

Representative Kera Birkeland proposes the following substitute bill:

VICTIM SERVICES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to certain victims of sexual crimes including an abortion based upon rape or incest.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ provides that a person operating a sexual assault hotline service may, when applicable, provide a victim of sexual assault with information on how to access free emergency contraception and other services;
- ▶ requires the Department of Health and Human Services to provide to certain entities information about how a victim of sexual assault may access emergency contraception and other services;
- ▶ requires a law enforcement officer's annual training to include training on responses to sexual trauma and investigations of sexual assault and sexual abuse;
- ▶ establishes law enforcement agency policy, public information, and reporting requirements concerning sexual assault offenses and investigations;
- ▶ requires the State Commission on Criminal and Juvenile Justice (commission) to receive, compile, and publish data concerning sexual assault offenses;



- 26 ▶ provides that a law enforcement agency not in compliance with sexual assault
- 27 offense reporting requirements may not receive grants from the commission;
- 28 ▶ provides for a victim reparation award for a victim of sexual assault who becomes
- 29 pregnant from the sexual assault, health care for the victim during the duration of
- 30 the victim's pregnancy and for the victim and the victim's child for one year after the
- 31 child is born;
- 32 ▶ restricts an abortion based upon rape or incest to a pregnancy in which the unborn
- 33 child has not reached 18 weeks gestational age;
- 34 ▶ amends verification and reporting procedures for abortions based upon rape or
- 35 incest;
- 36 ▶ requires the department to receive, compile, and create a report concerning certain
- 37 information regarding abortions based upon rape or incest and provide the report to
- 38 the Health and Human Services Interim Committee; and
- 39 ▶ makes technical and conforming changes.

40 **Money Appropriated in this Bill:**

41 This bill appropriates in fiscal year 2024:

- 42 ▶ to Department of Public Safety - Peace Officer Standards and Training, as a
- 43 One-time appropriation:
- 44 • from the General Fund, One-time, \$10,000.

45 **Other Special Clauses:**

46 None

47 **Utah Code Sections Affected:**

48 AMENDS:

- 49 **53-6-202**, as last amended by Laws of Utah 2021, First Special Session, Chapter 1
- 50 **53-10-908**, as renumbered and amended by Laws of Utah 2022, Chapter 430
- 51 **63A-16-1002**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
- 52 Coordination Clause, Laws of Utah 2022, Chapter 390
- 53 **63M-7-204**, as last amended by Laws of Utah 2022, Chapter 187
- 54 **63M-7-218**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
- 55 Coordination Clause, Laws of Utah 2022, Chapter 390
- 56 **63M-7-511**, as last amended by Laws of Utah 2020, Chapter 149

- 57 [76-7-302](#), as last amended by Laws of Utah 2022, Chapter 335
- 58 [76-7-302.5](#), as enacted by Laws of Utah 2019, Chapter 208
- 59 [76-7-313](#), as last amended by Laws of Utah 2019, Chapters 124, 208
- 60 [76-7a-101](#), as last amended by Laws of Utah 2021, Chapter 262
- 61 [76-7a-201](#), as enacted by Laws of Utah 2020, Chapter 279

62 ENACTS:

- 63 [26-21b-202](#), Utah Code Annotated 1953
- 64 [53-22-101](#), Utah Code Annotated 1953
- 65 [53-22-102](#), Utah Code Annotated 1953
- 66 [53-22-103](#), Utah Code Annotated 1953



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

69 Section 1. Section **26-21b-202** is enacted to read:

70 **26-21b-202. Sexual assault hotline service -- Emergency contraception access.**

71 (1) As used in this section, "sexual assault hotline service" means a telephone hotline,
72 online chat hotline, or similar method of communication that provides information or
73 counseling services for a victim of sexual assault.

74 (2) A person who operates a sexual assault hotline service available to a resident of this
75 state shall create and maintain a policy that encourages the sexual assault hotline service to
76 provide, when applicable, a victim of sexual assault with information on how to access:

- 77 (a) free emergency contraception;
- 78 (b) law enforcement; and
- 79 (c) medical and mental health services.

80 (3) The department shall provide information about how a victim of sexual assault may
81 access free emergency contraception and other medical and mental health services to:

- 82 (a) victims of sexual assault;
- 83 (b) sexual assault hotline services that are available to residents of this state; and
- 84 (c) other providers who provide sexual assault support services to victims of sexual
85 assault in this state.

86 (4) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah
87 Administrative Rulemaking Act, to carry out the provisions of Subsection (3).

88 Section 2. Section 53-6-202 is amended to read:

89 **53-6-202. Basic training course -- Completion required -- Annual training --**

90 **Prohibition from exercising powers -- Reinstatement.**

91 (1) (a) The director shall:

92 (i) (A) suggest and prepare subject material; and

93 (B) schedule instructors for basic training courses; or

94 (ii) review the material and instructor choices submitted by a certified academy.

95 (b) The subject material, instructors, and schedules shall be approved or disapproved

96 by a majority vote of the council.

97 (2) The materials shall be reviewed and approved by the council on or before July 1st
98 of each year and may from time to time be changed or amended by majority vote of the council.

99 (3) The basic training in a certified academy:

100 (a) shall be appropriate for the basic training of peace officers in the techniques of law
101 enforcement in the discretion of the director; and

102 (b) may not include the use of chokeholds, carotid restraints, or any act that impedes
103 the breathing or circulation of blood likely to produce a loss of consciousness, as a valid
104 method of restraint.

105 (4) (a) All peace officers shall satisfactorily complete the basic training course or the
106 waiver process provided for in this chapter as well as annual certified training of not less than
107 40 hours as the director, with the advice and consent of the council, directs.

108 (b) A peace officer who fails to satisfactorily complete the annual training shall
109 automatically be prohibited from exercising peace officer powers until any deficiency is made
110 up.

111 (c) (i) Beginning July 1, 2021, the annual training shall include no less than 16 hours of
112 training focused on mental health and other crisis intervention responses, arrest control, and
113 de-escalation training.

114 (ii) Standards for the training shall be determined by each law enforcement agency or
115 department and approved by the director or designee.

116 (iii) Each law enforcement agency or department shall include a breakdown of the 16
117 hours within the annual audit submitted to the division.

118 (5) Beginning July 1, 2021, the director shall ensure that annual training covers

119 intervention responses for mental illnesses, autism spectrum disorder, and other neurological
120 and developmental disorders.

121 (6) Beginning July 1, 2023, the director shall ensure that annual training covers at least
122 one hour of training on responses to sexual traumas and investigations of sexual assault and
123 sexual abuse in accordance with Section [53-10-908](#).

124 Section 3. Section **53-10-908** is amended to read:

125 **53-10-908. Law enforcement -- Training -- Sexual assault, sexual abuse, and**
126 **human trafficking.**

127 (1) The department and the Utah Prosecution Council shall develop training in
128 trauma-informed responses and investigations of sexual assault and sexual abuse, which
129 include, but are not limited to, the following:

- 130 (a) recognizing the symptoms of trauma;
- 131 (b) understanding the impact of trauma on a victim;
- 132 (c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;
- 133 (d) delivering services to victims of sexual assault or sexual abuse in a compassionate,
134 sensitive, and nonjudgmental manner;
- 135 (e) understanding cultural perceptions and common myths of sexual assault and sexual
136 abuse; and
- 137 (f) techniques of writing reports in accordance with Subsection (5).

138 (2) (a) [~~The~~] In accordance with Section [53-6-202](#), the department and the Utah
139 Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement
140 officers in the state.

141 (b) The training for all law enforcement officers may be offered through an online
142 course, developed by the department and the Utah Prosecution Council.

143 (3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards
144 and Training division to all persons seeking certification as a peace officer.

145 (4) (a) The department and the Utah Prosecution Council shall develop and offer an
146 advanced training course for officers who investigate cases of sexual assault or sexual abuse.

147 (b) The advanced training course shall include:

- 148 (i) all criteria listed in Subsection (1); and
- 149 (ii) interviewing techniques in accordance with the curriculum standards in Subsection

150 (5).

151 (5) The department shall consult with the Utah Prosecution Council to develop the
152 specific training requirements of this section, including curriculum standards for report writing
153 and response to sexual assault and sexual abuse, including trauma-informed and
154 victim-centered interview techniques, which have been demonstrated to minimize
155 retraumatizing victims.

156 (6) The Office of the Attorney General shall develop and offer training for law
157 enforcement officers in investigating human trafficking offenses.

158 (7) The training described in Subsection (6) shall be offered to all law enforcement
159 officers in the state by July 1, 2020.

160 (8) The training described in Subsection (6) shall be offered by the Peace Officer
161 Standards and Training division to all persons seeking certification as a peace officer, in
162 conjunction with the training described in Subsection (1), beginning July 1, 2021.

163 (9) The Office of the Attorney General, the department, and the Utah Prosecution
164 Council shall consult with one another to provide the training described in Subsection (6)
165 jointly with the training described in Subsection (1) as reasonably practicable.

166 Section 4. Section 53-22-101 is enacted to read:

167 **CHAPTER 22. SEXUAL ASSAULT OFFENSE POLICY AND REPORTING**
168 **REQUIREMENTS**

169 **53-22-101. Sexual assault offense policy and public information requirements for**
170 **law enforcement agencies.**

171 (1) (a) Beginning January 1, 2024, a law enforcement agency shall create and maintain
172 a policy regarding the law enforcement agency's processes for handling sexual assault
173 investigations.

174 (b) A policy described under Subsection (1)(a) shall include current best practices for
175 handling sexual assault investigations, including:

176 (i) protocols and training on responses to sexual trauma;

177 (ii) emergency response procedures, including prompt contact with the victim and the
178 preservation of evidence; and

179 (iii) referrals to sexual assault support services.

180 (c) A law enforcement agency shall publicly post on the law enforcement agency's

181 website the policy described in Subsection (1)(a).

182 (2) Beginning January 1, 2024, a law enforcement agency shall create and publicly post
183 on the law enforcement agency's website a guide for victims of sexual assault that includes:

184 (a) a description of the law enforcement agency's processes for handling sexual assault
185 investigations;

186 (b) contact information for victims of sexual assault to obtain more information from
187 the law enforcement agency; and

188 (c) referral information for sexual assault victim support services.

189 Section 5. Section **53-22-102** is enacted to read:

190 **53-22-102. Sexual assault offense reporting requirements for law enforcement**
191 **agencies.**

192 (1) As used in this section:

193 (a) "Commission" means the State Commission on Criminal and Juvenile Justice
194 created in Section [63M-7-201](#).

195 (b) "Sexual assault offense" means:

196 (i) rape, Section [76-5-402](#);

197 (ii) rape of a child, Section [76-5-402.1](#);

198 (iii) object rape, Section [76-5-402.2](#);

199 (iv) object rape of a child, Section [76-5-402.3](#);

200 (v) forcible sodomy, Section [76-5-403](#);

201 (vi) sodomy on a child, Section [76-6-403.1](#);

202 (vii) forcible sexual abuse, Section [76-5-404](#);

203 (viii) sexual abuse of a child, Section [76-5-404.1](#);

204 (ix) aggravated sexual abuse of a child, Section [76-5-404.3](#);

205 (x) aggravated sexual assault, Section [76-5-405](#); or

206 (xi) sexual battery, Section [76-9-702.1](#).

207 (2) (a) Beginning January 1, 2024, a law enforcement agency shall annually, on or
208 before April 30, submit a report to the commission for the previous calendar year containing
209 the number of each type of sexual assault offense that:

210 (i) was reported to the law enforcement agency;

211 (ii) was investigated by a detective; and

- 212 (iii) was referred to a prosecutor for prosecution.
- 213 (b) A law enforcement agency shall:
- 214 (i) compile the report described in Subsection (2)(a) for each calendar year in the
- 215 standardized format developed by the commission under Subsection (3); and
- 216 (ii) publicly post the information reported in Subsection (2)(a) on the law enforcement
- 217 agency's website.
- 218 (3) The commission shall:
- 219 (a) develop a standardized format for reporting the data described in Subsection (2);
- 220 (b) compile the data submitted under Subsection (2); and
- 221 (c) annually on or before August 1, publish a report of the data described in Subsection
- 222 (2) on the commission's website.

223 Section 6. Section **53-22-103** is enacted to read:

224 **53-22-103. Exemption.**

225 The provisions of this chapter do not apply to a law enforcement agency created under

226 Section [41-3-104](#).

227 Section 7. Section **63A-16-1002** is amended to read:

228 **63A-16-1002. Criminal justice database.**

- 229 (1) The commission shall oversee the creation and management of a [~~Criminal Justice~~
- 230 ~~Database~~] criminal justice database for information and data required to be reported to the
- 231 commission, organized by county, and accessible to all criminal justice agencies in the state.
- 232 (2) The division shall assist with the development and management of the database.
- 233 (3) The division, in collaboration with the commission, shall create:
- 234 (a) master standards and formats for information submitted to the database;
- 235 (b) a portal, bridge, website, or other method for reporting entities to provide the
- 236 information;
- 237 (c) a master data management index or system to assist in the retrieval of information
- 238 in the database;
- 239 (d) a protocol for accessing information in the database that complies with state
- 240 privacy regulations; and
- 241 (e) a protocol for real-time audit capability of all data accessed through the portal by
- 242 participating data source, data use entities, and regulators.

243 (4) Each criminal justice agency charged with reporting information to the commission
 244 shall provide the data or information to the database in a form prescribed by the commission.

245 (5) The database shall be the repository for the statutorily required data described in:

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

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

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

249 (d) Section 24-4-118, forfeiture reporting requirements;

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

251 (f) Section 53-22-102, sexual assault offense reporting requirements for law
 252 enforcement agencies;

253 ~~(f)~~ (g) Section 63M-7-214, law enforcement agency grant reporting;

254 ~~(g)~~ (h) Section 63M-7-216, prosecutorial data collection;

255 ~~(h)~~ (i) Section 64-13-21, supervision of sentenced offenders placed in community;

256 ~~(i)~~ (j) Section 64-13-25, standards for programs;

257 ~~(j)~~ (k) Section 64-13-45, department reporting requirements;

258 ~~(k)~~ (l) Section 64-13e-104, housing of state probationary inmates or state parole
 259 inmates;

260 ~~(l)~~ (m) Section 77-7-8.5, use of tactical groups;

261 ~~(m)~~ (n) Section 77-20-103, release data requirements;

262 ~~(n)~~ (o) Section 77-22-2.5, court orders for criminal investigations;

263 ~~(o)~~ (p) Section 78A-2-109.5, court demographics reporting; and

264 ~~(p)~~ (q) any other statutes which require the collection of specific data and the
 265 reporting of that data to the commission.

266 (6) The commission shall report:

267 (a) progress on the database, including creation, configuration, and data entered, to the
 268 Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

269 (b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal
 270 Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing
 271 Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing
 272 Committee not later than January 16, 2023.

273 Section 8. Section 63M-7-204 is amended to read:

274 **63M-7-204. Duties of commission.**

275 (1) The State Commission on Criminal and Juvenile Justice administration shall:

276 (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);

277 (b) promote the communication and coordination of all criminal and juvenile justice
278 agencies;

279 (c) study, evaluate, and report on the status of crime in the state and on the
280 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
281 reduction of crime in the state;

282 (d) study, evaluate, and report on programs initiated by state and local agencies to
283 address reducing recidivism, including changes in penalties and sentencing guidelines intended
284 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
285 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
286 alternative to incarceration, as resources allow;

287 (e) study, evaluate, and report on policies, procedures, and programs of other
288 jurisdictions which have effectively reduced crime;

289 (f) identify and promote the implementation of specific policies and programs the
290 commission determines will significantly reduce crime in Utah;

291 (g) provide analysis and recommendations on all criminal and juvenile justice
292 legislation, state budget, and facility requests, including program and fiscal impact on all
293 components of the criminal and juvenile justice system;

294 (h) provide analysis, accountability, recommendations, and supervision for state and
295 federal criminal justice grant money;

296 (i) provide public information on the criminal and juvenile justice system and give
297 technical assistance to agencies or local units of government on methods to promote public
298 awareness;

299 (j) promote research and program evaluation as an integral part of the criminal and
300 juvenile justice system;

301 (k) provide a comprehensive criminal justice plan annually;

302 (l) review agency forecasts regarding future demands on the criminal and juvenile
303 justice systems, including specific projections for secure bed space;

304 (m) promote the development of criminal and juvenile justice information systems that

305 are consistent with common standards for data storage and are capable of appropriately sharing
306 information with other criminal justice information systems by:

307 (i) developing and maintaining common data standards for use by all state criminal
308 justice agencies;

309 (ii) annually performing audits of criminal history record information maintained by
310 state criminal justice agencies to assess their accuracy, completeness, and adherence to
311 standards;

312 (iii) defining and developing state and local programs and projects associated with the
313 improvement of information management for law enforcement and the administration of
314 justice; and

315 (iv) establishing general policies concerning criminal and juvenile justice information
316 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this
317 Subsection (1)(m);

318 (n) allocate and administer grants, from money made available, for approved education
319 programs to help prevent the sexual exploitation of children;

320 (o) allocate and administer grants for law enforcement operations and programs related
321 to reducing illegal drug activity and related criminal activity;

322 (p) request, receive, and evaluate data and recommendations collected and reported by
323 agencies and contractors related to policies recommended by the commission regarding
324 recidivism reduction, including the data described in Section 13-53-111 and Subsection
325 62A-15-103(2)(l);

326 (q) establish and administer a performance incentive grant program that allocates funds
327 appropriated by the Legislature to programs and practices implemented by counties that reduce
328 recidivism and reduce the number of offenders per capita who are incarcerated;

329 (r) oversee or designate an entity to oversee the implementation of juvenile justice
330 reforms;

331 (s) make rules and administer the juvenile holding room standards and juvenile jail
332 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements
333 pursuant to 42 U.S.C. Sec. 5633;

334 (t) allocate and administer grants, from money made available, for pilot qualifying
335 education programs;

336 (u) oversee the trauma-informed justice program described in Section 63M-7-209;

337 (v) request, receive, and evaluate the aggregate data collected from prosecutorial
338 agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216
339 and 78A-2-109.5;

340 (w) report annually to the Law Enforcement and Criminal Justice Interim Committee
341 on the progress made on each of the following goals of the Justice Reinvestment Initiative:

342 (i) ensuring oversight and accountability;

343 (ii) supporting local corrections systems;

344 (iii) improving and expanding reentry and treatment services; and

345 (iv) strengthening probation and parole supervision;

346 (x) compile a report of findings based on the data and recommendations provided
347 under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

348 (i) separates the data provided under Section 13-53-111 by each residential, vocational
349 and life skills program; and

350 (ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental
351 health or substance use treatment program; [~~and~~]

352 (y) publish the report described in Subsection (1)(x) on the commission's website and
353 annually provide the report to the Judiciary Interim Committee, the Health and Human Services
354 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the
355 related appropriations subcommittees[-]; and

356 (z) receive, compile, and publish the data provided under Section 53-22-102 on the
357 commission's website.

358 (2) If the commission designates an entity under Subsection (1)(r), the commission
359 shall ensure that the membership of the entity includes representation from the three branches
360 of government and, as determined by the commission, representation from relevant stakeholder
361 groups across all parts of the juvenile justice system, including county representation.

362 Section 9. Section 63M-7-218 is amended to read:

363 **63M-7-218. State grant requirements.**

364 Beginning July 1, 2023, the commission may not award any grant of state funds to any
365 entity subject to, and not in compliance with, the reporting requirements in Subsections
366 63A-16-1002(5)(a) through [~~(p)~~] (p).

367 Section 10. Section **63M-7-511** is amended to read:

368 **63M-7-511. Compensable losses and amounts.**

369 A reparations award under this part may be made if:

370 (1) the reparations officer finds the reparations claim satisfies the requirements for the
371 reparations award under the provisions of this part and the rules of the board;

372 (2) money is available in the fund;

373 (3) the individual for whom the reparations award is to be paid is otherwise eligible
374 under this part; and

375 (4) the reparations claim is for an allowable expense incurred by the victim, as follows:

376 (a) reasonable and necessary charges incurred for products, services, and
377 accommodations;

378 (b) inpatient and outpatient medical treatment and physical therapy, subject to rules
379 made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
380 Act;

381 (c) mental health counseling that:

382 (i) is set forth in a mental health treatment plan that is approved before any payment is
383 made by a reparations officer; and

384 (ii) qualifies within any further rules made by the board in accordance with Title 63G,
385 Chapter 3, Utah Administrative Rulemaking Act;

386 (d) actual loss of past earnings and anticipated loss of future earnings because of a
387 death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the
388 individual's weekly gross salary or wages or the maximum amount allowed under the state
389 workers' compensation statute;

390 (e) care of minor children enabling a victim or spouse of a victim, but not both, to
391 continue gainful employment at a rate per child per week as determined under rules established
392 by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

393 (f) funeral and burial expenses for death caused by the criminally injurious conduct,
394 subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah
395 Administrative Rulemaking Act;

396 (g) loss of support to a dependent not otherwise compensated for a pecuniary loss for
397 personal injury, for as long as the dependence would have existed had the victim survived, at a

398 rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount
399 allowed under the state workers' compensation statute, whichever is less;

400 (h) personal property necessary and essential to the health or safety of the victim as
401 defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah
402 Administrative Rulemaking Act; [~~and~~]

403 (i) medical examinations, subject to rules made by the board in accordance with Title
404 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from
405 Sections [63M-7-509](#), [63M-7-512](#), and [63M-7-513](#)~~[-]~~; and

406 (j) for a victim of sexual assault who becomes pregnant from the sexual assault, health
407 care:

408 (i) for the victim during the duration of the victim's pregnancy if the health care is
409 related to or resulting from the sexual assault or the pregnancy; and

410 (ii) for the victim and the victim's child for one year after the day on which the victim's
411 child is born.

412 Section 11. Section **76-7-302** is amended to read:

413 **76-7-302. Circumstances under which abortion authorized.**

414 (1) As used in this section, "viable" means that the unborn child has reached a stage of
415 fetal development when the unborn child is potentially able to live outside the womb, as
416 determined by the attending physician to a reasonable degree of medical certainty.

417 (2) An abortion may be performed in this state only by a physician.

418 (3) An abortion may be performed in this state only under the following circumstances:

419 (a) the unborn child is not viable; or

420 (b) the unborn child is viable, if:

421 (i) the abortion is necessary to avert:

422 (A) the death of the woman on whom the abortion is performed; or

423 (B) a serious risk of substantial and irreversible impairment of a major bodily function
424 of the woman on whom the abortion is performed;

425 (ii) two physicians who practice maternal fetal medicine concur, in writing, in the
426 patient's medical record that the fetus:

427 (A) has a defect that is uniformly diagnosable and uniformly lethal; or

428 (B) has a severe brain abnormality that is uniformly diagnosable; or

429 (iii) (A) the unborn child has not reached 18 weeks gestational age and the woman is
430 pregnant as a result of:

431 (I) rape, as described in Section 76-5-402;

432 (II) rape of a child, as described in Section 76-5-402.1; or

433 (III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

434 (B) before the abortion is performed, the physician who performs the abortion:

435 (I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to
436 law enforcement; and

437 (II) if applicable, complies with the requirements of Section 80-2-602.

438 (4) An abortion may be performed only in an abortion clinic or a hospital, unless it is
439 necessary to perform the abortion in another location due to a medical emergency.

440 (5) A physician who performs an abortion under Subsection (3)(b)(iii) shall:

441 (a) maintain an accurate record as to the manner in which the physician conducted the
442 verification under Subsection (3)(b)(iii)(B)(I); and

443 (b) report the information described in Subsection (5)(a) to the department in
444 accordance with Section 76-7-313.

445 Section 12. Section 76-7-302.5 is amended to read:

446 **76-7-302.5. Circumstances under which abortion prohibited.**

447 Notwithstanding any other provision of this part, a person may not perform or attempt
448 to perform an abortion after the unborn child reaches 18 weeks gestational age unless the
449 abortion is permissible for a reason described in Subsection 76-7-302(3)(b)(i) or (ii).

450 Section 13. Section 76-7-313 is amended to read:

451 **76-7-313. Department's enforcement responsibility -- Physician's report to**
452 **department -- Reporting.**

453 (1) In order for the department to maintain necessary statistical information and ensure
454 enforcement of the provisions of this part:

455 (a) any physician performing an abortion must obtain and record in writing:

456 (i) the age, marital status, and county of residence of the woman on whom the abortion
457 was performed;

458 (ii) the number of previous abortions performed on the woman described in Subsection
459 (1)(a)(i);

- 460 (iii) the hospital or other facility where the abortion was performed;
- 461 (iv) the weight in grams of the unborn child aborted, if it is possible to ascertain;
- 462 (v) the pathological description of the unborn child;
- 463 (vi) the given gestational age of the unborn child;
- 464 (vii) the date the abortion was performed;
- 465 (viii) the measurements of the unborn child, if possible to ascertain;
- 466 (ix) if applicable, the information obtained under Subsection 76-7-302(5) or
- 467 76-7a-201(6); and
- 468 [~~(ix)~~] (x) the medical procedure used to abort the unborn child; and
- 469 (b) the department shall make rules in accordance with Title 63G, Chapter 3, Utah
- 470 Administrative Rulemaking Act.
- 471 (2) Each physician who performs an abortion shall provide the following to the
- 472 department within 30 days after the day on which the abortion is performed:
- 473 (a) the information described in Subsection (1);
- 474 (b) a copy of the pathologist's report described in Section 76-7-309;
- 475 (c) an affidavit:
- 476 (i) indicating whether the required consent was obtained pursuant to Sections 76-7-305
- 477 and 76-7-305.5;
- 478 (ii) described in Subsection (3), if applicable; and
- 479 (iii) indicating whether at the time the physician performed the abortion, the physician
- 480 had any knowledge that the pregnant woman sought the abortion solely because the unborn
- 481 child had or may have had Down syndrome; and
- 482 (d) a certificate indicating:
- 483 (i) whether the unborn child was or was not viable, as defined in Subsection
- 484 76-7-302(1), at the time of the abortion;
- 485 (ii) whether the unborn child was older than 18 weeks gestational age at the time of the
- 486 abortion; and
- 487 (iii) if the unborn child was viable, as defined in Subsection 76-7-302(1), or older than
- 488 18 weeks gestational age at the time of the abortion, the reason for the abortion.
- 489 (3) If the information module or the address to the website is not provided to a
- 490 pregnant woman, the physician who performs the abortion on the woman shall, within 10 days

491 after the day on which the abortion is performed, provide to the department an affidavit that:

492 (a) specifies the information that was not provided to the woman; and

493 (b) states the reason that the information was not provided to the woman.

494 (4) All information supplied to the department shall be confidential and privileged

495 pursuant to Title 26, Chapter 25, Confidential Information Release.

496 (5) The department shall pursue all administrative and legal remedies when the
497 department determines that a physician or a facility has not complied with the provisions of this
498 part.

499 (6) (a) The department shall receive, compile, and create a report outlining the data
500 provided under Subsection (1)(a)(ix).

501 (b) Annually on or before November 30, the department shall provide the report
502 described in Subsection (6)(a) to the Health and Human Services Interim Committee.

503 Section 14. Section **76-7a-101** is amended to read:

504 **76-7a-101. Definitions.**

505 As used in this chapter:

506 (1) (a) "Abortion" means:

507 (i) the intentional termination or attempted termination of human pregnancy after
508 implantation of a fertilized ovum through a medical procedure carried out by a physician or
509 through a substance used under the direction of a physician;

510 (ii) the intentional killing or attempted killing of a live unborn child through a medical
511 procedure carried out by a physician or through a substance used under the direction of a
512 physician; or

513 (iii) the intentional causing or attempted causing of a miscarriage through a medical
514 procedure carried out by a physician or through a substance used under the direction of a
515 physician.

516 (b) "Abortion" does not include:

517 (i) removal of a dead unborn child;

518 (ii) removal of an ectopic pregnancy; or

519 (iii) the killing or attempted killing of an unborn child without the consent of the
520 pregnant woman, unless:

521 (A) the killing or attempted killing is done through a medical procedure carried out by

522 a physician or through a substance used under the direction of a physician; and

523 (B) the physician is unable to obtain the consent due to a medical emergency.

524 (2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II
525 abortion clinic licensed by the state.

526 (3) "Department" means the Department of Health.

527 (4) "Down syndrome" means a genetic condition associated with an extra chromosome
528 21, in whole or in part, or an effective trisomy for chromosome 21.

529 (5) "Hospital" means:

530 (a) a general hospital licensed by the department; or

531 (b) a clinic or other medical facility to the extent the clinic or other medical facility is
532 certified by the department as providing equipment and personnel sufficient in quantity and
533 quality to provide the same degree of safety to a pregnant woman and an unborn child as would
534 be provided for the particular medical procedure undertaken by a general hospital licensed by
535 the department.

536 [~~(6) "Incest" means the same as that term is defined in Section 80-1-102.~~]

537 [(7)] (6) "Medical emergency" means a condition which, on the basis of the physician's
538 good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the
539 immediate abortion of her pregnancy to avert her death, or for which a delay will create serious
540 risk of substantial and irreversible impairment of major bodily function.

541 [(8)] (7) "Physician" means:

542 (a) a medical doctor licensed to practice medicine and surgery in the state;

543 (b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

544 (c) a physician employed by the federal government who has qualifications similar to
545 an individual described in Subsection [(8)(a)] (7)(a) or (b).

546 [~~(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.~~]

547 [(10)] (8) (a) "Severe brain abnormality" means a malformation or defect that causes an
548 individual to live in a mentally vegetative state.

549 (b) "Severe brain abnormality" does not include:

550 (i) Down syndrome;

551 (ii) spina bifida;

552 (iii) cerebral palsy; or

553 (iv) any other malformation, defect, or condition that does not cause an individual to
554 live in a mentally vegetative state.

555 Section 15. Section **76-7a-201** is amended to read:

556 **76-7a-201. Abortion prohibition -- Exceptions -- Penalties.**

557 (1) An abortion may be performed in this state only under the following circumstances:

558 (a) the abortion is necessary to avert:

559 (i) the death of the woman on whom the abortion is performed; or

560 (ii) a serious risk of substantial and irreversible impairment of a major bodily function

561 of the woman on whom the abortion is performed;

562 (b) two physicians who practice maternal fetal medicine concur, in writing, in the

563 patient's medical record that the fetus:

564 (i) has a defect that is uniformly diagnosable and uniformly lethal; or

565 (ii) has a severe brain abnormality that is uniformly diagnosable; or

566 (c) (i) the unborn child has not reached 18 weeks gestational age and the woman is

567 pregnant as a result of:

568 (A) rape, as described in Section [76-5-402](#);

569 (B) rape of a child, as described in Section [76-5-402.1](#); or

570 (C) incest, as described in Subsection [76-5-406\(2\)\(j\)](#) or Section [76-7-102](#); and

571 (ii) before the abortion is performed, the physician who performs the abortion:

572 (A) verifies that the incident described in Subsection (1)(c)(i) has been reported to law

573 enforcement; and

574 (B) if applicable, complies with requirements related to reporting suspicions of or

575 known child abuse.

576 (2) An abortion may be performed only:

577 (a) by a physician; and

578 (b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in

579 another location due to a medical emergency.

580 (3) A person who performs an abortion in violation of this section is guilty of a second

581 degree felony.

582 (4) In addition to the penalty described in Subsection (3), the department may take

583 appropriate corrective action against an abortion clinic, including revoking the abortion clinic's

584 license, if a violation of this chapter occurs at the abortion clinic.

585 (5) The department shall report a physician's violation of any provision of this section
586 to the state entity that regulates the licensing of a physician.

587 (6) A physician who performs an abortion under Subsection (1)(c) shall:

588 (a) maintain an accurate record as to the manner in which the physician conducted the
589 verification under Subsection (1)(c)(ii)(A); and

590 (b) report the information described in Subsection (6)(a) to the department in
591 accordance with Section 76-7-313.

592 Section 16. **Appropriation.**

593 The following sums of money are appropriated for the fiscal year beginning July 1,
594 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
595 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
596 Act, the Legislature appropriates the following sums of money from the funds or accounts
597 indicated for the use and support of the government of the state of Utah.

598 ITEM 1

599 To Department of Public Safety - Peace Officer Standards and Training

600 From General Fund, One-time 10,000

601 Schedule of Programs:

602 Peace Officer Standards and Training 10,000

603 The Legislature intends that:

604 (1) the appropriation under this item be used for the training program described in
605 Subsections 53-6-202(6) and 53-10-908(2) of this bill; and

606 (2) under Section 63J-1-603, the One-time appropriation provided under this item not
607 lapse at the close of fiscal year 2024 and the use of any nonlapsing funds is limited to the
608 purposes described in Subsection (1) of this item.