

1 **SEX-BASED DESIGNATIONS FOR PRIVACY,**
2 **ANTI-BULLYING, AND WOMEN'S OPPORTUNITIES**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kera Birkeland**

6 Senate Sponsor: Daniel McCay

8 **LONG TITLE**

9 **General Description:**

10 This bill establishes a standard regarding distinctions on the basis of sex and applies the
11 standard in certain facilities and opportunities where designations on the basis of sex
12 address individual privacy, bullying, and women's opportunities.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines terms;
- 16 ▶ defines certain terms for the entire Utah Code;
- 17 ▶ establishes a legal standard for distinctions on the basis of sex in certain publicly
18 owned or controlled circumstances;
- 19 ▶ establishes acceptable and prohibited distinctions on the basis of sex;
- 20 ▶ enacts provisions regarding sex-designated restroom, shower, or locker room
21 facilities that students use within the public education system;
- 22 ▶ requires local education agencies to establish a privacy plan with parents and
23 students in certain cases to address gender identity and fear of bullying;
- 24 ▶ enacts provisions regarding sex-designated shower or locker room facilities where
25 the general public has an expectation of privacy;
- 26 ▶ establishes components of the crimes of voyeurism and criminal trespass for certain
27 actions within a covered sex-designated shower or locker room;
- 28 ▶ requires government entities to:
 - 29 • report allegations of certain criminal offenses to law enforcement;

- 30 • adopt a privacy compliance plan;
- 31 • provide a single-occupant facility in new construction; and
- 32 • consider the feasibility of certain retrofit or remodel projects;
- 33 ▶ provides indemnification for government entities for certain claims;
- 34 ▶ requires the state auditor to investigate government entity compliance with certain
- 35 requirements;
- 36 ▶ requires the attorney general to impose fines on political subdivisions that fail to
- 37 cure noncompliance that the state auditor identifies;
- 38 ▶ amends certain crimes to establish a reasonable expectation of privacy in public
- 39 restrooms, including enhanced penalties for:
- 40 • committing multiple offenses concurrently within a public restroom, shower, or
- 41 locker room; and
- 42 • committing certain offenses within a public restroom, shower, or locker room
- 43 that is designated for the opposite sex;
- 44 ▶ enacts a criminal offense for loitering in a restroom, shower, or locker room where
- 45 the general public has an expectation of privacy;
- 46 ▶ establishes elements of the crime of emergency reporting abuse for making repeated
- 47 false reports alleging a violation of a sex-designation in a publicly owned or
- 48 controlled shower or locker room facility where the general public has an
- 49 expectation of privacy; and
- 50 ▶ makes technical and conforming changes.

51 **Money Appropriated in this Bill:**

52 None

53 **Other Special Clauses:**

54 This bill provides a special effective date.

55 **Utah Code Sections Affected:**

56 AMENDS:

57 **53G-6-1101**, as enacted by Laws of Utah 2022, Chapter 398

- 58 **53G-8-211**, as last amended by Laws of Utah 2023, Chapter 161
- 59 **67-3-1**, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480
- 60 **67-5-1**, as last amended by Laws of Utah 2023, Chapter 330
- 61 **68-3-12.5**, as last amended by Laws of Utah 2021, Chapter 93
- 62 **76-6-206**, as last amended by Laws of Utah 2023, Chapter 111
- 63 **76-9-202**, as last amended by Laws of Utah 2022, Chapter 161
- 64 **76-9-702**, as last amended by Laws of Utah 2023, Chapter 123
- 65 **76-9-702.5**, as last amended by Laws of Utah 2022, Chapter 185
- 66 **76-9-702.7**, as last amended by Laws of Utah 2023, Chapter 411

67 ENACTS:

- 68 **63G-31-101**, Utah Code Annotated 1953
- 69 **63G-31-102**, Utah Code Annotated 1953
- 70 **63G-31-201**, Utah Code Annotated 1953
- 71 **63G-31-202**, Utah Code Annotated 1953
- 72 **63G-31-203**, Utah Code Annotated 1953
- 73 **63G-31-204**, Utah Code Annotated 1953
- 74 **63G-31-301**, Utah Code Annotated 1953
- 75 **63G-31-302**, Utah Code Annotated 1953
- 76 **63G-31-303**, Utah Code Annotated 1953
- 77 **63G-31-304**, Utah Code Annotated 1953
- 78 **63G-31-401**, Utah Code Annotated 1953
- 79 **63G-31-402**, Utah Code Annotated 1953
- 80 **76-9-702.8**, Utah Code Annotated 1953



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

83 Section 1. Section **53G-6-1101** is amended to read:

84 **53G-6-1101. Report -- Action plan.**

85 (1) As used in this section:

86 (a) "Gender-designated interscholastic sport" means a sport that is specifically
87 designated for female or male students.

88 (b) "Interscholastic sport" means an activity in which a student represents the student's
89 school in the sport in competition against another school.

90 (c) "School" means a public school that sponsors or offers an interscholastic sport in
91 which students enrolled at the school may participate.

92 (d) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
93 1681 et seq.

94 (2) Before the beginning of each academic year, the athletic director or another
95 administrator of each school shall report to the school's local governing board regarding:

96 (a) the number and type of interscholastic sports available at the school, categorized by
97 gender designation;

98 (b) the number of students competing in a gender-designated interscholastic sport at the
99 school, categorized by gender;

100 (c) the amount of spending that the school devotes to each gender-designated sport,
101 reported in total amount and on a per-student basis;

102 (d) a comparison and evaluation of designated practice and game locations in
103 gender-designated interscholastic sports;

104 (e) any information regarding the school's efforts in compliance with Title 63G,
105 Chapter 31, Part 2, Distinctions on the Basis of Sex, and Title IX [compliance]; and

106 (f) if there is a discrepancy between male-designated and female-designated sports of
107 10% or greater, an action plan that the school develops to address the discrepancy.

108 (3) An LEA governing board that receives the report described in Subsection (2) shall
109 review the report in a public board meeting.

110 Section 2. Section **53G-8-211** is amended to read:

111 **53G-8-211. Responses to school-based behavior.**

112 (1) As used in this section:

113 (a) "Evidence-based" means a program or practice that has:

114 (i) had multiple randomized control studies or a meta-analysis demonstrating that the
115 program or practice is effective for a specific population;

116 (ii) been rated as effective by a standardized program evaluation tool; or

117 (iii) been approved by the state board.

118 (b) "Habitual truant" means a school-age child who:

119 (i) is in grade 7 or above, unless the school-age child is under 12 years old;

120 (ii) is subject to the requirements of Section 53G-6-202; and

121 (iii) (A) is truant at least 10 times during one school year; or

122 (B) fails to cooperate with efforts on the part of school authorities to resolve the
123 school-age child's attendance problem as required under Section 53G-6-206.

124 (c) "Minor" means the same as that term is defined in Section 80-1-102.

125 (d) "Mobile crisis outreach team" means the same as that term is defined in Section
126 62A-15-102.

127 (e) "Prosecuting attorney" means the same as that term is defined in Subsections
128 80-1-102(65)(b) and (c).

129 (f) "Restorative justice program" means a school-based program or a program used or
130 adopted by a local education agency that is designed:

131 (i) to enhance school safety, reduce school suspensions, and limit referrals to law
132 enforcement agencies and courts; and

133 (ii) to help minors take responsibility for and repair harmful behavior that occurs in
134 school.

135 (g) "School administrator" means a principal of a school.

136 (h) "School is in session" means a day during which the school conducts instruction for
137 which student attendance is counted toward calculating average daily membership.

138 (i) "School resource officer" means a law enforcement officer, as defined in Section
139 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts
140 with a local education agency to provide law enforcement services for the local education
141 agency.

142 (j) "School-age child" means the same as that term is defined in Section [53G-6-201](#).

143 (k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp,
144 clinic, or other event or activity that is authorized by a specific local education agency or public
145 school, according to LEA governing board policy, and satisfies at least one of the following
146 conditions:

147 (A) the activity is managed or supervised by a local education agency or public school,
148 or local education agency or public school employee;

149 (B) the activity uses the local education agency's or public school's facilities,
150 equipment, or other school resources; or

151 (C) the activity is supported or subsidized, more than inconsequentially, by public
152 funds, including the public school's activity funds or Minimum School Program dollars.

153 (ii) "School-sponsored activity" includes preparation for and involvement in a public
154 performance, contest, athletic competition, demonstration, display, or club activity.

155 (l) (i) "Status offense" means an offense that would not be an offense but for the age of
156 the offender.

157 (ii) "Status offense" does not mean an offense that by statute is a misdemeanor or
158 felony.

159 (2) This section applies to a minor enrolled in school who is alleged to have committed
160 an offense on school property where the student is enrolled:

161 (a) when school is in session; or

162 (b) during a school-sponsored activity.

163 (3) If a minor is alleged to have committed an offense on school property that is a class
164 C misdemeanor, an infraction, or a status offense, the school administrator, the school
165 administrator's designee, or a school resource officer may refer the minor:

166 (a) to an evidence-based alternative intervention, including:

167 (i) a mobile crisis outreach team;

168 (ii) a youth services center, as defined in Section [80-5-102](#);

169 (iii) a youth court or comparable restorative justice program;

170 (iv) an evidence-based alternative intervention created and developed by the school or
171 school district;

172 (v) an evidence-based alternative intervention that is jointly created and developed by a
173 local education agency, the state board, the juvenile court, local counties and municipalities,
174 the Department of Health and Human Services; or

175 (vi) a tobacco cessation or education program if the offense is a violation of Section
176 76-10-105; or

177 (b) for prevention and early intervention youth services, as described in Section
178 80-5-201, by the Division of Juvenile Justice Services if the minor refuses to participate in an
179 evidence-based alternative intervention described in Subsection (3)(a).

180 (4) Except as provided in Subsection (5), if a minor is alleged to have committed an
181 offense on school property that is a class C misdemeanor, an infraction, or a status offense, a
182 school administrator, the school administrator's designee, or a school resource officer may refer
183 a minor to a law enforcement officer or agency or a court only if:

184 (a) the minor allegedly committed the same offense on school property on two previous
185 occasions; and

186 (b) the minor was referred to an evidence-based alternative intervention, or to
187 prevention or early intervention youth services, as described in Subsection (3) for both of the
188 two previous offenses.

189 (5) If a minor is alleged to have committed a traffic offense that is an infraction, a
190 school administrator, the school administrator's designee, or a school resource officer may refer
191 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the
192 traffic offense.

193 (6) Notwithstanding Subsection (4), a school resource officer may:

194 (a) investigate possible criminal offenses and conduct, including conducting probable
195 cause searches;

196 (b) consult with school administration about the conduct of a minor enrolled in a
197 school;

198 (c) transport a minor enrolled in a school to a location if the location is permitted by
199 law;

200 (d) take temporary custody of a minor in accordance with Section 80-6-201; or

201 (e) protect the safety of students and the school community, including the use of
202 reasonable and necessary physical force when appropriate based on the totality of the
203 circumstances.

204 (7) (a) If a minor is referred to a court or a law enforcement officer or agency under
205 Subsection (4), the school or the school district shall appoint a school representative to
206 continue to engage with the minor and the minor's family through the court process.

207 (b) A school representative appointed under Subsection (7)(a) may not be a school
208 resource officer.

209 (c) A school district or school shall include the following in the school district's or
210 school's referral to the court or the law enforcement officer or agency:

211 (i) attendance records for the minor;

212 (ii) a report of evidence-based alternative interventions used by the school before the
213 referral, including outcomes;

214 (iii) the name and contact information of the school representative assigned to actively
215 participate in the court process with the minor and the minor's family;

216 (iv) if the minor was referred to prevention or early intervention youth services under
217 Subsection (3)(b), a report from the Division of Juvenile Justice Services that demonstrates the
218 minor's failure to complete or participate in prevention and early intervention youth services
219 under Subsection (3)(b); and

220 (v) any other information that the school district or school considers relevant.

221 (d) A minor referred to a court under Subsection (4) may not be ordered to or placed in
222 secure detention, including for a contempt charge or violation of a valid court order under
223 Section 78A-6-353, when the underlying offense is a status offense or infraction.

224 (e) If a minor is referred to a court under Subsection (4), the court may use, when
225 available, the resources of the Division of Juvenile Justice Services or the Division of

226 Substance Abuse and Mental Health to address the minor.

227 (8) If a minor is alleged to have committed an offense on school property that is a class
228 B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's
229 designee, or a school resource officer may refer the minor directly to a court or to the
230 evidence-based alternative interventions in Subsection (3)(a).

231 (9) A school administrator, a school administrator's designee, and a school resource
232 officer retain the discretion described under this section in relation to Title 63G, Chapter 31,
233 Distinctions on the Basis of Sex.

234 Section 3. Section **63G-31-101** is enacted to read:

235 **CHAPTER 31. Distinctions on the Basis of Sex**

236 **Part 1. General Provisions**

237 **63G-31-101. Definitions.**

238 As used in this chapter:

239 (1) (a) "Changing room" means a space designated for multiple individuals to dress or
240 undress within the same space.

241 (b) "Changing room" includes:

242 (i) a dressing room, fitting room, locker room, or shower room; and

243 (ii) a restroom when a changing room contains or is attached to the restroom.

244 (2) (a) "Facility" means a publicly owned or controlled building, structure, or other
245 improvement.

246 (b) "Facility" includes a subset of a publicly owned or controlled building, structure, or
247 other improvement, including a restroom or locker room.

248 (3) "Government entity" means:

249 (a) the state; or

250 (b) any county, municipality, special district, special service district, or other political
251 subdivision or administrative unit of the state, including:

252 (i) a state institution of higher education as defined in Section [53B-2-101](#); or

253 (ii) a local education agency as defined in Section [53G-7-401](#).

254 (4) "Intersex individual" means the same as that term is defined in Section [26B-8-101](#).

255 (5) "Men's restroom" means a restroom that is designated for the exclusive use of
256 males and not females.

257 (6) (a) "Open to the general public" means that a privacy space is:

258 (i) freely accessible to a member of the general public;

259 (ii) accessible to an individual who has purchased a ticket, paid an entry fee, paid a
260 membership fee, or otherwise paid to access the facility containing the relevant privacy space;

261 or

262 (iii) accessible to a student of an institution of higher education described in Section
263 [52B-2-101](#), either freely or as described in Subsection (6)(a)(ii).

264 (b) "Open to the general public" does not include a privacy space that is:

265 (i) only accessible to employees of a government entity; or

266 (ii) any area that is not normally accessible to the public.

267 (7) "Privacy space" means a restroom or changing room within a publicly owned or
268 controlled facility, where an individual has a reasonable expectation of privacy.

269 (8) "Publicly owned or controlled" means that a government entity has at least a partial
270 ownership interest in or has control of a facility, program, or event.

271 (9) (a) "Restroom" means any space that includes a toilet.

272 (b) "Restroom" includes:

273 (i) sex-designated men's restrooms;

274 (ii) sex-designated women's restrooms;

275 (iii) unisex restrooms; and

276 (iv) single-occupant restrooms.

277 (10) "Sex-designated" means that a facility, program, or event is designated specifically
278 for males or females and not the opposite sex.

279 (11) "Single-occupant" means, in relation to a single-occupant facility or privacy space,
280 that the facility or privacy space:

281 (a) has floor-to-ceiling walls;

282 (b) has an entirely encased and locking door; and

283 (c) is designated for single occupancy.

284 (12) "Unisex" means, in relation to a unisex facility or privacy space, that the facility or
285 privacy space:

286 (a) is designated for the use of both sexes; or

287 (b) is not sex-designated.

288 (13) "Women's restroom" means a restroom that is designated for the exclusive use of
289 females and not males.

290 Section 4. Section **63G-31-102** is enacted to read:

291 **63G-31-102. Severability.**

292 (1) If any provision of this chapter or the application of any provision of this part to
293 any person or circumstance is held invalid by a final decision of a court of competent
294 jurisdiction, the remainder of this chapter shall be given effect without the invalidated
295 provision or application.

296 (2) The provisions of this chapter are severable.

297 Section 5. Section **63G-31-201** is enacted to read:

298 **Part 2. Distinctions on the Basis of Sex**

299 **63G-31-201. Distinctions on the basis of sex.**

300 (1) A government entity may not, on the basis of sex, exclude an individual from
301 participation in, deny an individual from the benefits of, or subject an individual to a sex-based
302 distinction in or under any government or otherwise publicly owned or controlled facility,
303 program, or event, unless the distinction is substantially related to an important government
304 objective.

305 (2) Each government entity shall ensure the preservation of distinctions on the basis of
306 sex that protect individual privacy and competitive opportunity, as described in this chapter.

307 (3) (a) As used in this Subsection (3), "athletic facility" does not include a privacy
308 space.

309 (b) To preserve the individual privacy and competitive opportunity of females, an

310 individual is not entitled to and may not access, use, or benefit from a government entity's
311 athletic facility, program, or event if:

312 (i) the facility, program, or event is designated for females; and

313 (ii) the individual is not female.

314 (c) To preserve the individual privacy and competitive opportunity of males, an
315 individual is not entitled to and may not access, use, or benefit from a government entity's
316 athletic facility, program, or event if:

317 (i) the facility, program, or event is designated for males; and

318 (ii) the individual is not male.

319 Section 6. Section **63G-31-202** is enacted to read:

320 **63G-31-202. Sex-based distinctions to protect individual privacy.**

321 A distinction on the basis of sex that provides separate accommodations for the sexes is
322 substantially related to the important government objective of protecting individual privacy,
323 including in the following contexts:

324 (1) a privacy space; and

325 (2) a correctional facility as defined in Section [77-16b-102](#).

326 Section 7. Section **63G-31-203** is enacted to read:

327 **63G-31-203. Sex-based distinctions to protect athletic health and competitive**
328 **opportunity.**

329 A distinction on the basis of sex to provide separate accommodations for the sexes is
330 substantially related to the important government objective of protecting health and
331 competitive opportunity in the availability or quality of an athletic venue, event, or program
332 within the public education system.

333 Section 8. Section **63G-31-204** is enacted to read:

334 **63G-31-204. Prohibited sex-based distinctions.**

335 The following actions within the public education system constitute a violation of
336 Section [63G-31-201](#):

337 (1) providing a sex-designated facility, program, or event of a higher quality to one sex

338 and of a lesser quality to the opposite sex rather than ensuring equivalent quality or rotational
339 sharing, including the use of athletic facilities or venues;

340 (2) providing males or females preferred or more advantageous scheduling of facilities,
341 programs, or events in comparison to the opposite sex rather than ensuring equivalent
342 scheduling practices or rotational sharing, including the scheduling of athletic events or
343 practices;

344 (3) providing males or females with more sex-designated opportunities than the
345 opposite sex in excess of a 10% disparity;

346 (4) requiring males or females to participate or compete against the opposite sex in any
347 sex-designated facility, program, or event; or

348 (5) requiring, giving official authorization for, or knowingly allowing males or females
349 to use a sex-designated facility in the presence of the opposite sex.

350 Section 9. Section **63G-31-301** is enacted to read:

351 **Part 3. Sex-based Distinctions in Privacy Spaces**

352 **63G-31-301. Sex-designated privacy spaces in public schools.**

353 (1) To preserve the individual privacy of male and female students in the public
354 education system, a student may only access an operational sex-designated privacy space
355 within a public school that is designated for student use if the student's sex corresponds with
356 the sex designation of the privacy space.

357 (2) For a student who makes a request to use a privacy space other than the
358 sex-designated privacy space that corresponds with the student's sex because of the student's
359 gender identity, as defined in Section [34A-5-102](#), or reasonable fear of bullying, the local
360 education agency, as defined in Section [53E-1-102](#), shall coordinate with the student's parent or
361 legal guardian to develop a privacy plan that provides the student with:

362 (a) (i) reasonable access to a unisex or single-occupant facility; or

363 (ii) reasonable access to a faculty or staff restroom; or

364 (b) if the access described in Subsection (2)(a) is unavailable, reasonable access to
365 private use of an otherwise sex-designated privacy space through staggered scheduling or

366 another policy provision that provides for temporary private access.

367 (3) An LEA satisfies the LEA's duties regarding student use of a privacy space under
368 this chapter if the LEA:

369 (a) gives notice to students of the provisions of this section;

370 (b) takes administrative action to address violations of and promote compliance with
371 this section; and

372 (c) develops a privacy plan in accordance with Subsection (2).

373 (4) An individual may use the following evidence as a defense to an allegation that the
374 student is not eligible to access and use a sex-designated privacy space under Subsection (1):

375 (a) the student's unamended birth certificate that corresponds with the sex designation
376 of privacy space, which may be supported with a review of any amendment history obtained
377 under Section [26B-8-125](#); or

378 (b) documentation of a medical treatment or procedure that is consistent only with the
379 sex designation of the privacy space.

380 (5) Subsection (1) does not apply to:

381 (a) a unisex or single-occupant facility; or

382 (b) an intersex individual.

383 Section 10. Section **63G-31-302** is enacted to read:

384 **63G-31-302. Sex-designated changing rooms in publicly owned facilities open to**
385 **the general public.**

386 (1) (a) Except as provided in Subsection (1)(b), to preserve the individual privacy of
387 males and females, an individual may only access an operational sex-designated changing room
388 in a government entity's facility that is open to the general public if:

389 (i) the individual's sex corresponds with the sex designation of the changing room; or

390 (ii) the individual has:

391 (A) legally amended the individual's birth certificate to correspond with the sex
392 designation of the changing room, which may be supported with a review of any amendment
393 history obtained under Section [26B-8-125](#); and

394 (B) undergone a primary sex characteristic surgical procedure as defined in Section
395 58-67-102 to correspond with the sex designation of the changing room.

396 (b) Subsection (1)(a) does not apply to:

397 (i) a minor child who requires assistance to access or use the changing room that
398 corresponds with the sex of the minor's parent, guardian, or relative;

399 (ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined
400 in Section 76-5-111 who requires assistance to access or use the changing room that
401 corresponds with the sex of a caretaker;

402 (iii) an individual providing public safety services, including law enforcement,
403 emergency medical services as defined in Section 26B-4-101, and fire protection;

404 (iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide
405 health care services to a patient of the health care facility; or

406 (v) an individual whose employment duties include the maintenance or cleaning of the
407 changing room.

408 (2) An individual in a changing room has a reasonable expectation of privacy,
409 satisfying the privacy element of the offense of voyeurism in Section 76-9-702.7.

410 (3) An individual who knowingly enters a changing room in violation of Subsection (1)
411 commits the offense of criminal trespass under Section 76-6-206 if the individual enters or
412 remains in the changing room under circumstances which a reasonable person would expect to
413 likely cause affront or alarm to, on, or in the presence of another individual.

414 (4) The surgical provision described in Subsection (1)(a)(ii) does not shield an
415 individual from the offense of lewdness related to genitalia under Subsection 76-9-202(3) or
416 76-9-202.5(4).

417 (5) An individual may use the following evidence as a defense against an allegation
418 that the individual is not eligible to access and use a sex-designated changing room under
419 Subsection (1):

420 (a) for an individual whose birth sex corresponds with the sex designation of the
421 changing room:

422 (i) an individual's unamended birth certificate that corresponds with the sex
423 designation of the changing room, which may be supported with a review of any amendment
424 history obtained under Section 26B-8-125; or

425 (ii) documentation of a medical treatment or procedure that is consistent only with the
426 sex designation of the changing room; or

427 (b) for an individual whose birth sex does not correspond with the sex designation of
428 the changing room:

429 (i) the individual's amended birth certificate, which may be supported with a review of
430 any amendment history obtained under Section 26B-8-125; and

431 (ii) documentation that demonstrates that the individual has undergone a primary sex
432 characteristic surgical procedure as defined in Section 58-67-102.

433 (6) Subsection (1) does not apply to:

434 (a) a unisex or single-occupant facility;

435 (b) a changing room that is not open to the general public; or

436 (c) an intersex individual.

437 Section 11. Section 63G-31-303 is enacted to read:

438 **63G-31-303. Unisex or single-occupant facilities.**

439 The availability of a unisex facility or single-occupant facility satisfies a government
440 entity's obligations regarding an individual who, because of the individual's gender identity, as
441 defined in Section 34A-5-102, or reasonable fear of bullying, is uncomfortable using:

442 (1) for a student, a privacy space in accordance with Section 63G-31-301; or

443 (2) a changing room in accordance with Section 63G-31-302.

444 Section 12. Section 63G-31-304 is enacted to read:

445 **63G-31-304. Government entity facility compliance.**

446 (1) Except as provided under Section 53G-8-211, a government entity shall contact law
447 enforcement if the entity receives a complaint or allegation regarding the following within a
448 privacy space in a facility that is open to the general public:

449 (a) an offense of lewdness under Section 76-9-702;

450 (b) an offense of lewdness involving a child under Section 76-9-702.5;
451 (c) voyeurism under Section 76-9-702.7;
452 (d) loitering in a privacy space under Section 76-9-702.8; or
453 (e) for a changing room described in Section 63G-31-302, an offense of criminal
454 trespass under Subsection 63G-31-302(2).

455 (2) To preserve the individual privacy of males and females in privacy spaces:
456 (a) a government entity shall adopt a privacy compliance plan to address compliance
457 with the government entity's duties under this chapter;

458 (b) for construction of a new facility, a government entity shall ensure that the new
459 construction includes a single-occupant facility; and

460 (c) for existing privacy spaces, a government entity:
461 (i) shall consider the feasibility of retrofitting or remodeling to include:

462 (A) floor-to-ceiling walls and doors or similar privacy protections;

463 (B) curtains; or

464 (C) other methods of improving individual privacy within the facility that are
465 comparable to the methods described in Subsections (2)(a)(i) and (ii); and

466 (ii) may reduce the number of fixtures that state law requires by up to 20% to provide
467 adequate space for the retrofitting or remodeling described in Subsection (2)(a).

468 (3) A government entity shall ensure sufficient sex-designated privacy spaces through
469 compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.

470 Section 13. Section **63G-31-401** is enacted to read:

471 **Part 4. Enforcement and Indemnification**

472 **63G-31-401. Government entity noncompliance.**

473 (1) The state auditor shall:

474 (a) establish a process to receive and investigate alleged violations of this chapter by a
475 government entity;

476 (b) provide notice to the relevant government entity of:

477 (i) each alleged violation of this chapter by the government entity;

478 (ii) each violation that the state auditor determines to be substantiated, including an
479 opportunity to cure the violation not to exceed 30 calendar days; and

480 (c) if a government entity fails to cure a violation in accordance with Subsection
481 (1)(b)(ii), report the government entity's failure to:

482 (i) for a political subdivision as defined in Section 63G-7-102, the attorney general for
483 enforcement under Subsection (2); and

484 (ii) for a state entity as defined in Section 67-4-2, the Legislative Management
485 Committee.

486 (2) (a) The attorney general shall:

487 (i) enforce this chapter against a political subdivision upon referral by the state auditor
488 under Subsection (1)(c) by imposing a fine of up to \$10,000 per violation per day; and

489 (ii) deposit fines under Subsection (2)(a) into the General Fund.

490 (b) A political subdivision may seek judicial review of a fine that the attorney general
491 imposes under this section to determine whether the fine is clearly erroneous.

492 (3) A local education agency is not in violation of this chapter for a lawful application
493 of Section 53G-8-211.

494 Section 14. Section 63G-31-402 is enacted to read:

495 **63G-31-402. Indemnification.**

496 The attorney general shall defend, indemnify, and hold harmless a government entity
497 acting under color of state law to enforce this chapter for any claims or damages, including
498 court costs and attorney fees that:

499 (1) arise as a result of this chapter; and

500 (2) are not covered by the government entity's insurance policies or any coverage
501 agreement that the State Risk Management Fund issues.

502 Section 15. Section 67-3-1 is amended to read:

503 **67-3-1. Functions and duties.**

504 (1) (a) The state auditor is the auditor of public accounts and is independent of any
505 executive or administrative officers of the state.

506 (b) The state auditor is not limited in the selection of personnel or in the determination
507 of the reasonable and necessary expenses of the state auditor's office.

508 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
509 financial statements showing:

510 (a) the condition of the state's finances;

511 (b) the revenues received or accrued;

512 (c) expenditures paid or accrued;

513 (d) the amount of unexpended or unencumbered balances of the appropriations to the
514 agencies, departments, divisions, commissions, and institutions; and

515 (e) the cash balances of the funds in the custody of the state treasurer.

516 (3) (a) The state auditor shall:

517 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
518 any department of state government or any independent agency or public corporation as the law
519 requires, as the auditor determines is necessary, or upon request of the governor or the
520 Legislature;

521 (ii) perform the audits in accordance with generally accepted auditing standards and
522 other auditing procedures as promulgated by recognized authoritative bodies; and

523 (iii) as the auditor determines is necessary, conduct the audits to determine:

524 (A) honesty and integrity in fiscal affairs;

525 (B) accuracy and reliability of financial statements;

526 (C) effectiveness and adequacy of financial controls; and

527 (D) compliance with the law.

528 (b) If any state entity receives federal funding, the state auditor shall ensure that the
529 audit is performed in accordance with federal audit requirements.

530 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
531 appropriation to the state auditor from the General Fund.

532 (ii) If an appropriation is not provided, or if the federal government does not
533 specifically provide for payment of audit costs, the costs of the federal compliance portions of

534 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
535 bears to the total federal funds received by the state.

536 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
537 funds passed through the state to local governments and to reflect any reduction in audit time
538 obtained through the use of internal auditors working under the direction of the state auditor.

539 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
540 financial audits, and as the auditor determines is necessary, conduct performance and special
541 purpose audits, examinations, and reviews of any entity that receives public funds, including a
542 determination of any or all of the following:

543 (i) the honesty and integrity of all the entity's fiscal affairs;

544 (ii) whether the entity's administrators have faithfully complied with legislative intent;

545 (iii) whether the entity's operations have been conducted in an efficient, effective, and
546 cost-efficient manner;

547 (iv) whether the entity's programs have been effective in accomplishing the intended
548 objectives; and

549 (v) whether the entity's management, control, and information systems are adequate,
550 effective, and secure.

551 (b) The auditor may not conduct performance and special purpose audits,
552 examinations, and reviews of any entity that receives public funds if the entity:

553 (i) has an elected auditor; and

554 (ii) has, within the entity's last budget year, had the entity's financial statements or
555 performance formally reviewed by another outside auditor.

556 (5) The state auditor:

557 (a) shall administer any oath or affirmation necessary to the performance of the duties
558 of the auditor's office; and

559 (b) may:

560 (i) subpoena witnesses and documents, whether electronic or otherwise; and

561 (ii) examine into any matter that the auditor considers necessary.

562 (6) The state auditor may require all persons who have had the disposition or
563 management of any property of this state or its political subdivisions to submit statements
564 regarding the property at the time and in the form that the auditor requires.

565 (7) The state auditor shall:

566 (a) except where otherwise provided by law, institute suits in Salt Lake County in
567 relation to the assessment, collection, and payment of revenues against:

568 (i) persons who by any means have become entrusted with public money or property
569 and have failed to pay over or deliver the money or property; and

570 (ii) all debtors of the state;

571 (b) collect and pay into the state treasury all fees received by the state auditor;

572 (c) perform the duties of a member of all boards of which the state auditor is a member
573 by the constitution or laws of the state, and any other duties that are prescribed by the
574 constitution and by law;

575 (d) stop the payment of the salary of any state official or state employee who:

576 (i) refuses to settle accounts or provide required statements about the custody and
577 disposition of public funds or other state property;

578 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
579 board or department head with respect to the manner of keeping prescribed accounts or funds;

580 or

581 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
582 official's or employee's attention;

583 (e) establish accounting systems, methods, and forms for public accounts in all taxing
584 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

585 (f) superintend the contractual auditing of all state accounts;

586 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
587 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
588 officials and employees in those taxing units comply with state laws and procedures in the
589 budgeting, expenditures, and financial reporting of public funds;

590 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
591 if necessary, to ensure that officials and employees in the county comply with Section
592 59-2-303.1; and

593 (i) withhold state allocated funds or the disbursement of property taxes from a local
594 government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if
595 the state auditor finds the withholding necessary to ensure that the entity registers and
596 maintains the entity's registration with the lieutenant governor, in accordance with Section
597 67-1a-15.

598 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
599 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
600 written notice of noncompliance from the auditor and has been given 60 days to make the
601 specified corrections.

602 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
603 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
604 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
605 state auditor:

606 (i) shall provide a recommended timeline for corrective actions;

607 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
608 state; and

609 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
610 account of a financial institution by filing an action in district court requesting an order of the
611 court to prohibit a financial institution from providing the fee-assessing unit access to an
612 account.

613 (c) The state auditor shall remove a limitation on accessing funds under Subsection
614 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
615 financial reporting of public funds.

616 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
617 state law, the state auditor:

618 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
619 comply;

620 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
621 state; and

622 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
623 account of a financial institution by:

624 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
625 the institution prohibit access to the account; or

626 (B) filing an action in district court requesting an order of the court to prohibit a
627 financial institution from providing the taxing or fee-assessing unit access to an account.

628 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
629 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
630 (8)(d).

631 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
632 received formal written notice of noncompliance from the auditor and has been given 60 days
633 to make the specified corrections.

634 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
635 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

636 (b) If the state auditor receives a notice of non-registration, the state auditor may
637 prohibit the local government entity or limited purpose entity, as those terms are defined in
638 Section 67-1a-15, from accessing:

639 (i) money held by the state; and

640 (ii) money held in an account of a financial institution by:

641 (A) contacting the entity's financial institution and requesting that the institution
642 prohibit access to the account; or

643 (B) filing an action in district court requesting an order of the court to prohibit a
644 financial institution from providing the entity access to an account.

645 (c) The state auditor shall remove the prohibition on accessing funds described in

646 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
647 Section 67-1a-15, from the lieutenant governor.

648 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
649 state auditor:

650 (a) shall authorize a disbursement by a local government entity or limited purpose
651 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
652 unit if the disbursement is necessary to:

653 (i) avoid a major disruption in the operations of the local government entity, limited
654 purpose entity, or state or local taxing or fee-assessing unit; or

655 (ii) meet debt service obligations; and

656 (b) may authorize a disbursement by a local government entity, limited purpose entity,
657 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

658 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
659 take temporary custody of public funds if an action is necessary to protect public funds from
660 being improperly diverted from their intended public purpose.

661 (b) If the state auditor seeks relief under Subsection (12)(a):

662 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
663 and

664 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
665 court orders the public funds to be protected from improper diversion from their public
666 purpose.

667 (13) The state auditor shall:

668 (a) establish audit guidelines and procedures for audits of local mental health and
669 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
670 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
671 Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental
672 Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
673 Organizations, and Other Local Entities Act; and

674 (b) ensure that those guidelines and procedures provide assurances to the state that:

675 (i) state and federal funds appropriated to local mental health authorities are used for
676 mental health purposes;

677 (ii) a private provider under an annual or otherwise ongoing contract to provide
678 comprehensive mental health programs or services for a local mental health authority is in
679 compliance with state and local contract requirements and state and federal law;

680 (iii) state and federal funds appropriated to local substance abuse authorities are used
681 for substance abuse programs and services; and

682 (iv) a private provider under an annual or otherwise ongoing contract to provide
683 comprehensive substance abuse programs or services for a local substance abuse authority is in
684 compliance with state and local contract requirements, and state and federal law.

685 (14) (a) The state auditor may, in accordance with the auditor's responsibilities for
686 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from
687 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
688 investigations of any political subdivision that are necessary to determine honesty and integrity
689 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
690 financial controls and compliance with the law.

691 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
692 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may
693 initiate an audit or investigation of the public entity subject to the notice to determine
694 compliance with Section 11-41-103.

695 (15) (a) The state auditor may not audit work that the state auditor performed before
696 becoming state auditor.

697 (b) If the state auditor has previously been a responsible official in state government
698 whose work has not yet been audited, the Legislature shall:

699 (i) designate how that work shall be audited; and

700 (ii) provide additional funding for those audits, if necessary.

701 (16) The state auditor shall:

702 (a) with the assistance, advice, and recommendations of an advisory committee
703 appointed by the state auditor from among special district boards of trustees, officers, and
704 employees and special service district boards, officers, and employees:

705 (i) prepare a Uniform Accounting Manual for Special Districts that:

706 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
707 procedures for special districts under Title 17B, Limited Purpose Local Government Entities -
708 Special Districts, and special service districts under Title 17D, Chapter 1, Special Service
709 District Act;

710 (B) conforms with generally accepted accounting principles; and

711 (C) prescribes reasonable exceptions and modifications for smaller districts to the
712 uniform system of accounting, budgeting, and reporting;

713 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
714 reflect generally accepted accounting principles;

715 (iii) conduct a continuing review and modification of procedures in order to improve
716 them;

717 (iv) prepare and supply each district with suitable budget and reporting forms; and

718 (v) (A) prepare instructional materials, conduct training programs, and render other
719 services considered necessary to assist special districts and special service districts in
720 implementing the uniform accounting, budgeting, and reporting procedures; and

721 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
722 63G, Chapter 22, State Training and Certification Requirements; and

723 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
724 and experiences of specific special districts and special service districts selected by the state
725 auditor and make the information available to all districts.

726 (17) (a) The following records in the custody or control of the state auditor are
727 protected records under Title 63G, Chapter 2, Government Records Access and Management
728 Act:

729 (i) records that would disclose information relating to allegations of personal

730 misconduct, gross mismanagement, or illegal activity of a past or present governmental
731 employee if the information or allegation cannot be corroborated by the state auditor through
732 other documents or evidence, and the records relating to the allegation are not relied upon by
733 the state auditor in preparing a final audit report;

734 (ii) records and audit workpapers to the extent the workpapers would disclose the
735 identity of an individual who during the course of an audit, communicated the existence of any
736 waste of public funds, property, or manpower, or a violation or suspected violation of a law,
737 rule, or regulation adopted under the laws of this state, a political subdivision of the state, or
738 any recognized entity of the United States, if the information was disclosed on the condition
739 that the identity of the individual be protected;

740 (iii) before an audit is completed and the final audit report is released, records or drafts
741 circulated to an individual who is not an employee or head of a governmental entity for the
742 individual's response or information;

743 (iv) records that would disclose an outline or part of any audit survey plans or audit
744 program; and

745 (v) requests for audits, if disclosure would risk circumvention of an audit.

746 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
747 of records or information that relate to a violation of the law by a governmental entity or
748 employee to a government prosecutor or peace officer.

749 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
750 the state auditor to classify a document as public, private, controlled, or protected under Title
751 63G, Chapter 2, Government Records Access and Management Act.

752 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
753 state auditor and the subject of an audit performed by the state auditor as to whether the state
754 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
755 auditor gained access to in the course of the state auditor's audit but which the subject of the
756 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
757 Access and Management Act.

758 (ii) The state auditor may submit a record dispute to the State Records Committee,
759 created in Section [63G-2-501](#), for a determination of whether the state auditor may, in
760 conjunction with the state auditor's release of an audit report, release to the public the record
761 that is the subject of the record dispute.

762 (iii) The state auditor or the subject of the audit may seek judicial review of a State
763 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
764 [63G-2-404](#).

765 (18) If the state auditor conducts an audit of an entity that the state auditor has
766 previously audited and finds that the entity has not implemented a recommendation made by
767 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
768 Committee through the Legislative Management Committee's audit subcommittee that the
769 entity has not implemented that recommendation.

770 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
771 privacy officer described in Section [67-3-13](#).

772 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
773 another government entity reports, on the financial, operational, and performance metrics for
774 the state system of higher education and the state system of public education, including metrics
775 in relation to students, programs, and schools within those systems.

776 (21) (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits
777 of:

778 (i) the scholarship granting organization for the Special Needs Opportunity Scholarship
779 Program, created in Section [53E-7-402](#);

780 (ii) the State Board of Education for the Carson Smith Scholarship Program, created in
781 Section [53F-4-302](#); and

782 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
783 created in Section [53F-6-402](#).

784 (b) Nothing in this subsection limits or impairs the authority of the State Board of
785 Education to administer the programs described in Subsection (21)(a).

786 (22) The state auditor shall, based on the information posted by the Office of
787 Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy,
788 track and post the following information on the state auditor's website:

- 789 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);
- 790 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
791 adopted;
- 792 (c) an indication regarding whether the policy complies with the requirements
793 established by law for the policy; and
- 794 (d) a link to the policy.

795 (23) (a) A legislator may request that the state auditor conduct an inquiry to determine
796 whether a government entity, government official, or government employee has complied with
797 a legal obligation directly imposed, by statute, on the government entity, government official,
798 or government employee.

799 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
800 the inquiry requested.

801 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
802 auditor shall post the results of the inquiry on the state auditor's website.

803 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
804 determination, without conducting an audit, regarding whether the obligation was fulfilled.

805 (24) The state auditor shall:

806 (a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in
807 accordance with Section 63G-31-401; and

808 (b) report to the Legislative Management Committee, upon request, regarding the state
809 auditor's actions under this Subsection (24).

810 Section 16. Section 67-5-1 is amended to read:

811 **67-5-1. General duties.**

812 (1) The attorney general shall:

813 (a) perform all duties in a manner consistent with the attorney-client relationship under

814 Section 67-5-17;

815 (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court
816 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
817 defend all causes to which the state or any officer, board, or commission of the state in an
818 official capacity is a party, and take charge, as attorney, of all civil legal matters in which the
819 state is interested;

820 (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of
821 process as necessary to execute the judgment;

822 (d) account for, and pay over to the proper officer, all money that comes into the
823 attorney general's possession that belongs to the state;

824 (e) keep a file of all cases in which the attorney general is required to appear, including
825 any documents and papers showing the court in which the cases have been instituted and tried,
826 and whether they are civil or criminal, and:

827 (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to
828 judgment, a memorandum of the judgment and of any process issued if satisfied, and if not
829 satisfied, documentation of the return of the sheriff;

830 (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of
831 proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the
832 execution, if the sentence has been executed, and, if not executed, the reason for the delay or
833 prevention; and

834 (iii) deliver this information to the attorney general's successor in office;

835 (f) exercise supervisory powers over the district and county attorneys of the state in all
836 matters pertaining to the duties of the district and county attorneys' offices, including the
837 authority described in Subsection (2);

838 (g) give the attorney general's opinion in writing and without fee, when required, upon
839 any question of law relating to the office of the requester:

840 (i) in accordance with Section 67-5-1.1, to the Legislature or either house;

841 (ii) to any state officer, board, or commission; and

842 (iii) to any county attorney or district attorney;

843 (h) when required by the public service or directed by the governor, assist any county,
844 district, or city attorney in the discharge of county, district, or city attorney's duties;

845 (i) purchase in the name of the state, under the direction of the state Board of
846 Examiners, any property offered for sale under execution issued upon judgments in favor of or
847 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
848 consideration of the purchases;

849 (j) when the property of a judgment debtor in any judgment mentioned in Subsection
850 (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
851 taking precedence of the judgment in favor of the state, redeem the property, under the
852 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
853 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
854 out of any money appropriated for these purposes;

855 (k) when in the attorney general's opinion it is necessary for the collection or
856 enforcement of any judgment, institute and prosecute on behalf of the state any action or
857 proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment
858 debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of
859 Examiners, out of any money not otherwise appropriated;

860 (l) discharge the duties of a member of all official boards of which the attorney general
861 is or may be made a member by the Utah Constitution or by the laws of the state, and other
862 duties prescribed by law;

863 (m) institute and prosecute proper proceedings in any court of the state or of the United
864 States to restrain and enjoin corporations organized under the laws of this or any other state or
865 territory from acting illegally or in excess of their corporate powers or contrary to public
866 policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and
867 wind up their affairs;

868 (n) institute investigations for the recovery of all real or personal property that may
869 have escheated or should escheat to the state, and for that purpose, subpoena any persons

870 before any of the district courts to answer inquiries and render accounts concerning any
871 property, examine all books and papers of any corporations, and when any real or personal
872 property is discovered that should escheat to the state, institute suit in the district court of the
873 county where the property is situated for its recovery, and escheat that property to the state;

874 (o) administer the Children's Justice Center as a program to be implemented in various
875 counties pursuant to Sections 67-5b-101 through 67-5b-107;

876 (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a,
877 Constitutional and Federalism Defense Act;

878 (q) pursue any appropriate legal action to implement the state's public lands policy
879 established in Section 63C-4a-103;

880 (r) investigate and prosecute violations of all applicable state laws relating to fraud in
881 connection with the state Medicaid program and any other medical assistance program
882 administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False
883 Claims Act;

884 (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:
885 (i) in health care facilities that receive payments under the state Medicaid program;
886 (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
887 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and
888 (iii) who are receiving medical assistance under the Medicaid program as defined in
889 Section 26B-3-101 in a noninstitutional or other setting;

890 (t) (i) report at least twice per year to the Legislative Management Committee on any
891 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:
892 (A) cost the state more than \$500,000; or
893 (B) require the state to take legally binding action that would cost more than \$500,000
894 to implement; and
895 (ii) if the meeting is closed, include an estimate of the state's potential financial or
896 other legal exposure in that report;

897 (u) (i) submit a written report to the committees described in Subsection (1)(u)(ii) that

898 summarizes any lawsuit or decision in which a court or the Office of the Attorney General has
899 determined that a state statute is unconstitutional or unenforceable since the attorney general's
900 last report under this Subsection (1)(u), including any:

- 901 (A) settlements reached;
- 902 (B) consent decrees entered;
- 903 (C) judgments issued;
- 904 (D) preliminary injunctions issued;
- 905 (E) temporary restraining orders issued; or
- 906 (F) formal or informal policies of the Office of the Attorney General to not enforce a
907 law; and

908 (ii) at least 30 days before the Legislature's May and November interim meetings,
909 submit the report described in Subsection (1)(u)(i) to:

- 910 (A) the Legislative Management Committee;
- 911 (B) the Judiciary Interim Committee; and
- 912 (C) the Law Enforcement and Criminal Justice Interim Committee;
- 913 (v) if the attorney general operates the Office of the Attorney General or any portion of
914 the Office of the Attorney General as an internal service fund agency in accordance with
915 Section 67-5-4, submit to the rate committee established in Section 67-5-34:

- 916 (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
- 917 (ii) any other information or analysis requested by the rate committee;

918 (w) before the end of each calendar year, create an annual performance report for the
919 Office of the Attorney General and post the report on the attorney general's website;

920 (x) ensure that any training required under this chapter complies with Title 63G,
921 Chapter 22, State Training and Certification Requirements;

922 (y) notify the legislative general counsel in writing within three business days after the
923 day on which the attorney general is officially notified of a claim, regardless of whether the
924 claim is filed in state or federal court, that challenges:

- 925 (i) the constitutionality of a state statute;

- 926 (ii) the validity of legislation; or
- 927 (iii) any action of the Legislature; [~~and~~]
- 928 (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a
- 929 special advisor to the Office of the Governor and the Office of the Attorney General in matters
- 930 relating to Native American and tribal issues to:
- 931 (A) establish outreach to the tribes and affected counties and communities; and
- 932 (B) foster better relations and a cooperative framework; and
- 933 (ii) annually report to the Executive Offices and Criminal Justice Appropriations
- 934 Subcommittee regarding:
- 935 (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and
- 936 (B) whether the need remains for the ongoing appropriation to fund the special advisor
- 937 described in Subsection (1)(z)(i)[~~;~~]; and
- 938 (aa) (i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of
- 939 Sex, in accordance with Section [63G-31-401](#); and
- 940 (ii) report to the Legislative Management Committee, upon request, regarding the
- 941 attorney general's enforcement under this Subsection (1)(aa).
- 942 (2) (a) The attorney general may require a district attorney or county attorney of the
- 943 state to, upon request, report on the status of public business entrusted to the district or county
- 944 attorney's charge.
- 945 (b) The attorney general may review investigation results de novo and file criminal
- 946 charges, if warranted, in any case involving a first degree felony, if:
- 947 (i) a law enforcement agency submits investigation results to the county attorney or
- 948 district attorney of the jurisdiction where the incident occurred and the county attorney or
- 949 district attorney:
- 950 (A) declines to file criminal charges; or
- 951 (B) fails to screen the case for criminal charges within six months after the law
- 952 enforcement agency's submission of the investigation results; and
- 953 (ii) after consultation with the county attorney or district attorney of the jurisdiction

954 where the incident occurred, the attorney general reasonably believes action by the attorney
955 general would not interfere with an ongoing investigation or prosecution by the county attorney
956 or district attorney of the jurisdiction where the incident occurred.

957 (c) If the attorney general decides to conduct a review under Subsection (2)(b), the
958 district attorney, county attorney, and law enforcement agency shall, within 14 days after the
959 day on which the attorney general makes a request, provide the attorney general with:

960 (i) all information relating to the investigation, including all reports, witness lists,
961 witness statements, and other documents created or collected in relation to the investigation;

962 (ii) all recordings, photographs, and other physical or digital media created or collected
963 in relation to the investigation;

964 (iii) access to all evidence gathered or collected in relation to the investigation; and

965 (iv) the identification of, and access to, all officers or other persons who have
966 information relating to the investigation.

967 (d) If a district attorney, county attorney, or law enforcement agency fails to timely
968 comply with Subsection (2)(c), the attorney general may seek a court order compelling
969 compliance.

970 (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall
971 grant the order unless the district attorney, county attorney, or law enforcement agency shows
972 good cause and a compelling interest for not complying with Subsection (2)(c).

973 Section 17. Section **68-3-12.5** is amended to read:

974 **68-3-12.5. Definitions for Utah Code.**

975 (1) The definitions listed in this section apply to the Utah Code, unless:

976 (a) the definition is inconsistent with the manifest intent of the Legislature or repugnant
977 to the context of the statute; or

978 (b) a different definition is expressly provided for the respective title, chapter, part,
979 section, or subsection.

980 (2) "Adjudicative proceeding" means:

981 (a) an action by a board, commission, department, officer, or other administrative unit

982 of the state that determines the legal rights, duties, privileges, immunities, or other legal
983 interests of one or more identifiable persons, including an action to grant, deny, revoke,
984 suspend, modify, annul, withdraw, or amend an authority, right, or license; and

985 (b) judicial review of an action described in Subsection (2)(a).

986 (3) "Administrator" includes "executor" when the subject matter justifies the use.

987 (4) "Advisory board," "advisory commission," and "advisory council" mean a board,
988 commission, committee, or council that:

989 (a) is created by, and whose duties are provided by, statute or executive order;

990 (b) performs its duties only under the supervision of another person as provided by
991 statute; and

992 (c) provides advice and makes recommendations to another person that makes policy
993 for the benefit of the general public.

994 (5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps,
995 Space Force, and Coast Guard.

996 (6) "City" includes, depending on population, a metro township as defined in Section
997 [10-3c-102](#).

998 (7) "County executive" means:

999 (a) the county commission, in the county commission or expanded county commission
1000 form of government established under Title 17, Chapter 52a, Changing Forms of County
1001 Government;

1002 (b) the county executive, in the county executive-council optional form of government
1003 authorized by Section [17-52a-203](#); or

1004 (c) the county manager, in the council-manager optional form of government
1005 authorized by Section [17-52a-204](#).

1006 (8) "County legislative body" means:

1007 (a) the county commission, in the county commission or expanded county commission
1008 form of government established under Title 17, Chapter 52a, Changing Forms of County
1009 Government;

1010 (b) the county council, in the county executive-council optional form of government
1011 authorized by Section 17-52a-203; and

1012 (c) the county council, in the council-manager optional form of government authorized
1013 by Section 17-52a-204.

1014 (9) "Depose" means to make a written statement made under oath or affirmation.

1015 (10) (a) "Equal" means, with respect to biological sex, of the same value.

1016 (b) "Equal" does not mean, with respect to biological sex:

1017 (i) a characteristic of being the same or identical; or

1018 (ii) a requirement that biological sexes be ignored or co-mingled in every circumstance.

1019 [~~(10)~~] (11) "Executor" includes "administrator" when the subject matter justifies the
1020 use.

1021 (12) "Father" means a parent who is of the male sex.

1022 (13) "Female" means the characteristic of an individual whose biological reproductive
1023 system is of the general type that functions in a way that could produce ova.

1024 [~~(11)~~] (14) "Guardian" includes a person who:

1025 (a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary
1026 or court appointment; or

1027 (b) is appointed by a court to manage the estate of a minor or incapacitated person.

1028 [~~(12)~~] (15) "Highway" includes:

1029 (a) a public bridge;

1030 (b) a county way;

1031 (c) a county road;

1032 (d) a common road; and

1033 (e) a state road.

1034 [~~(13)~~] (16) "Intellectual disability" means a significant, subaverage general intellectual
1035 functioning that:

1036 (a) exists concurrently with deficits in adaptive behavior; and

1037 (b) is manifested during the developmental period as defined in the current edition of

1038 the Diagnostic and Statistical Manual of Mental Disorders, published by the American
1039 Psychiatric Association.

1040 ~~[(14)]~~ (17) "Intermediate care facility for people with an intellectual disability" means
1041 an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social
1042 Security Act.

1043 ~~[(15)]~~ (18) "Land" includes:

- 1044 (a) land;
- 1045 (b) a tenement;
- 1046 (c) a hereditament;
- 1047 (d) a water right;
- 1048 (e) a possessory right; and
- 1049 (f) a claim.

1050 (19) "Male" means the characteristic of an individual whose biological reproductive
1051 system is of the general type that functions to fertilize the ova of a female.

1052 (20) "Man" means an adult human male.

1053 ~~[(16)]~~ (21) "Month" means a calendar month, unless otherwise expressed.

1054 (22) "Mother" means a parent who is of the female sex.

1055 ~~[(17)]~~ (23) "Oath" includes "affirmation."

1056 ~~[(18)]~~ (24) "Person" means:

- 1057 (a) an individual;
- 1058 (b) an association;
- 1059 (c) an institution;
- 1060 (d) a corporation;
- 1061 (e) a company;
- 1062 (f) a trust;
- 1063 (g) a limited liability company;
- 1064 (h) a partnership;
- 1065 (i) a political subdivision;

- 1066 (j) a government office, department, division, bureau, or other body of government;
1067 and
- 1068 (k) any other organization or entity.
- 1069 [~~(19)~~] (25) "Personal property" includes:
- 1070 (a) money;
- 1071 (b) goods;
- 1072 (c) chattels;
- 1073 (d) effects;
- 1074 (e) evidences of a right in action;
- 1075 (f) a written instrument by which a pecuniary obligation, right, or title to property is
1076 created, acknowledged, transferred, increased, defeated, discharged, or diminished; and
- 1077 (g) a right or interest in an item described in Subsections [~~(19)~~](a) (25)(a) through (f).
- 1078 [~~(20)~~] (26) "Personal representative," "executor," and "administrator" include:
- 1079 (a) an executor;
- 1080 (b) an administrator;
- 1081 (c) a successor personal representative;
- 1082 (d) a special administrator; and
- 1083 (e) a person who performs substantially the same function as a person described in
1084 Subsections [~~(20)~~](a) (26)(a) through (d) under the law governing the person's status.
- 1085 [~~(21)~~] (27) "Policy board," "policy commission," or "policy council" means a board,
1086 commission, or council that:
- 1087 (a) is authorized to make policy for the benefit of the general public;
- 1088 (b) is created by, and whose duties are provided by, the constitution or statute; and
- 1089 (c) performs its duties according to its own rules without supervision other than under
1090 the general control of another person as provided by statute.
- 1091 [~~(22)~~] (28) "Population" is shown by the most recent state or national census, unless
1092 expressly provided otherwise.
- 1093 [~~(23)~~] (29) "Process" means a writ or summons issued in the course of a judicial

1094 proceeding.

1095 ~~[(24)]~~ (30) "Property" includes both real and personal property.

1096 ~~[(25)]~~ (31) "Real estate" or "real property" includes:

1097 (a) land;

1098 (b) a tenement;

1099 (c) a hereditament;

1100 (d) a water right;

1101 (e) a possessory right; and

1102 (f) a claim.

1103 ~~[(26)]~~ (32) "Review board," "review commission," and "review council" mean a board,
1104 commission, committee, or council that:

1105 (a) is authorized to approve policy made for the benefit of the general public by another
1106 body or person;

1107 (b) is created by, and whose duties are provided by, statute; and

1108 (c) performs its duties according to its own rules without supervision other than under
1109 the general control of another person as provided by statute.

1110 ~~[(27)]~~ (33) "Road" includes:

1111 (a) a public bridge;

1112 (b) a county way;

1113 (c) a county road;

1114 (d) a common road; and

1115 (e) a state road.

1116 (34) "Sex" means, in relation to an individual, the individual's biological sex, either
1117 male or female, at birth, according to distinct reproductive roles as manifested by:

1118 (a) sex and reproductive organ anatomy;

1119 (b) chromosomal makeup; and

1120 (c) endogenous hormone profiles.

1121 ~~[(28)]~~ (35) "Signature" includes a name, mark, or sign written with the intent to

1122 authenticate an instrument or writing.

1123 ~~[(29)]~~ (36) "State," when applied to the different parts of the United States, includes a
1124 state, district, or territory of the United States.

1125 ~~[(30)]~~ (37) "Swear" includes "affirm."

1126 ~~[(31)]~~ (38) "Testify" means to make an oral statement under oath or affirmation.

1127 ~~[(32)]~~ (39) "Town" includes, depending on population, a metro township as defined in

1128 Section [10-3c-102](#).

1129 ~~[(33)]~~ (40) "Uniformed services" means:

1130 (a) the armed forces;

1131 (b) the commissioned corps of the National Oceanic and Atmospheric Administration;

1132 and

1133 (c) the commissioned corps of the United States Public Health Service.

1134 ~~[(34)]~~ (41) "United States" includes each state, district, and territory of the United
1135 States of America.

1136 ~~[(35)]~~ (42) "Utah Code" means the 1953 recodification of the Utah Code, as amended,
1137 unless the text expressly references a portion of the 1953 recodification of the Utah Code as it
1138 existed:

1139 (a) on the day on which the 1953 recodification of the Utah Code was enacted; or

1140 (b) (i) after the day described in Subsection ~~[(35)(a)]~~ (42)(a); and

1141 (ii) before the most recent amendment to the referenced portion of the 1953
1142 recodification of the Utah Code.

1143 ~~[(36)]~~ (43) "Vessel," when used with reference to shipping, includes a steamboat, canal
1144 boat, and every structure adapted to be navigated from place to place.

1145 ~~[(37)]~~ (44) (a) "Veteran" means an individual who:

1146 (i) has served in the United States Armed Forces for at least 180 days:

1147 (A) on active duty; or

1148 (B) in a reserve component, to include the National Guard; or

1149 (ii) has incurred an actual service-related injury or disability while in the United States

1150 Armed Forces regardless of whether the individual completed 180 days; and
1151 (iii) was separated or retired under conditions characterized as honorable or general.
1152 (b) This definition is not intended to confer eligibility for benefits.
1153 [~~38~~] (45) "Will" includes a codicil.
1154 (46) "Woman" means an adult human female.
1155 [~~39~~] (47) "Writ" means an order or precept in writing, issued in the name of:
1156 (a) the state;
1157 (b) a court; or
1158 (c) a judicial officer.
1159 [~~40~~] (48) "Writing" includes:
1160 (a) printing;
1161 (b) handwriting; and
1162 (c) information stored in an electronic or other medium if the information is retrievable
1163 in a perceivable format.

1164 Section 18. Section **76-6-206** is amended to read:

1165 **76-6-206. Criminal trespass.**

1166 (1) (a) As used in this section:

1167 (i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

1168 (ii) "Graffiti" means the same as that term is defined in Section [76-6-101](#).

1169 (iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means
1170 remaining on or over private property when:

1171 (A) the private property or any portion of the private property is not open to the public;

1172 and

1173 (B) the person operating the unmanned aircraft is not otherwise authorized to fly the
1174 unmanned aircraft over the private property or any portion of the private property.

1175 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-201](#) apply to this section.

1176 (2) An actor commits criminal trespass if, under circumstances not amounting to
1177 burglary as defined in Section [76-6-202](#), [76-6-203](#), or [76-6-204](#) or a violation of Section

1178 [76-10-2402](#) regarding commercial obstruction:

1179 (a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter
1180 and remain unlawfully over property and:

1181 (i) intends to cause annoyance or injury to any person or damage to any property,
1182 including the use of graffiti;

1183 (ii) intends to commit any crime, other than theft or a felony; or

1184 (iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear
1185 for the safety of another;

1186 (b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor
1187 enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over
1188 property to which notice against entering is given by:

1189 (i) personal communication to the actor by the owner or someone with apparent
1190 authority to act for the owner;

1191 (ii) fencing or other enclosure obviously designed to exclude intruders; or

1192 (iii) posting of signs reasonably likely to come to the attention of intruders; ~~[or]~~

1193 (c) the actor enters a condominium unit in violation of ~~[Subsection]~~ Section

1194 [57-8-7\(8\)](#)~~[-];~~ or

1195 (d) the actor enters a sex-designated changing room in violation of Subsection

1196 [63G-31-302\(3\)](#).

1197 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) ~~[or]~~,

1198 (b), or (d) is a class B misdemeanor.

1199 (b) ~~[Hf]~~ The following is a class A misdemeanor:

1200 (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling~~[, the violation is~~
1201 ~~a class A misdemeanor.];~~

1202 (ii) if a violation of Subsection (2)(d) is committed while also committing the offense

1203 of:

1204 (A) lewdness under Section [76-9-702](#);

1205 (B) lewdness involving a child under Section [76-9-702.5](#);

1206 (C) voyeurism under Section 76-9-702.7; or
1207 (D) loitering in a privacy space under Section 76-9-702.8; or
1208 (iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space,
1209 as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

1210 (c) A violation of Subsection (2)(c) is an infraction.

1211 (4) It is a defense to prosecution under this section that:

1212 (a) the property was at the time open to the public; and

1213 (b) the defendant complied with all lawful conditions imposed on access to or
1214 remaining on the property.

1215 (5) In addition to an order for restitution under Section 77-38b-205, an actor who
1216 commits a violation of Subsection (2) may also be liable for:

1217 (a) statutory damages in the amount of three times the value of damages resulting from
1218 the violation of Subsection (2) or \$500, whichever is greater; and

1219 (b) reasonable attorney fees not to exceed \$250, and court costs.

1220 (6) Civil damages under Subsection (5) may be collected in a separate action by the
1221 property owner or the owner's assignee.

1222 Section 19. Section **76-9-202** is amended to read:

1223 **76-9-202. Emergency reporting -- Interference -- False report.**

1224 (1) As used in this section:

1225 (a) "Emergency" means a situation in which property or human life is in jeopardy and
1226 the prompt summoning of aid is essential to the preservation of human life or property.

1227 (b) "Party line" means a subscriber's line or telephone circuit:

1228 (i) that consists of two or more connected main telephone stations; and

1229 (ii) where each telephone station has a distinctive ring or telephone number.

1230 (2) An actor is guilty of emergency reporting abuse if the actor:

1231 (a) intentionally refuses to yield or surrender the use of a party line or a public pay
1232 telephone to another individual upon being informed that the telephone is needed to report a
1233 fire or summon police, medical, or other aid in case of emergency, unless the telephone is

1234 likewise being used for an emergency call;

1235 (b) asks for or requests the use of a party line or a public pay telephone on the pretext
1236 that an emergency exists, knowing that no emergency exists;

1237 (c) reports an emergency or causes an emergency to be reported to any public, private,
1238 or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when
1239 the actor knows the reported emergency does not exist; [~~or~~]

1240 (d) makes a false report, or intentionally aids, abets, or causes a third party to make a
1241 false report, to an emergency response service, including a law enforcement dispatcher or a 911
1242 emergency response service, if the false report claims that:

1243 (i) an ongoing emergency exists;

1244 (ii) the emergency described in Subsection (2)(d)(i) currently involves, or involves an
1245 imminent threat of, serious bodily injury, serious physical injury, or death; and

1246 (iii) the emergency described in Subsection (2)(d)(i) is occurring at a specified
1247 location[-]; or

1248 (e) makes a false report after having previously made a false report, or intentionally
1249 aides, abets, or causes a third party to make a false report, to an emergency response service,
1250 including a law enforcement dispatcher or a 911 emergency response service, alleging a
1251 violation of Section [63G-31-302](#) regarding a sex-designated changing room.

1252 (3) (a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.

1253 (b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided
1254 under Subsection (3)(c).

1255 (c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding
1256 a weapon of mass destruction, as defined in Section [76-10-401](#).

1257 (d) A violation of Subsection (2)(d):

1258 (i) except as provided in Subsection (3)(d)(ii), is a third degree felony; or

1259 (ii) is a second degree felony if:

1260 (A) while acting in response to the report, the emergency responder causes physical
1261 injury to an individual at the location described in Subsection (2)(d)(iii); or

1262 (B) the actor makes the false report or aids, abets, or causes a third party to make the
1263 false report with intent to ambush, attack, or otherwise harm a responding law enforcement
1264 officer or emergency responder.

1265 (e) A violation of Subsection (2)(e) is a class B misdemeanor.

1266 (4) (a) In addition to any other penalty authorized by law, a court shall order an actor
1267 convicted of a violation of this section to reimburse:

1268 (i) any federal, state, or local unit of government, or any private business, organization,
1269 individual, or entity for all expenses and losses incurred in responding to the violation; and

1270 (ii) an individual described in Subsection (3)(d)(ii) for the costs for the treatment of the
1271 physical injury and any psychological injury caused by the offense.

1272 (b) The court may order that the defendant pay less than the full amount of the costs
1273 described in Subsection (4)(a) only if the court states on the record the reasons why the
1274 reimbursement would be inappropriate.

1275 Section 20. Section **76-9-702** is amended to read:

1276 **76-9-702. Lewdness.**

1277 (1) A person is guilty of lewdness if the person under circumstances not amounting to
1278 rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual
1279 abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations
1280 under Section [76-5-412](#), custodial sexual misconduct under Section [76-5-412.2](#), custodial
1281 sexual relations with youth receiving state services under Section [76-5-413](#), custodial sexual
1282 misconduct with youth receiving state services under Section [76-5-413.2](#), or an attempt to
1283 commit any of these offenses, performs any of the following acts in a public place or under
1284 circumstances which the person should know will likely cause affront or alarm to, on, or in the
1285 presence of another who is 14 years old or older:

1286 (a) an act of sexual intercourse or sodomy;

1287 (b) exposes his or her genitals, the female breast below the top of the areola, the
1288 buttocks, the anus, or the pubic area;

1289 (c) masturbates; or

- 1290 (d) any other act of lewdness.
- 1291 (2) (a) A person convicted the first or second time of a violation of Subsection (1) is
1292 guilty of a class B misdemeanor, except under Subsection (2)(b).
- 1293 (b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony
1294 if at the time of the violation:
- 1295 (i) the person is a sex offender as defined in Section [77-27-21.7](#);
- 1296 (ii) the person has been previously convicted two or more times of violating Subsection
1297 (1); ~~or~~
- 1298 (iii) the person has previously been convicted of a violation of Subsection (1) and has
1299 also previously been convicted of a violation of Section [76-9-702.5](#)[-];
- 1300 (iv) the person commits the offense of lewdness while also committing the offense of:
- 1301 (A) criminal trespass in a sex-designated changing room under Subsection
1302 [76-6-206\(2\)\(d\)](#);
- 1303 (B) lewdness involving a child under Section [76-9-702.5](#);
- 1304 (C) voyeurism under Section [76-9-702.7](#); or
- 1305 (D) loitering in a privacy space under Section [76-9-702.8](#); or
- 1306 (v) the person commits the offense of lewdness in a sex-designated privacy space, as
1307 defined in Section [76-9-702.8](#), that is not designated for individuals of the actor's sex.
- 1308 (c) (i) For purposes of this Subsection (2) and Subsection [77-41-102\(18\)](#), a plea of
1309 guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77,
1310 Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.
- 1311 (ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been
1312 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- 1313 (3) (a) As used in this Subsection (3):
- 1314 (i) "Common area of a privacy space" means any area of a privacy space other than:
- 1315 (A) a toilet stall with a closed door;
- 1316 (B) immediately in front of a urinal during use; or
- 1317 (C) a shower stall with a closed door or other closed covering.

1318 (ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

1319 (b) The common area of a privacy space constitutes a public place or circumstance
1320 described in Subsection (1) where an act or an attempted act described in Subsection (1)
1321 constitutes lewdness.

1322 (c) Within the common area of a dressing room, fitting room, locker room, changing
1323 facility, or any other space designated for multiple individuals to dress or undress within the
1324 same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond
1325 with the sex designation of the changing room constitutes an act or an attempted act described
1326 in Subsection (1) that constitutes lewdness.

1327 [~~3~~] (4) A woman's breast feeding, including breast feeding in any location where the
1328 woman otherwise may rightfully be, does not under any circumstance constitute a lewd act,
1329 irrespective of whether or not the breast is covered during or incidental to feeding.

1330 Section 21. Section **76-9-702.5** is amended to read:

1331 **76-9-702.5. Lewdness involving a child.**

1332 (1) As used in this section[;]:

1333 (a) "[~~in~~] In the presence of" includes within visual contact through an electronic device.

1334 (b) "Common area of a privacy space" means the same as that term is defined in
1335 Section 76-9-702.

1336 (c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

1337 (2) A person is guilty of lewdness involving a child if the person under circumstances
1338 not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a
1339 child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses,
1340 intentionally or knowingly:

1341 (a) does any of the following in the presence of a child who is under 14 years of age:

1342 (i) performs an act of sexual intercourse or sodomy;

1343 (ii) exposes his or her genitals, the female breast below the top of the areola, the
1344 buttocks, the anus, or the pubic area:

1345 (A) in a public place; or

1346 (B) in a private place under circumstances the person should know will likely cause
1347 affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child;

1348 (iii) masturbates; or

1349 (iv) performs any other act of lewdness; or

1350 (b) under circumstances not amounting to sexual exploitation of a child under Section
1351 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, causes a
1352 child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the
1353 actor, with the intent to arouse or gratify the sexual desire of the actor or the child.

1354 (3) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection
1355 (3)(b).

1356 (b) Lewdness involving a child is a third degree felony if at the time of the violation:

1357 (i) the person is a sex offender as defined in Section 77-27-21.7; [~~or~~]

1358 (ii) the person has previously been convicted of a violation of this section[-];

1359 (iii) the person commits the offense of lewdness involving a child while also
1360 committing the offense of:

1361 (A) criminal trespass in a sex-designated changing room under Subsection
1362 76-6-206(2)(d);

1363 (B) lewdness under Section 76-9-702;

1364 (C) voyeurism under Section 76-9-702.7; or

1365 (D) loitering in a privacy space under Section 76-9-702.8; or

1366 (iv) the person commits the offense of lewdness involving a child in a sex-designated
1367 privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the
1368 actor's sex.

1369 (4) (a) The common area of a privacy space constitutes a public place or circumstance
1370 described in Subsection (1) where an act or an attempted act described in Subsection (1)
1371 constitutes lewdness involving a child.

1372 (b) Within the common area of a government entity's dressing room, fitting room,
1373 locker room, changing facility, or any other space designated for multiple individuals to dress

1374 or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that
1375 does not correspond with the sex designation of the changing room constitutes an act or an
1376 attempted act described in Subsection (1) that constitutes lewdness involving a child.

1377 Section 22. Section **76-9-702.7** is amended to read:

1378 **76-9-702.7. Voyeurism offenses -- Penalties.**

1379 (1) A person is guilty of voyeurism who intentionally uses any type of technology to
1380 secretly or surreptitiously record, by video, photograph, or other means, an individual:

1381 (a) for the purpose of viewing any portion of the individual's body regarding which the
1382 individual has a reasonable expectation of privacy, whether or not that portion of the body is
1383 covered with clothing;

1384 (b) without the knowledge or consent of the individual; and

1385 (c) under circumstances in which the individual has a reasonable expectation of
1386 privacy.

1387 (2) (a) [A] Except as provided in Subsection (2)(b), a violation of Subsection (1) is a
1388 class A misdemeanor[~~, except that~~].

1389 (b) The following is a third degree felony:

1390 (i) a violation of Subsection (1) committed against a child under 14 years of age [~~is a~~
1391 third degree felony];

1392 (ii) a violation of Subsection (1) committed while also committing the offense of:

1393 (A) criminal trespass in a sex-designated changing room under Subsection

1394 76-6-206(2)(d);

1395 (B) lewdness under Section 76-9-702;

1396 (C) lewdness involving a child under Section 76-9-702.5; or

1397 (D) loitering in a privacy space under Section 76-9-702.8; or

1398 (iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in

1399 Section 76-9-702.8, that is not designated for individuals of the actor's sex.

1400 (3) Distribution or sale of any images, including in print, electronic, magnetic, or
1401 digital format, obtained under Subsection (1) by transmission, display, or dissemination is a

1402 third degree felony, except that if the violation of this Subsection (3) includes images of a child
 1403 under 14 years of age, the violation is a second degree felony.

1404 (4) A person is guilty of voyeurism who, under circumstances not amounting to a
 1405 violation of Subsection (1), views or attempts to view an individual, with or without the use of
 1406 any instrumentality:

1407 (a) with the intent of viewing any portion of the individual's body regarding which the
 1408 individual has a reasonable expectation of privacy, whether or not that portion of the body is
 1409 covered with clothing;

1410 (b) without the knowledge or consent of the individual; and

1411 (c) under circumstances in which the individual has a reasonable expectation of
 1412 privacy.

1413 (5) (a) [A] Except as provided in Subsection (5)(b), a violation of Subsection (4) is a
 1414 class B misdemeanor[~~, except that~~].

1415 (b) The following is a class A misdemeanor:

1416 (i) a violation of Subsection (4) committed against a child under 14 years of age is a
 1417 class A misdemeanor[.];

1418 (ii) a violation of Subsection (4) committed while also committing the offense of:

1419 (A) criminal trespass in a sex-designated changing room under Subsection

1420 76-6-206(2)(d);

1421 (B) lewdness under Section 76-9-702;

1422 (C) lewdness involving a child under Section 76-9-702.5; or

1423 (D) loitering in a privacy space under Section 76-9-702.8; or

1424 (iii) a violation of Subsection (4) committed in a sex-designated privacy space, as
 1425 defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

1426 (6) For purposes of this section, an individual has a reasonable expectation of privacy
 1427 within a public restroom.

1428 Section 23. Section **76-9-702.8** is enacted to read:

1429 **76-9-702.8. Loitering in a privacy space.**

1430 (1) As used in this section:

1431 (a) "Privacy space" means the following in which an individual has a reasonable
1432 expectation of privacy:

1433 (i) a restroom or any other space that includes a toilet;

1434 (ii) a dressing room, fitting room, locker room, changing facility, or any other space
1435 designated for multiple individuals to dress or undress within the same space; or

1436 (iii) any room or space that includes a shower.

1437 (b) "Sex-designated" means that a facility, program, or event is designated specifically
1438 for males or females and not the opposite sex.

1439 (2) An actor commits the offense of unlawfully loitering in a privacy space if the actor
1440 intentionally or knowingly remains unlawfully in a privacy space.

1441 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
1442 B misdemeanor.

1443 (b) A violation of Subsection (4) is a class A misdemeanor if the actor commits the
1444 offense:

1445 (i) while also committing the offense of:

1446 (A) criminal trespass in a sex-designated changing room under Subsection
1447 76-6-206(2)(d);

1448 (B) lewdness under Section 76-9-702;

1449 (C) lewdness involving a child under Section 76-9-702.5; or

1450 (D) voyeurism under Section 76-9-702.7; or

1451 (ii) in a sex-designated privacy space that is not designated for individuals of the actor's
1452 sex.

1453 **Section 24. Effective date.**

1454 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
1455 elected to each house, this bill takes effect upon approval by the governor, or the day following
1456 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
1457 signature, or in the case of a veto, the date of veto override.

- 1458 (2) The actions affecting the following sections take effect on May 1, 2024:
- 1459 (a) Section [63G-31-401](#);
- 1460 (b) Section [67-3-1](#); and
- 1461 (c) Section [67-5-1](#).