific service for
962 the property's owner involving the maintenance, repair, or use of the owner's
963 property; and

964 (iii) the actor intentionally uses or operates the owner's property, without the consent
965 of the owner, for the actor's own purposes in a manner constituting a gross
966 deviation from the agreed purpose; or

967 (b)(i) the actor has custody of any property pursuant to a rental or lease agreement in
968 which the property is to be returned in a specified manner or at a specified time;
969 and

970 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
971 return so as to render such failure a gross deviation from the agreement.

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

973 (a) a second degree felony if the:

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

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

976 (b) a third degree felony if:

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

978 (ii) the property is:

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

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

- 981 if the value is less than \$5,000 and the suspect metal is made of or contains
 982 aluminum or copper and is not a lead battery;
- 983 (iii) the value of the property is or exceeds \$500 and the actor has been twice before
 984 convicted of any of the following offenses, if each prior offense was committed
 985 within 10 years before the date of the current conviction or the date of the offense
 986 upon which the current conviction is based and at least one of those convictions is
 987 for a class A misdemeanor:
- 988 (A) any theft, any robbery, or any burglary with intent to commit theft;
 989 (B) any offense under Part 5, Fraud;[-~~or~~]
 990 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
 991 (D) any offense in another jurisdiction, including a state, federal, or military court,
 992 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
 993 (B), or (C); or
- 994 (iv) the actor has been previously convicted of a felony violation of any of the
 995 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
 996 prior offense was committed within 10 years before the date of the current
 997 conviction or the date of the offense upon which the current conviction is based;
- 998 (c) a class A misdemeanor if:
- 999 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 1000 (ii) the actor has been twice before convicted of any of the offenses listed in
 1001 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if each prior offense was
 1002 committed within 10 years before the date of the current conviction or the date of
 1003 the offense upon which the current conviction is based; or
- 1004 (d) a class B misdemeanor if the value of the property stolen is less than \$500 and the
 1005 theft is not an offense under Subsection (3)(c).

1006 Section 14. Section **76-6-506** is amended to read:

1007 **76-6-506 . Financial transaction card offenses -- Definitions.**

1008 As used in Sections 76-6-506.2, 76-6-506.3, 76-6-506.6, 76-6-506.8, and 76-6-506.9:

- 1009 (1) "Authorized credit card merchant" means a person who is authorized by an issuer to
 1010 furnish money, goods, services, or anything else of value upon presentation of a
 1011 financial transaction card by a card holder and to present valid credit card sales drafts to
 1012 the issuer for payment.
- 1013 (2) "Automated banking device" means any machine which, when properly activated by a
 1014 financial transaction card or a personal identification code, may be used for any of the

- 1015 purposes for which a financial transaction card may be used.
- 1016 (3) "Card holder" means any person or organization named on the face of a financial
1017 transaction card to whom or for whose benefit a financial transaction card is issued.
- 1018 (4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record
1019 of a sale of money, goods, services, or anything else of value made or purported to be
1020 made to or at the request of a card holder with a financial transaction card, financial
1021 transaction card credit number, or personal identification code, whether the record of the
1022 sale or purported sale is evidenced by a sales draft, voucher, or other similar document
1023 in writing or electronically recorded and transmitted.
- 1024 (5) "Financial transaction card" means:
- 1025 (a) any credit card, credit plate, bank services card, banking card, check guarantee card,
1026 debit card, telephone credit card, or any other card, issued by an issuer for the use of
1027 the card holder in obtaining money, goods, services, or anything else of value on
1028 credit, or in certifying or guaranteeing to a person or business the availability to the
1029 card holder of the funds on deposit that are equal to or greater than the amount
1030 necessary to honor a draft or check payable to the order of the person or business;~~[-or]~~
- 1031 (b) any instrument or device used in providing the card holder access to a demand or
1032 time deposit account for the purpose of making deposits of money or checks in the
1033 account, or withdrawing funds from the account in the form of money, money orders,
1034 travelers' checks, or other form representing value, or transferring funds from any
1035 demand or time deposit account to any credit card account in full or partial
1036 satisfaction of any outstanding balance existing in the credit card account~~[-]~~ ; or
- 1037 (c) a card, code, or device that is:
- 1038 (i) issued to a consumer on a prepaid basis in a specified amount, regardless of
1039 whether that amount may be increased or reloaded in exchange for payment;
- 1040 (ii) activated or inactivated; and
- 1041 (iii) redeemable upon presentation:
- 1042 (A) by a consumer at a single merchant or group of affiliated merchants; or
- 1043 (B) at multiple unaffiliated merchants for goods or services within the payment
1044 card network.
- 1045 (6) "Issuer" means a business organization or financial institution or its agent that issues a
1046 financial transaction card.
- 1047 (7) "Personal identification code" means any numerical or alphabetical code assigned to a
1048 card holder by the issuer to permit the authorized electronic use of the holder's financial

1049 transaction card.

1050 Section 15. Section **76-6-602** is amended to read:

1051 **76-6-602 . Retail theft.**

1052 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.

1053 (2) An actor commits retail theft if the actor knowingly:

1054 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
1055 transferred, any merchandise displayed, held, stored, or offered for sale in a retail
1056 mercantile establishment with the intention of:

1057 (i) retaining the merchandise; or

1058 (ii) depriving the merchant permanently of the possession, use or benefit of such
1059 merchandise without paying the retail value of the merchandise;

1060 (b)(i) alters, transfers, or removes any label, price tag, marking, indicia of value, or
1061 any other markings which aid in determining value of any merchandise displayed,
1062 held, stored, or offered for sale, in a retail mercantile establishment; and

1063 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
1064 or in consort with another at less than the retail value with the intention of
1065 depriving the merchant of the retail value of the merchandise;

1066 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
1067 mercantile establishment from the container in or on which the merchandise is
1068 displayed to any other container with the intention of depriving the merchant of the
1069 retail value of the merchandise;

1070 (d) under-rings with the intention of depriving the merchant of the retail value of the
1071 merchandise; or

1072 (e) removes a shopping cart from the premises of a retail mercantile establishment with
1073 the intent of depriving the merchant of the possession, use, or benefit of the shopping
1074 cart.

1075 (3) A violation of Subsection (2) is:

1076 (a) a second degree felony if the:

1077 (i) retail value of the merchandise or shopping cart is or exceeds \$5,000;

1078 (ii) merchandise stolen is a firearm or an operable motor vehicle;[-or]

1079 (b) a third degree felony if:

1080 (i) the retail value of the merchandise is or exceeds \$1,500 but is less than \$5,000;

1081 (ii) the merchandise is:

1082 (A) a catalytic converter as defined under Section 76-6-1402; or

- 1083 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402
1084 if the retail value is less than \$5,000 and the suspect metal is made of or
1085 contains aluminum or copper and is not a lead battery;
- 1086 (iii) the retail value of the merchandise or shopping cart is or exceeds \$500 and the
1087 actor has been twice before convicted of any of the following offenses, if each
1088 prior offense was committed within 10 years before the date of the current
1089 conviction or the date of the offense upon which the current conviction is based
1090 and at least one of those convictions is for a class A misdemeanor:
- 1091 (A) any theft, any robbery, or any burglary with intent to commit theft;
1092 (B) any offense under Part 5, Fraud;[-~~or~~]
1093 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
1094 (D) any offense in another jurisdiction, including a state, federal, or military court,
1095 that is substantially equivalent to an offense under Subsection (3)(b)(iii)(A),
1096 (B), or (C);
- 1097 (iv)(A) the retail value of merchandise or shopping cart is or exceeds \$500 but is
1098 less than \$1,500;
1099 (B) the theft occurs in a retail mercantile establishment or on the premises of a
1100 retail mercantile establishment where the offender has committed any theft
1101 within the past five years; and
1102 (C) the offender has received written notice from the merchant prohibiting the
1103 offender from entering the retail mercantile establishment or premises of a
1104 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
- 1105 (v) the actor has been previously convicted of a felony violation of any of the
1106 offenses listed in Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C),~~] (D), if the
1107 prior offense was committed within 10 years before the date of the current
1108 conviction or the date of the offense upon which the current conviction is based;
- 1109 (c) a class A misdemeanor if:
- 1110 (i) the retail value of the merchandise or shopping cart stolen is or exceeds \$500 but
1111 is less than \$1,500;
- 1112 (ii)(A) the retail value of merchandise or shopping cart is less than \$500;
1113 (B) the theft occurs in a retail mercantile establishment or premises of a retail
1114 mercantile establishment where the offender has committed any theft within
1115 the past five years; and
1116 (C) the offender has received written notice from the merchant prohibiting the

- 1117 offender from entering the retail mercantile establishment or premises of a
 1118 retail mercantile establishment pursuant to Subsection 78B-3-108(4); or
 1119 (iii) the actor has been twice before convicted of any of the offenses listed in
 1120 Subsections (3)(b)(iii)(A) through [~~(3)(b)(iii)(C)~~] (D), if each prior offense was
 1121 committed within 10 years before the date of the current conviction or the date of
 1122 the offense upon which the current conviction is based; or
 1123 (d) a class B misdemeanor if the retail value of the merchandise or shopping cart stolen
 1124 is less than \$500 and the theft is not an offense under Subsection (3)(c).

1125 Section 16. Section **76-6-608** is amended to read:

1126 **76-6-608 . Theft detection shielding devices prohibited.**

- 1127 (1) Terms defined in Sections 76-1-101.5 and 76-6-601 apply to this section.
 1128 (2) An actor commits the unlawful shielding of a theft detection device if the actor
 1129 knowingly:
 1130 (a) makes or possesses any container or device used for, intended for use for, or
 1131 represented as having the purpose of shielding merchandise from any electronic or
 1132 magnetic theft alarm sensor, with the intent to commit a theft of merchandise;
 1133 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another any
 1134 container or device intended for use for or represented as having the purpose of
 1135 shielding merchandise from any electronic or magnetic theft alarm sensor;
 1136 (c) possesses any tool or instrument designed to remove any theft detection device from
 1137 any merchandise, with the intent to use the tool or instrument to remove any theft
 1138 detection device from any merchandise without the permission of the merchant or the
 1139 person owning or in possession of the merchandise; or
 1140 (d) intentionally removes a theft detection device from merchandise prior to purchase
 1141 and without the permission of the merchant.
 1142 (3)(a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.
 1143 (b) A violation of Subsection (2)(d) is a:
 1144 (i) class B misdemeanor if the retail value of the merchandise from which the theft
 1145 detection device is removed is less than \$500; or
 1146 (ii) class A misdemeanor if the retail value of the merchandise from which the theft
 1147 detection device is removed is or exceeds \$500.
 1148 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
 1149 Theft, or Part 6, Retail Theft.
 1150 (5) Criminal prosecutions under this section do not affect any person's right of civil action

1151 for redress for damages suffered as a result of any violation of this section.

1152 Section 17. Section **76-9-802** is amended to read:

1153 **76-9-802 . Definitions.**

1154 As used in this part:

1155 (1) "Criminal street gang" means an organization, association in fact, or group of three or
1156 more ~~[persons]~~ individuals, whether operated formally or informally:

1157 (a) that is currently in operation;

1158 (b) that has as one of its primary activities the commission of ~~[one or more predicate~~
1159 ~~gang crimes]~~ a criminal offense;

1160 (c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

1161 (d) whose members, acting individually or in concert with other members, engage in or
1162 have engaged in a pattern of criminal gang activity.

1163 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of
1164 harm for the purpose of causing an individual to act or refrain from acting.

1165 (3) "Minor" means ~~[a person]~~ an individual younger than 18 years old.

1166 (4) "Pattern of criminal gang activity" means:

1167 (a) committing, attempting to commit, conspiring to commit, or soliciting the
1168 commission of two or more ~~[predicate gang crimes]~~ criminal offenses within five
1169 years;

1170 (b) the ~~[predicate gang crimes]~~ criminal offenses are:

1171 (i) committed by two or more ~~[persons]~~ individuals; or

1172 (ii) committed by an individual at the direction of, or in association with a criminal
1173 street gang; and

1174 (c) the criminal ~~[activity was]~~ offenses were committed with the specific intent to
1175 promote, further, or assist in any criminal conduct by members of the criminal street
1176 gang.

1177 ~~[(5)(a) "Predicate gang crime" means any of the following offenses:]~~

1178 ~~[(i) Title 41, Chapter 1a, Motor Vehicle Act:]~~

1179 ~~[(A) Section 41-1a-1313, regarding possession of a motor vehicle without an~~
1180 ~~identification number;]~~

1181 ~~[(B) Section 41-1a-1315, regarding false evidence of title and registration;]~~

1182 ~~[(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;]~~

1183 ~~[(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an~~
1184 ~~identification number; or]~~

- 1185 ~~[(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification~~
 1186 ~~number;]~~
- 1187 ~~[(ii) any criminal violation of the following provisions:]~~
- 1188 ~~[(A) Title 58, Chapter 37, Utah Controlled Substances Act;]~~
- 1189 ~~[(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;]~~
- 1190 ~~[(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or]~~
- 1191 ~~[(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;]~~
- 1192 ~~[(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;]~~
- 1193 ~~[(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;]~~
- 1194 ~~[(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related~~
 1195 ~~offenses;]~~
- 1196 ~~[(vi) a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;]~~
- 1197 ~~[(vii) Title 76, Chapter 6, Part 1, Property Destruction;]~~
- 1198 ~~[(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;]~~
- 1199 ~~[(ix) Title 76, Chapter 6, Part 3, Robbery;]~~
- 1200 ~~[(x) a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76,~~
 1201 ~~Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407,~~
 1202 ~~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,~~
 1203 ~~76-6-409.9, 76-6-410, and 76-6-410.5;]~~
- 1204 ~~[(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507,~~
 1205 ~~76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,~~
 1206 ~~76-6-517, 76-6-518, and 76-6-520;]~~
- 1207 ~~[(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;]~~
- 1208 ~~[(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except~~
 1209 ~~Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;]~~
- 1210 ~~[(xiv) tampering with a witness under Section 76-8-508;]~~
- 1211 ~~[(xv) retaliation against a witness, victim, or informant under Section 76-8-509.3;]~~
- 1212 ~~[(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;]~~
- 1213 ~~[(xvii) extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;]~~
- 1214 ~~[(xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the~~
 1215 ~~violation occurs at an official meeting;]~~
- 1216 ~~[(xix) Title 76, Chapter 10, Part 3, Explosives;]~~
- 1217 ~~[(xx) Title 76, Chapter 10, Part 5, Weapons;]~~
- 1218 ~~[(xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;]~~

- 1219 [~~(xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]
 1220 [~~(xxiii) communications fraud under Section 76-10-1801;~~]
 1221 [~~(xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction~~
 1222 ~~Reporting Act; or]~~
 1223 [~~(xxv) burglary of a research facility under Section 76-10-2002.]~~
 1224 ~~[(b) "Predicate gang crime" also includes:]~~
 1225 ~~[(i) any state or federal criminal offense that by its nature involves a substantial risk~~
 1226 ~~that physical force may be used against another in the course of committing the~~
 1227 ~~offense; and]~~
 1228 ~~[(ii) any felony violation of a criminal statute of any other state, the United States, or~~
 1229 ~~any district, possession, or territory of the United States which would constitute a~~
 1230 ~~violation of any offense in Subsection (4)(a) if committed in this state.]~~
 1231 Section 18. Section **76-9-803** is amended to read:
 1232 **76-9-803 . Soliciting, recruiting, enticing, or intimidating a minor to join a**
 1233 **criminal street gang.**
 1234 ~~[(1) It is a class B misdemeanor to:]~~
 1235 ~~[(a) solicit, recruit, entice, or intimidate a minor to join a criminal street gang, whether~~
 1236 ~~or not the minor actually joins the criminal street gang;]~~
 1237 ~~[(b) conspire to commit any act under Subsection (1)(a) with the intent to cause a minor~~
 1238 ~~to join a criminal street gang; or]~~
 1239 ~~[(c) use intimidation to prevent or attempt to prevent a minor from leaving a criminal~~
 1240 ~~street gang or ending the minor's affiliation with a criminal street gang.]~~
 1241 ~~[(2) It is a class A misdemeanor for any person who is a member of or actively involved~~
 1242 ~~with a criminal street gang to:]~~
 1243 ~~[(a) intimidate or otherwise cause a minor to commit or attempt to commit any~~
 1244 ~~misdemeanor criminal offense; or]~~
 1245 ~~[(b) commit a violation of Subsection (1)(a):]~~
 1246 ~~[(i) more than once;]~~
 1247 ~~[(ii) regarding the same minor; and]~~
 1248 ~~[(iii) within a period of 180 days.]~~
 1249 ~~[(3) Prosecution for any offense under this section does not prohibit prosecution for any~~
 1250 ~~other criminal offense.]~~
 1251 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
 1252 (2) An actor commits soliciting, recruiting, enticing, or intimidating a minor to join a

- 1253 criminal street gang if the actor:
1254 (a) solicits, recruits, entices, or intimidates a minor to join a criminal street gang; or
1255 (b) conspires to commit an act described in Subsection (2)(a) with the intent to cause a
1256 minor to join a criminal street gang.
1257 (3) A violation of Subsection (2) is:
1258 (a) a class A misdemeanor if the actor is a minor; or
1259 (b) a third degree felony if the actor is 18 years old or older.
1260 (4) It is not a defense to a prosecution under this section that the minor did not join the
1261 criminal street gang.

1262 Section 19. Section **76-9-803.1** is enacted to read:

1263 **76-9-803.1 . Aggravated soliciting, recruiting, enticing, or intimidating a minor to**
1264 **join a criminal street gang.**

- 1265 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
1266 (2) An actor commits aggravated soliciting, recruiting, enticing, or intimidating a minor to
1267 join a criminal street gang if, in the course of committing an offense under Section
1268 76-9-803, the offense:
1269 (a) involves the use of a dangerous weapon;
1270 (b) results in serious bodily injury to any individual; or
1271 (c) results in serious emotional distress to any individual.
1272 (3) A violation of Subsection (2) is:
1273 (a) a third degree felony if the actor is a minor; or
1274 (b) a second degree felony if the actor is 18 years old or older.
1275 (4) It is not a defense to a prosecution under this section that the minor did not join the
1276 criminal street gang.

1277 Section 20. Section **76-9-803.2** is enacted to read:

1278 **76-9-803.2 . Intimidating a minor to remain in a criminal street gang.**

- 1279 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.
1280 (2) An actor commits intimidating a minor to remain in a criminal street gang if the actor
1281 intimidates a minor to prevent the minor from leaving a criminal street gang or ending
1282 the minor's affiliation with a criminal street gang.
1283 (3) A violation of Subsection (2) is:
1284 (a) a class A misdemeanor if the actor is a minor; or
1285 (b) a third degree felony if the actor is 18 years old or older.
1286 (4) It is not a defense to a prosecution under this section that the minor described in

1287 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1288 Section 21. Section **76-9-803.3** is enacted to read:

1289 **76-9-803.3 . Aggravated intimidating a minor to remain in a criminal street gang.**

1290 (1) Terms defined in Sections 76-1-101.5 and 76-9-802 apply to this section.

1291 (2) An actor commits aggravated intimidating a minor to remain in a criminal street gang if,
1292 in the course of committing an offense under Section 76-9-803.2, the offense:

1293 (a) involves the use of a dangerous weapon;

1294 (b) results in serious bodily injury to any individual; or

1295 (c) results in serious emotional distress to any individual.

1296 (3) A violation of Subsection (2) is:

1297 (a) a third degree felony if the actor is a minor; or

1298 (b) a second degree felony if the actor is 18 years old or older.

1299 (4) It is not a defense to a prosecution under this section that the minor described in
1300 Subsection (2) left or ended the minor's affiliation with a criminal street gang.

1301 Section 22. Section **76-10-1302** is amended to read:

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

1303 (1) An actor, except for a child under Section 76-10-1315, is guilty of prostitution if the
1304 actor engages in sexual activity with another individual for a fee, or the functional
1305 equivalent of a fee.

1306 (2)(a) Except as provided in Subsection (2)(b) and Section 76-10-1309, a violation of
1307 Subsection (1) is a class B misdemeanor.

1308 (b) [~~Except as provided in Section 76-10-1309, an actor who is convicted a second time,~~
1309 ~~and on all subsequent convictions, of a subsequent offense of prostitution under this~~
1310 ~~section or] A violation of Subsection (1) is a class A misdemeanor if the actor has
1311 previously been convicted of:~~

1312 (i) a violation of Subsection (1);

1313 (ii) [~~under~~] a local ordinance adopted [under] in accordance with Section 76-10-1307[;
1314 ~~is guilty of a class A misdemeanor]~~ addressing the same or similar type of
1315 violation to the violation described in Subsection (1); or

1316 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
1317 court, that is substantially equivalent to the violation described in Subsection (1).

1318 (3) A prosecutor may not prosecute an actor for a violation of Subsection (1) if the actor
1319 engages in a violation of Subsection (1) at or near the time the actor witnesses or is a
1320 victim of any of the following offenses, or an attempt to commit any of the following

- 1321 offenses, and the actor reports the offense or attempt to law enforcement in good faith:
- 1322 (a) assault, Section 76-5-102;
- 1323 (b) aggravated assault, Section 76-5-103;
- 1324 (c) mayhem, Section 76-5-105;
- 1325 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
- 1326 homicide, or homicide by assault under Chapter 5, Part 2, Criminal Homicide;
- 1327 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
- 1328 aggravated human trafficking, human smuggling or aggravated human smuggling, or
- 1329 human trafficking of a child under Chapter 5, Part 3, Kidnapping, Trafficking, and
- 1330 Smuggling;
- 1331 (f) rape, Section 76-5-402;
- 1332 (g) rape of a child, Section 76-5-402.1;
- 1333 (h) object rape, Section 76-5-402.2;
- 1334 (i) object rape of a child, Section 76-5-402.3;
- 1335 (j) forcible sodomy, Section 76-5-403;
- 1336 (k) sodomy on a child, Section 76-5-403.1;
- 1337 (l) forcible sexual abuse, Section 76-5-404;
- 1338 (m) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child,
- 1339 Section 76-5-404.3;
- 1340 (n) aggravated sexual assault, Section 76-5-405;
- 1341 (o) sexual exploitation of a minor, Section 76-5b-201;
- 1342 (p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;
- 1343 (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;
- 1344 (r) aggravated burglary or burglary of a dwelling under Chapter 6, Part 2, Burglary and
- 1345 Criminal Trespass;
- 1346 (s) aggravated robbery or robbery under Chapter 6, Part 3, Robbery; or
- 1347 (t) theft by extortion under Section 76-6-406 under the circumstances described in
- 1348 Subsection 76-6-406(1)(a)(i) or (ii).

1349 *The following section is affected by a coordination clause at the end of this bill.*

1350 Section 23. Section **76-10-1303** is amended to read:

1351 **76-10-1303 . Patronizing a prostitute.**

- 1352 (1) An actor is guilty of patronizing a prostitute if the actor:
- 1353 (a) pays or offers or agrees to pay a prostituted individual, or an individual the actor
- 1354 believes to be a prostituted individual, a fee, or the functional equivalent of a fee, for

- 1355 the purpose of engaging in an act of sexual activity; or
- 1356 (b) enters or remains in a place of prostitution for the purpose of engaging in sexual
- 1357 activity.
- 1358 [~~(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3),~~
- 1359 ~~(4), or (5) or Section 76-10-1309.]~~
- 1360 [~~(3) A violation of this section that is preceded by a conviction under this section or a~~
- 1361 ~~conviction under a local ordinance adopted under Section 76-10-1307 is a class A~~
- 1362 ~~misdemeanor.]~~
- 1363 [~~(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307~~
- 1364 ~~is a third degree felony.]~~
- 1365 (2)(a) Except as provided in Subsection (2)(b), (3), or Section 76-10-1309, a violation of
- 1366 Subsection (1) is a class A misdemeanor with a mandatory fine of not less than
- 1367 \$5,000.
- 1368 (b) A violation of Subsection (1) is a third degree felony, with a mandatory fine of not
- 1369 less than \$10,000, if the actor has previously been convicted two or more times of:
- 1370 (i) a violation of Subsection (1);
- 1371 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
- 1372 same or similar type of violation to the violation described in Subsection (1); or
- 1373 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
- 1374 court, that is substantially equivalent to the violation described in Subsection (1).
- 1375 [~~(5)] (3)(a) Except as provided in Subsection [~~(5)(d)] (3)(d), if the patronizing of a~~~~
- 1376 prostitute under Subsection (1)(a) involves a child as the other individual, a violation
- 1377 of Subsection (1)(a) is a second degree felony with a mandatory fine of not less than
- 1378 \$20,000.
- 1379 (b) In accordance with Section 76-2-304.5, it is not a defense to a prosecution under
- 1380 Subsection [~~(5)(a)] (3)(a) that the actor mistakenly believed the individual to be 18~~
- 1381 years old or older at the time of the offense or was unaware of the individual's true
- 1382 age.
- 1383 (c) An actor's belief that the individual was under 18 years old at the time of the offense,
- 1384 even if the individual was 18 years old or older, is a violation of Subsection [~~(5)(a)]~~
- 1385 (3)(a).
- 1386 (d) If the act committed under Subsection [~~(5)(a)] (3)(a) amounts to an offense that is~~
- 1387 subject to a greater penalty under another provision of state law than is provided
- 1388 under Subsection [~~(5)(a)] (3)(a), this Subsection [~~(5)] (3) does not prohibit prosecution~~~~

1389 and sentencing for the more serious offense.

1390 ~~[(6)]~~ (4) Upon a conviction for a violation of this section, the court shall order:

1391 (a) the maximum fine amount and may not waive or suspend the fine; and

1392 (b) the defendant to pay for and complete a court-approved educational program about
1393 the negative effects on an individual involved with prostitution or human trafficking.

1394 Section 24. Section **76-10-1304** is amended to read:

1395 **76-10-1304 . Aiding prostitution.**

1396 (1) An individual is guilty of aiding prostitution if the individual:

1397 (a)(i) solicits an individual to patronize a prostitute, or to patronize an individual the
1398 actor believes to be a prostitute;

1399 (ii) procures or attempts to procure a prostitute, or an individual the actor believes to
1400 be a prostitute, for a patron;

1401 (iii) leases, operates, or otherwise permits a place controlled by the actor, alone or in
1402 association with another, to be used for prostitution or the promotion of
1403 prostitution; or

1404 (iv) provides any service or commits any act that enables another individual to
1405 commit a violation of this Subsection (1)(a) or facilitates another individual's
1406 ability to commit any violation of this Subsection (1)(a); or

1407 (b) solicits, receives, or agrees to receive any benefit for committing any of the acts
1408 prohibited by Subsection (1)(a).

1409 ~~[(2) Aiding prostitution is a class A misdemeanor, except as provided in Subsection (3).]~~

1410 ~~[(3) An individual who is convicted a second time, and on all subsequent convictions, under
1411 this section or under a local ordinance adopted in compliance with Section 76-10-1307
1412 is guilty of a third degree felony.]~~

1413 (2)(a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A
1414 misdemeanor.

1415 (b) A violation of Subsection (1) is a third degree felony if the actor has previously been
1416 convicted of:

1417 (i) a violation of Subsection (1);

1418 (ii) a local ordinance adopted in accordance with Section 76-10-1307 addressing the
1419 same or similar type of violation to the violation described in Subsection (1); or

1420 (iii) a criminal violation in another jurisdiction, including a state, federal, or military
1421 court, that is substantially equivalent to the violation described in Subsection (1).

1422 ~~[(4)]~~ (3) Upon a conviction for a violation of this section, the court shall order ~~[the~~

1423 ~~maximum fine amount]~~ a fine of not less than \$10,000 and may not waive or suspend the
1424 fine.

1425 Section 25. Section **76-10-1602** is amended to read:

1426 **76-10-1602 . Definitions.**

1427 As used in this part:

- 1428 (1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,
1429 business trust, association, or other legal entity, and any union or group of individuals
1430 associated in fact although not a legal entity, and includes illicit as well as licit entities.
- 1431 (2) "Pattern of unlawful activity" means engaging in conduct which constitutes the
1432 commission of at least three episodes of unlawful activity, which episodes are not
1433 isolated, but have the same or similar purposes, results, participants, victims, or methods
1434 of commission, or otherwise are interrelated by distinguishing characteristics. Taken
1435 together, the episodes shall demonstrate continuing unlawful conduct and be related
1436 either to each other or to the enterprise. At least one of the episodes comprising a
1437 pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act
1438 constituting part of a pattern of unlawful activity as defined by this part shall have
1439 occurred within five years of the commission of the next preceding act alleged as part of
1440 the pattern.
- 1441 (3) "Person" includes any individual or entity capable of holding a legal or beneficial
1442 interest in property, including state, county, and local governmental entities.
- 1443 (4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command,
1444 encourage, or intentionally aid another person to engage in conduct which would
1445 constitute any offense described by the following crimes or categories of crimes, or to
1446 attempt or conspire to engage in an act which would constitute any of those offenses,
1447 regardless of whether the act is in fact charged or indicted by any authority or is
1448 classified as a misdemeanor or a felony:
- 1449 (a) an act prohibited by the criminal provisions under Title 13, Chapter 10, Unauthorized
1450 Recording Practices Act;
- 1451 (b) an act prohibited by the criminal provisions under Title 19, Environmental Quality
1452 Code, Sections 19-1-101 through 19-7-109;
- 1453 (c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose
1454 of sale, trade, or other pecuniary gain under Title 23A, Wildlife Resources Act, or
1455 Section 23A-5-311;
- 1456 (d) false claims for medical benefits, kickbacks, or other acts prohibited under Title 26B,

- 1457 Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;
- 1458 (e) an act prohibited by the criminal provisions under Title 32B, Chapter 4, Criminal
- 1459 Offenses and Procedure Act;
- 1460 (f) an act prohibited by the criminal provisions under Title 57, Chapter 11, Utah
- 1461 Uniform Land Sales Practices Act;
- 1462 (g) an act prohibited by the criminal provisions under Title 58, Chapter 37, Utah
- 1463 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances
- 1464 Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58,
- 1465 Chapter 37d, Clandestine Drug Lab Act;
- 1466 (h) an act prohibited by the criminal provisions under Title 61, Chapter 1, Utah Uniform
- 1467 Securities Act;
- 1468 (i) an act prohibited by the criminal provisions under Title 63G, Chapter 6a, Utah
- 1469 Procurement Code;
- 1470 (j) assault under Section_76-5-102;
- 1471 (k) aggravated assault under Section 76-5-103;
- 1472 (l) a threat of terrorism under Section 76-5-107.3;
- 1473 (m) a criminal homicide offense under Section 76-5-201;
- 1474 (n) kidnapping under Section_76-5-301;
- 1475 (o) aggravated kidnapping under Section_76-5-302;
- 1476 (p) human trafficking for labor under Section 76-5-308;
- 1477 (q) human trafficking for sexual exploitation under Section 76-5-308.1;
- 1478 (r) human smuggling under Section 76-5-308.3;
- 1479 (s) human trafficking of a child under Section76-5-308.5;
- 1480 (t) benefiting from trafficking and human smuggling under Section_76-5-309;
- 1481 (u) aggravated human trafficking under Section_76-5-310;
- 1482 (v) sexual exploitation of a minor under Section 76-5b-201;
- 1483 (w) aggravated sexual exploitation of a minor under Section_76-5b-201.1;
- 1484 (x) sexual extortion under Section 76-5b-204;
- 1485 [~~(x)~~] (y) arson under Section 76-6-102;
- 1486 [~~(y)~~] (z) aggravated arson under Section_76-6-103;
- 1487 [~~(z)~~] (aa) causing a catastrophe under Section 76-6-105;
- 1488 [~~(aa)~~] (bb) burglary under Section 76-6-202;
- 1489 [~~(bb)~~] (cc) aggravated burglary under Section_76-6-203;
- 1490 [~~(cc)~~] (dd) burglary of a vehicle under Section 76-6-204;

1491 [~~(dd)~~] (ee) manufacture or possession of an instrument for burglary or theft under Section
 1492 76-6-205;
 1493 [~~(ee)~~] (ff) robbery under Section 76-6-301;
 1494 [~~(ff)~~] (gg) aggravated robbery under Section 76-6-302;
 1495 [~~(gg)~~] (hh) theft under Section 76-6-404;
 1496 [~~(hh)~~] (ii) theft by deception under Section 76-6-405;
 1497 [~~(ii)~~] (jj) theft by extortion under Section 76-6-406;
 1498 [~~(jj)~~] (kk) receiving stolen property under Section 76-6-408;
 1499 [~~(kk)~~] (ll) theft of services under Section 76-6-409;
 1500 [~~(ll)~~] (mm) forgery under Section 76-6-501;
 1501 [~~(mm)~~] (nn) unlawful use of financial transaction card under Section 76-6-506.2;
 1502 [~~(nn)~~] (oo) unlawful acquisition, possession, or transfer of financial transaction card
 1503 under Section 76-6-506.3;
 1504 [~~(oo)~~] (pp) financial transaction card offenses under Section 76-6-506.6;
 1505 [~~(pp)~~] (qq) deceptive business practices under Section 76-6-507;
 1506 [~~(qq)~~] (rr) bribery or receiving bribe by person in the business of selection, appraisal, or
 1507 criticism of goods under Section 76-6-508;
 1508 [~~(rr)~~] (ss) bribery of a labor official under Section 76-6-509;
 1509 [~~(ss)~~] (tt) defrauding creditors under Section 76-6-511;
 1510 [~~(tt)~~] (uu) acceptance of deposit by insolvent financial institution under Section 76-6-512;
 1511 [~~(uu)~~] (vv) unlawful dealing with property by fiduciary under Section 76-6-513;
 1512 [~~(vv)~~] (ww) bribery or threat to influence contest under Section 76-6-514;
 1513 [~~(ww)~~] (xx) making a false credit report under Section 76-6-517;
 1514 [~~(xx)~~] (yy) criminal simulation under Section 76-6-518;
 1515 [~~(yy)~~] (zz) criminal usury under Section 76-6-520;
 1516 [~~(zz)~~] (aaa) insurance fraud under Section 76-6-521;
 1517 [~~(aaa)~~] (bbb) retail theft under Section 76-6-602;
 1518 [~~(bbb)~~] (ccc) computer crimes under Section 76-6-703;
 1519 [~~(ccc)~~] (ddd) identity fraud under Section 76-6-1102;
 1520 [~~(ddd)~~] (eee) mortgage fraud under Section 76-6-1203;
 1521 [~~(eee)~~] (fff) sale of a child under Section 76-7-203;
 1522 [~~(fff)~~] (ggg) bribery to influence official or political actions under Section 76-8-103;
 1523 [~~(ggg)~~] (hhh) threat to influence official or political action under Section 76-8-104;
 1524 [~~(hhh)~~] (iii) receiving bribe or bribery by public servant under Section 76-8-105;

1525 ~~[(iii)]~~ (jjj) receiving bribe for endorsement of person as a public servant under Section
 1526 76-8-106;
 1527 ~~[(jjj)]~~ (kkk) bribery for endorsement of person as public servant under Section 76-8-106.1;
 1528 ~~[(kkk)]~~ (lll) official misconduct based on unauthorized act or failure of duty under Section
 1529 76-8-201;
 1530 ~~[(lll)]~~ (mmm) official misconduct concerning inside information under Section 76-8-202;
 1531 ~~[(mmm)]~~ (nnn) obstruction of justice in a criminal investigation or proceeding under
 1532 Section 76-8-306;
 1533 ~~[(nnn)]~~ (ooo) acceptance of bribe or bribery to prevent criminal prosecution under
 1534 Section 76-8-308;
 1535 ~~[(ooo)]~~ (ppp) harboring or concealing offender who has escaped from official custody
 1536 under Section 76-8-309.2;
 1537 ~~[(ppp)]~~ (qqq) making a false or inconsistent material statement under Section 76-8-502;
 1538 ~~[(qqq)]~~ (rrr) making a false or inconsistent statement under Section 76-8-503;
 1539 ~~[(rrr)]~~ (sss) making a written false statement under Section 76-8-504;
 1540 ~~[(sss)]~~ (ttt) tampering with a witness under Section 76-8-508;
 1541 ~~[(ttt)]~~ (uuu) retaliation against a witness, victim, or informant under Section 76-8-508.3;
 1542 ~~[(uuu)]~~ (vvv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;
 1543 ~~[(vvv)]~~ (www) extortion or bribery to dismiss a criminal proceeding under Section
 1544 76-8-509;
 1545 ~~[(www)]~~ (xxx) tampering with evidence under Section 76-8-510.5;
 1546 ~~[(xxx)]~~ (yyy) falsification or alteration of a government record under Section 76-8-511, if
 1547 the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11,
 1548 Lobbyist Disclosure and Regulation Act;
 1549 ~~[(yyy)]~~ (zzz) public assistance fraud by an applicant for public assistance under Section
 1550 76-8-1203.1;
 1551 ~~[(zzz)]~~ (aaa) public assistance fraud by a recipient of public assistance under Section
 1552 76-8-1203.3;
 1553 ~~[(aaa)]~~ (bbb) public assistance fraud by a provider under Section 76-8-1203.5;
 1554 ~~[(bbb)]~~ (ccc) fraudulently misappropriating public assistance funds under Section
 1555 76-8-1203.7;
 1556 ~~[(ccc)]~~ (ddd) false statement to obtain or increase unemployment compensation under
 1557 Section 76-8-1301;
 1558 ~~[(ddd)]~~ (eee) false statement to prevent or reduce unemployment compensation or

1559 liability under Section 76-8-1302;
 1560 [~~(eeee)~~] (~~ffff~~) unlawful failure to comply with Employment Security Act requirements
 1561 under Section 76-8-1303;
 1562 [~~(ffff)~~] (~~gggg~~) unlawful use or disclosure of employment information under Section
 1563 76-8-1304;
 1564 [~~(gggg)~~] (~~hhhh~~) intentionally or knowingly causing one animal to fight with another
 1565 under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
 1566 (~~iiii~~) soliciting, recruiting, enticing, or intimidating a minor to join a criminal street gang
 1567 under Section 76-9-803;
 1568 (~~jjjj~~) aggravated soliciting, recruiting, enticing, or intimidating a minor to join a criminal
 1569 street gang under Section 76-9-803.1;
 1570 (~~kkkk~~) intimidating a minor to remain in a criminal street gang under Section 76-9-803.2;
 1571 (~~llll~~) aggravated intimidating a minor to remain in a criminal street gang under Section
 1572 76-9-803.3;
 1573 [~~(hhhh)~~] (~~mmmm~~) possession, use, or removal of explosives, chemical, or incendiary
 1574 devices or parts under Section 76-10-306;
 1575 [~~(iiii)~~] (~~nnnn~~) delivery to common carrier, mailing, or placement on premises of an
 1576 incendiary device under Section 76-10-307;
 1577 [~~(jjjj)~~] (~~oooo~~) possession of a deadly weapon with intent to assault under Section
 1578 76-10-507;
 1579 [~~(kkkk)~~] (~~pppp~~) unlawful marking of pistol or revolver under Section 76-10-521;
 1580 [~~(HHH)~~] (~~qqqq~~) alteration of number or mark on pistol or revolver under Section 76-10-522;
 1581 [~~(mmmm)~~] (~~rrrr~~) forging or counterfeiting trademarks, trade name, or trade device under
 1582 Section 76-10-1002;
 1583 [~~(nnnn)~~] (~~ssss~~) selling goods under counterfeited trademark, trade name, or trade devices
 1584 under Section 76-10-1003;
 1585 [~~(oooo)~~] (~~tttt~~) sales in containers bearing registered trademark of substituted articles
 1586 under Section 76-10-1004;
 1587 [~~(pppp)~~] (~~uuuu~~) selling or dealing with article bearing registered trademark or service
 1588 mark with intent to defraud under Section 76-10-1006;
 1589 [~~(qqqq)~~] (~~vvvv~~) gambling under Section 76-10-1102;
 1590 [~~(rrrr)~~] (~~wwww~~) gambling fraud under Section 76-10-1103;
 1591 [~~(ssss)~~] (~~xxxx~~) gambling promotion under Section 76-10-1104;
 1592 [~~(tttt)~~] (~~yyyy~~) possessing a gambling device or record under Section 76-10-1105;

1593 [(ttttt)] (zzzz) confidence game under Section 76-10-1109;
 1594 [(vvvvv)] (aaaaa) distributing pornographic material under Section 76-10-1204;
 1595 [(wwwww)] (bbbbb) inducing acceptance of pornographic material under Section
 1596 76-10-1205;
 1597 [(xxxxx)] (ccccc) dealing in harmful material to a minor under Section 76-10-1206;
 1598 [(yyyyy)] (ddddd) distribution of pornographic films under Section 76-10-1222;
 1599 [(zzzzz)] (eeeeee) indecent public displays under Section 76-10-1228;
 1600 [(aaaaa)] (fffff) prostitution under Section 76-10-1302;
 1601 [(bbbbbb)] (ggggg) aiding prostitution under Section 76-10-1304;
 1602 [(eeeeee)] (hhhhh) exploiting prostitution under Section 76-10-1305;
 1603 [(ddddd)] (iiii) aggravated exploitation of prostitution under Section 76-10-1306;
 1604 [(eeeeee)] (jjjjj) communications fraud under Section 76-10-1801;
 1605 [(fffff)] (kkkkk) an act prohibited by the criminal provisions of Part 19, Money
 1606 Laundering and Currency Transaction Reporting Act;
 1607 [(ggggg)] (lllll) vehicle compartment for contraband under Section 76-10-2801;
 1608 [(hhhhh)] (mmmmm) an act prohibited by the criminal provisions of the laws governing
 1609 taxation in this state; or
 1610 [(iiii)] (nnnnn) an act illegal under the laws of the United States and enumerated in 18
 1611 U.S.C. [See.] Secs. 1961(1)(B), (C), and (D).
 1612 Section 26. Section **78B-6-1101** is amended to read:
 1613 **78B-6-1101 . Definitions -- Nuisance -- Right of action -- Agriculture operations.**
 1614 (1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an
 1615 obstruction to the free use of property, so as to interfere with the comfortable enjoyment
 1616 of life or property. A nuisance may be the subject of an action.
 1617 (2) A nuisance may include the following:
 1618 (a) drug houses and drug dealing as provided in Section 78B-6-1107;
 1619 (b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;
 1620 (c) criminal activity committed in concert with [three] two or more [persons] individuals
 1621 as provided in Section 76-3-203.1;
 1622 (d) criminal activity committed for the benefit of, at the direction of, or in association
 1623 with any criminal street gang as defined in Section 76-9-802;
 1624 (e) criminal activity committed to gain recognition, acceptance, membership, or
 1625 increased status with a criminal street gang as defined in Section 76-9-802;
 1626 (f) party houses that frequently create conditions defined in Subsection (1); and

- 1627 (g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.
- 1628 (3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a
 1629 person rents, leases, or owns, from another residential or commercial unit and the smoke:
 1630 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
 1631 (b) creates any of the conditions under Subsection (1).
- 1632 (4) Subsection (3) does not apply to:
 1633 (a) a residential rental unit available for temporary rental, such as for a vacation, or
 1634 available for only 30 or fewer days at a time; or
 1635 (b) a hotel or motel room.
- 1636 (5) Subsection (3) does not apply to a unit that is part of a timeshare development, as
 1637 defined in Section 57-19-2, or subject to a timeshare interest as defined in Section
 1638 57-19-2.
- 1639 (6) An action may be brought by a person whose property is injuriously affected, or whose
 1640 personal enjoyment is lessened by the nuisance.
- 1641 (7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter
 1642 44, Agricultural Operations Nuisances Act.
- 1643 (8) "Critical infrastructure materials operations" means the same as that term is defined in
 1644 Section 10-9a-901.
- 1645 (9) "Manufacturing facility" means a factory, plant, or other facility including its
 1646 appurtenances, where the form of raw materials, processed materials, commodities, or
 1647 other physical objects is converted or otherwise changed into other materials,
 1648 commodities, or physical objects or where such materials, commodities, or physical
 1649 objects are combined to form a new material, commodity, or physical object.
- 1650 Section 27. Section **78B-6-1107** is amended to read:
- 1651 **78B-6-1107 . Nuisance -- Drug houses and drug dealing -- Gambling -- Group**
 1652 **criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.**
- 1653 (1) Every building or place is a nuisance where:
 1654 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
 1655 acquisition occurs of any controlled substance, precursor, or analog specified in Title
 1656 58, Chapter 37, Utah Controlled Substances Act;
 1657 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
 1658 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as
 1659 defined in Subsection 78B-6-1101(1);
 1660 (c) criminal activity is committed in concert with [~~three~~] two or more [~~persons~~] individuals

- 1661 as provided in Section 76-3-203.1;
- 1662 (d) criminal activity is committed for the benefit of, at the direction of, or in association
- 1663 with any criminal street gang as defined in Section 76-9-802;
- 1664 (e) criminal activity is committed to gain recognition, acceptance, membership, or
- 1665 increased status with a criminal street gang as defined in Section 76-9-802;
- 1666 (f) parties occur frequently which create the conditions of a nuisance as defined in
- 1667 Subsection 78B-6-1101(1);
- 1668 (g) prostitution or promotion of prostitution is regularly carried on by one or more
- 1669 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and
- 1670 (h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.
- 1671 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the
- 1672 defendant is lawfully entitled to possession of a controlled substance.
- 1673 (3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the
- 1674 nuisance as defined in Subsection (1).

1675 Section 28. **Effective Date.**

1676 This bill takes effect on May 7, 2025.

1677 Section 29. **Coordinating H.B. 38 with H.B. 22 if H.B. 21 does not pass and become law.**

1678 If H.B. 38, Criminal Offenses Modifications, and H.B. 22, Prostitution Offense

1679 Amendments, both pass and become law, and H.B. 21, Criminal Code Recodification and

1680 Cross References, does not pass and become law, the Legislature intends that, on May 7, 2025:

1681 (1) the amendments to Section 76-5d-203, renumbered from Section 76-10-1303, in H.B.

1682 22 supersede the amendments to Section 76-10-1303 in H.B. 38;

1683 (2) Subsection 76-5d-203(3), in H.B. 22, be amended to read:

1684 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a

1685 class A misdemeanor.

1686 (b) A violation of Subsection (2) is a third degree felony if the actor has

1687 previously been convicted two or more times of:

1688 (i) a violation of Subsection (2);

1689 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing

1690 the same or similar type of violation to the violation described in Subsection (2); or

1691 (iii) a criminal violation in another jurisdiction, including a state, federal, or

1692 military court, that is substantially equivalent to the violation described in Subsection (2)."; and

1693 (3) Subsection 76-5d-204(3)(a), enacted in H.B. 22, be amended to read:

1694 "(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second

1695 degree felony with a mandatory fine of not less than \$20,000."

1696 **Section 30. Coordinating H.B. 38 and H.B. 21, if H.B. 22 does not pass and become law.**

1697 If H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code

1698 Recodification and Cross References, both pass and become law, and H.B. 22, Prostitution

1699 Offense Amendments, does not pass and become law, the Legislature intends that, on May 7,

1700 2025:

1701 (1) the amendments to Section 76-5d-203, renumbered from Section 76-10-1303, in

1702 H.B. 21 supersede the amendments to Section 76-10-1303 in H.B. 38;

1703 (2) Subsection 76-5d-203(3), in H.B. 21, be amended to read:

1704 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a

1705 class A misdemeanor.

1706 (b) A violation of Subsection (2) is a third degree felony if the actor has

1707 previously been convicted two or more times of:

1708 (i) a violation of Subsection (2);

1709 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing

1710 the same or similar type of violation to the violation described in Subsection (2); or

1711 (iii) a criminal violation in another jurisdiction, including a state, federal, or

1712 military court, that is substantially equivalent to the violation described in Subsection (2)."; and

1713 (3) Subsection 76-5d-204(3), enacted in H.B. 22, be amended to read:

1714 "(3) A violation of Subsection (2) is a second degree felony with a mandatory fine of

1715 not less than \$20,000."

1716 **Section 31. Coordinating H.B. 38 with H.B. 22 and H.B. 21 if all pass and become law.**

1717 If H.B. 38, Criminal Offenses Modifications, H.B. 22, Prostitution Offense

1718 Amendments, and H.B. 21, Criminal Code Recodification and Cross References, all pass and

1719 become law, the Legislature intends that, on May 7, 2025:

1720 (1) the changes to Section 76-10-1303 in H.B. 38 not be made;

1721 (2) Subsection 76-5d-203(3) in H.B. 21 and H.B. 22 be amended to read:

1722 "(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a

1723 class A misdemeanor.

1724 (b) A violation of Subsection (2) is a third degree felony if the actor has

1725 previously been convicted two or more times of:

1726 (i) a violation of Subsection (2);

1727 (ii) a local ordinance adopted in accordance with Section 76-5d-102 addressing

1728 the same or similar type of violation to the violation described in Subsection (2); or

1729 (iii) a criminal violation in another jurisdiction, including a state, federal, or
1730 military court, that is substantially equivalent to the violation described in Subsection (2).";

1731 (3) Section 76-5d-204, enacted in H.B. 22, supersede Section 76-5d-204, enacted in
1732 H.B. 21; and

1733 (4) Subsection 76-5d-204(3)(a), enacted in H.B. 22 and H.B. 21, be amended to read:

1734 "(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a second
1735 degree felony with a mandatory fine of not less than \$20,000.".

1736 **Section 32. Coordinating H.B. 38 with H.B. 21.**

1737 If H.B. 38, Criminal Offenses Modifications, and H.B. 21, Criminal Code

1738 Recodification and Cross References, both pass and become law, the Legislature intends that,

1739 on May 7, 2025, the amendments to Section 76-9-803 in H.B. 38 supersede the amendments to

1740 that section in H.B. 21.