

# LEGISLATIVE SUMMARY

2018

GENERAL SESSION



## Contributing Authors

**Amanda** Bento, **Abby** Brinkerhoff, **Gavin** Anderson, **Tim** Bodily, **Daniel** Burton, **Will** Carlson, **Lannie** Chapman, **Bob** Church, Krista Cook, **Natalie** Edmundson, **Steve** Garside, **Darcy** Goddard, **Kirstie** Ingle, **Mason** Kjar, **Brad** Johnson, **Marlesse** Jones, **Zach** Lancaster, **Jacob** McRae, **Adam** Miller, **Melanie** Mitchell, **Chris** Preston, **Zach** Shaw, **Tyson** Skeen, Paula Smith, **Josh** Wayment, **Kennedy** Williams, and **Kelly** Wright

## A Cooperative Project Of

Layton City Attorney's Office  
Salt Lake County District Attorney's Office  
Statewide Association of Prosecutors and  
Public Attorneys  
Utah Attorney General's Office  
Utah Prosecution Council

**UPC** | UTAH  
PROSECUTION  
COUNCIL

Training and Serving Utah Prosecutors Since 1990

# **This Document is a Publication of the Utah Prosecution Council**

This publication constitutes summaries of legislation passed during the 2018 General Session of the Utah Legislature relating to criminal law and criminal procedure and to county and city government.

The publication contains summaries only, not the full text of bills. There is no substitute for reading the actual legislative language. Enrolled copies of bills passed during the 2018 General Legislative Session can be obtained by going to the Utah Legislature's web site: <http://le.utah.gov>. Please note that each bill number in this document is hyperlinked so the enrolled copy may be accessed by clicking on the bill number.

UPC expresses thanks and gratitude to all those contributing authors who helped summarize this year's bills. Without their help, this publication would not be possible.

**UNLESS OTHERWISE INDICATED, LEGISLATION PASSED DURING  
THE 2018 GENERAL LEGISLATIVE SESSION  
BECOMES EFFECTIVE ON MAY 8, 2018**

# Table of Contents

<b>HOUSE BILLS</b> .....	1
HB13 .....	1
Public Safety Peer Counseling Provisions.....	1
HB14 .....	2
Substance Abuse Treatment Facility Patient Brokering.....	2
HB15 .....	2
Community Reinvestment Agency Amendments .....	2
HB16 .....	3
Candidate Replacement Amendments.....	3
HB17 .....	3
Community Reinvestment Agencies Revisions .....	3
HB18 .....	3
Alcohol Abuse Tracking Committee Relocation.....	3
HB21 .....	4
Changes to Property Tax .....	4
HB25 .....	4
Cannabinoid Product Board Membership Amendments .....	4
HB 28 .....	5
Retirement Systems Amendments.....	5
HB 29 .....	5
Public Employees Long-Term Disability Act Amendments .....	5
HB30 .....	6
Utah Antidiscrimination Act Amendments .....	6
HB 32 .....	6
Uniform Construction Code Amendments .....	6
HB 35 .....	6
Municipal Alternate Voting Methods Pilot Project.....	6
HB36 .....	7
Free Expression Regulation Amendments .....	7
HB38 .....	7
Fireworks Restrictions.....	7

HB42 .....	8
Medicaid Waiver for Mental Health Crisis Services.....	8
HB43 .....	8
Blood Testing Amendments .....	8
HB59 .....	9
Unmanned Aircraft Revisions .....	9
HB 62 .....	9
Property Rights Amendments.....	9
HB65 .....	9
Ignition Interlock Amendments.....	9
HB 66 .....	10
Local Government Modifications.....	10
HB69 .....	10
National Crime Prevention and Privacy Compact.....	10
HB72 .....	10
Communications of Governmental Entity Employees and Officers .....	10
HB77 .....	11
Criminal Code Amendments .....	11
HB80 .....	11
Child Placement Amendments .....	11
HB81 .....	12
Safety Belt Violations Amendments .....	12
HB85 .....	12
Public Transit Vehicles and Safety Belt Amendments.....	12
HB86 .....	12
Manslaughter Amendments.....	12
HB94 .....	12
Uniform Real Property Transfer on Death Act .....	12
HB95 .....	13
Uniform Fiduciary Access to Digital Assets Act .....	13
HB98 .....	13
Driving Under the Influence Revisions .....	13

HB99 .....	14
Substance Abuse and Mental Health Act Amendments .....	14
HB100 .....	14
Medically Complex Children with Disabilities Waiver Program.....	14
HB 102 .....	15
Use of Force Amendments .....	15
HB 106 .....	15
Education Grant Program for Individuals in the Justice System .....	15
HB113 .....	15
Candidate Filing Amendments .....	15
HB 121 .....	16
Regulation of Alkaline Hydrolysis Process.....	16
HB127 .....	16
Controlled Substance Database Act Amendments .....	16
HB131 .....	16
Spendthrift Provisions .....	16
HB132 .....	17
Juvenile Justice Modifications .....	17
HB 139 .....	18
Telepsychiatric Consultation Access Amendments .....	18
HB141 .....	18
Early Voting Amendments .....	18
HB 142 .....	19
Impact Fee Amendments .....	19
HB144 .....	19
Driver License Suspension Amendments .....	19
HB145 .....	19
Pedestrian Safety Amendments .....	19
HB 146 .....	20
Post Retirement Reemployment Restrictions Act Amendments .....	20

HB147 .....	20
Retirement Forfeiture for Employment Related Offenses.....	20
HB152 .....	20
Good Samaritan Law Amendments.....	20
HB 158 .....	21
Controlled Substance Database Revisions .....	21
HB161 .....	22
Auto Registration Requirements .....	22
HB162 .....	22
License Plate Transfer Amendments.....	22
HB 168 .....	22
Political Subdivision Lien Authority.....	22
HB170 .....	23
Licensing Fee Waivers Amendments.....	23
HB 173 .....	23
Occupational Licensing Requirement Amendments .....	23
HB174 .....	24
Utah Digital Health Service Commission Membership Amendments .....	24
HB176 .....	24
Temporary Replacement for County Elected Officials .....	24
HB179 .....	25
State Training and Certification Requirements .....	25
HB 194 .....	25
Hazardous Materials Emergency Amendments .....	25
HB 195 .....	25
Medical Cannabis Policy .....	25
HB196 .....	26
Breastfeeding Protection Act.....	26
HB 197 .....	26
Cannabis Cultivation Amendments.....	26
HB198 .....	27
Attorney General Responsibility Amendments.....	27

HB 218 .....	27
Modifications to Election Law .....	27
HB 222 .....	28
Peace Officer Amendments .....	28
HB224 .....	28
County Government Change Election Amendments.....	28
HB226 .....	29
Citation Authority Amendments .....	29
HB 228 .....	30
Child Sexual Abuse Prevention Training Amendments.....	30
HB 234 .....	30
Compulsory Education Revisions .....	30
HB 248 .....	30
Compensatory Service in Lieu of Fine Amendments.....	30
HB249 .....	31
Statewide Resource Management Plan Adoption .....	31
HB 250 .....	31
Building Permit and Impact Fee Amendments.....	31
HB252 .....	32
DUI Program Amendments .....	32
HB 259 .....	32
Moderate Income Housing Amendments .....	32
HB265 .....	33
Body Camera Amendments.....	33
HB 269 .....	33
Identity Theft Paraphernalia Provisions .....	33
HB 273 .....	34
Criminal Judgment Account Receivable .....	34
HB 279 .....	34
Design Professionals Liability Amendments .....	34
HB 286 .....	35
Reproductive Education Amendments .....	35

HB 288 .....	35
Workers’ Compensation Claims Amendments .....	35
HB 291 .....	35
Sentencing Commission Length of Supervision Guidelines .....	35
HB295 .....	37
Driving Under the Influence Modifications .....	37
HB 298 .....	37
Victim Advocate Confidentiality Amendments .....	37
HB 302 .....	38
Cultivation of Industrial Hemp.....	38
HB 303 .....	38
Drinking Water Source Sizing Requirements .....	38
HB 305 .....	39
Fire Code Amendments .....	39
HB 321 .....	39
Arrest Amendments.....	39
HB 322 .....	40
Non-Emergency Patient Transportation Safety Amendments.....	40
HB 324 .....	40
Tobacco Regulations Amendments .....	40
HB 327 .....	41
Rural Online Initiative.....	41
HB 341 .....	41
Government Non-Profit Amendments.....	41
HB343 .....	42
Youth and Child Welfare Amendments .....	42
HB 346 .....	43
Local Government Plan Review Amendments .....	43
HB 348 .....	43
Secondhand Merchandise Dealers Amendments .....	43
HB 361 .....	43
Billboard Amendments.....	43



HB 366 .....	44
Substance Abuse Disorder Treatment Amendments .....	44
HB 367 .....	44
Rep. Michael Noel.....	45
Transient Room Tax Amendments.....	44
HB 369 .....	45
Auto Dealership License Amendments .....	45
HB370 .....	45
Suicide Prevention and Medical Examiner Provisions.....	45
HB373 .....	46
Waste Management Amendments .....	46
HB 377 .....	47
Land Use Amendments .....	47
HB 381 .....	48
Agricultural Water Optimization.....	48
HB 399 .....	48
Opioid Abuse Prevention and Treatment Amendments .....	48
HB 430 .....	48
Affordable Housing Amendments.....	48
HB 434 .....	49
Controlled Substances Act Amendments .....	49
HB 439 .....	49
Coordinated Penalties for Sexual Abuse .....	49
HB 454 .....	49
Homeowners Association Modifications.....	49
HB456 .....	50
Alcohol Amendments.....	50
HB462 .....	50
Homeless Services Amendments .....	50
HB 468 .....	51
Residential Vocational and Life Skills .....	51
HB472 .....	51
Medicaid Expansion Revisions .....	51

HB491 .....	52
Election Law Changes .....	52

## SENATE BILLS .....53

SB17 .....	53
Election Law Modifications .....	53
SB19 .....	53
Competency to Stand Trial Amendments .....	53
SB20 .....	55
Misdemeanor Amendments .....	55
SB 21 .....	55
Public Safety and Firefighter Retirement Death Benefits .....	55
SB 24 .....	56
Local Government Indigent Defense Requirement .....	56
SB26 .....	56
Campaign Finance Amendments .....	56
SB27 .....	56
Relationship Violence and Offenses Amendments .....	56
SB 29 .....	58
County Listing of Local Government and Limited Purpose Entities (helping Google, Part 2).....	58
SB30 .....	58
Aggravated Murder Amendments .....	58
SB 33 .....	58
DNA Amendments .....	58
SB 34 .....	59
Legislative Water Development Commission .....	59
SB 36 .....	59
Local Option Sales and Use Tax Distribution Formula Amendments .....	59
SB37 .....	59
Sales and Use Tax Exemption Amendments .....	59
SB38 .....	60
Local Elected Officer Amendments .....	60

SB 40 .....	61
Worker’s Compensation Dependent Benefit Amendment .....	61
SB44 .....	61
Impoundment of Motor Vehicle Amendments.....	61
SB 45 .....	62
Water Law Amendments – Diligence Claims .....	62
SB55 .....	62
Motor Vehicle Registration Amendments .....	62
SB56 .....	62
Vehicle Platooning Amendments .....	62
SB 57 .....	62
Police Service Animal Amendments.....	62
SB 58 .....	63
Failure to Appear Amendments.....	63
SB 59 .....	63
Theft Amendments .....	63
SB 61 .....	63
Water Rights Adjudication Amendments.....	63
SB 62 .....	63
Expungement Amendments.....	63
SB 63 .....	64
Charity Registration Amendments .....	64
SB64 .....	65
Workers’ Compensation Health Care Amendments .....	65
SB 65 .....	65
Child Neglect Amendments .....	65
SB66 .....	66
Emergency Vehicle Operator Duty of Care Amendments .....	66
SB 74 .....	66
Voter Privacy Amendments .....	66
SB 79 .....	67
Judiciary Amendments .....	67

SB 81 .....	68
Children’s Justice Center Program .....	68
SB 88 .....	68
Financial Exploitation of Vulnerable Adults .....	68
SB89 .....	69
Board of Pardons Authority .....	69
SB90 .....	69
Hit and Run Penalties Amendments .....	69
SB94 .....	69
Voting Amendments .....	69
SB97 .....	70
Driving Without Insurance Amendments .....	70
SB101 .....	70
Tax Amendments .....	70
SB 105 .....	71
Crime Statistics Reporting Amendments .....	71
SB 106 .....	71
Court Records Amendments .....	71
SB 107 .....	71
Third District Court Judge .....	71
SB114 .....	71
Disposal of County Property Amendments .....	71
SB 118 .....	72
Abortion Law Amendments .....	72
SB 120 .....	73
Local Government Fees and Taxes Amendment .....	73
SB 122 .....	73
Bond Elections Amendments .....	73
SB 125 .....	74
Child Welfare Amendments .....	74
SB130 .....	75
Cannabidiol Product Act .....	75

SB137 .....	76
Amendments Relating to Government Records .....	76
SB 139 .....	77
Public-Private Partnership Amendments.....	77
SB 151 .....	77
Security Funding Amendments .....	77
SB 154 .....	78
Prohibition of Law Enforcement Quotas.....	78
SB156 .....	78
Unclaimed Property Act Amendments.....	78
SB 158 .....	78
Municipal Business Licensing.....	78
SB 160 .....	78
Cold Case Database.....	78
SB 167 .....	79
Food Truck Regulation Amendments.....	79
SB177 .....	79
Bicycle and Electric Assisted Bicycle Amendments.....	79
SB178 .....	80
Interlocal Entities Amendments .....	80
SB 180 .....	80
Offense Reduction Modifications.....	80
SB 186 .....	80
Indigent Defense Amendments .....	80
SB 189 .....	81
Small Wireless Facilities Deployment Act.....	81
SB191 .....	82
Oil and Gas Amendments.....	82
SB 193 .....	82
Persons with Disabilities Amendments .....	82
SB196 .....	82
Homeless Identification Documents.....	82

SB198 .....	83
Public School Disciplinary Action Amendments .....	83
SB199 .....	83
Utah Protecting of Public Employees Act .....	83
SB203 .....	83
Termination of Parental Rights Amendments .....	83
SB205 .....	84
Incarceration Reports.....	84
SB 206 .....	85
Local Public Safety and Firefighter Surviving Spouse Trust Fund Amendments.....	85
SB207 .....	85
Student Data Protection Amendments.....	85
SB 214 .....	86
Solicitation Amendments .....	86
SB216 .....	86
Ethics Amendments.....	86
SB 219 .....	87
Court Citation Amendments.....	87
SB221 .....	87
Property Tax Abatement for Indigents .....	87
SB 222 .....	88
Toxicology Amendments .....	88
SB230 .....	88
Law Enforcement Protection Amendments.....	88
SB233 .....	89
Sales and Use Tax Amendments .....	89
SB234 .....	89
Utah Inland Port Authority .....	89
SB235 .....	90
Homeless Shelter Funding Amendments .....	90
SB 242 .....	91
Cybercrime Amendments.....	91

SB244 .....	91
Tax Reform Provisions.....	91
SCR 12 .....	92
Concurrent Resolution on Reducing Gang Activity .....	92
SJR 10.....	92
Joint Resolution Dissolving Newton, Amalga, and Lewiston Justice Courts .....	92
SJR15.....	92
Joint Rules Resolution Regarding Legislative Ethics.....	92

# 2018 Legislative Update

## HOUSE BILLS

### Public Safety Peer Counseling Provisions

**HB13**

**Rep. Lee Perry**

This bill creates a new “Public Safety Peer Counseling” part in the Judicial Code and creates a quasi-privilege for communications with a peer support team member by law enforcement officers, firefighters, and EMS and rescue providers. The bill allows agencies to create peer support teams, but requires developing guidelines for the team and its members and requires members to complete a training approved by POST, the State Fire Marshall, or the Department of Health. “In accordance with the Utah Rules of Evidence, a peer support team member may refuse to disclose communications made by a person participating in peer support services, including group therapy sessions.” The communication must be through peer support and the member receiving the communication must function within the written guidelines. Five exceptions to the privilege are:

The peer support team member was a witness or party to the underlying event;

The communication indicates child abuse or neglect;

The person receiving support poses a clear and immediate danger to self or others;

There is reasonable cause to believe the person receiving support is mentally or emotionally unfit for duty; or

The communication provides evidence that the person receiving support has committed a crime, plans to, or intends to conceal a crime.

Practice Pointers: U.R.E. 501(f) allows statutory provisions to govern a claim of privilege to withhold evidence. As drafted this privilege belongs to the team member receiving the communication, not to the person receiving support. To compel disclosure, get a copy of the agency’s guidelines and verify the team member was functioning within those guidelines. Also look at enumerated exceptions, and check whether anybody else also received the communication who could be compelled to disclose.

Effective Date: May 8, 2018

Enacts: §§78B-5-901, 78B-5-902, and 78B-5-903



## **Substance Abuse Treatment Facility Patient Brokering**

**HB14**

**Rep. Hutchings, E.**

Generally, this bill makes remuneration for the referral of an individual for substance use disorder treatment an unlawful act. To do so, it makes some minor definition amendments to the Hospital Provider Assessment Act and to the Inpatient Hospital Assessment Act. It also amends some definitions in the Insurance Code and Utah Health Care Malpractice Code

The significant amendment in this Bill is to the Human Services Code, which is amended to criminalize payments or offers of payment or solicitation for payment for referring an individual for substance use treatment; without penalizing: (1) payments allowed under federal law; (2) patient referrals within a practice group; (3) payments to insurers; (4) payments to health care providers contracted with a local mental health authority to provide substance use disorder services when payments are for services under a health benefit plan; and (5) payments by a health care provider to a health information service that provides information upon request to enable consumers to select appropriate providers or facilities (under certain criteria applicable to the information service).

Effective Date: May 8, 2018

Amends

26-36a-103; 26-36b-103; 62A-2-101; 62A-2-116; 63G-2-305.

## **Community Reinvestment Agency Amendments**

**HB15**

**Rep. Handy, S.**

This 54-page clean-up bill provides technical and conforming changes for community reinvestment agencies, including the requirement that a city and county report the use of a housing allocation. It authorizes an agency to acquire real property outside a project area if the board determines the property will benefit the project area, and allows public entities to assist with project area development for less than fair market value, or for no consideration with specified public notice. The bill amends the public benefit analysis required for a community reinvestment project area plan and removes the requirement that a taxing entity committee (TEC) meet at least annually.

Effective Date: May 8, 2018

Amends

10-9a-408; 17-27a-408; 17C-1-102; 17C-1-202; 17C-1-207; 17C-1-401.5; 17C-1-402; 17C-1-403; 17C-1-603; 17C-1-806; 17C-1-902; 17C-2-110; 17C-3-109; 17C-4-108; 17C-5-104; 17C-5-105; 17C-5-108; 17C-5-112; 59-2-924.2.

## **Candidate Replacement Amendments**

### **HB16**

**Rep. Arent, P.**

This bill recognizes that, from time to time, it may be appropriate or necessary for a candidate for public office to withdraw from a race. Under some circumstances, such a withdrawal can mean an election by default for the remaining candidate(s). This is particularly problematic if the withdrawal occurs after a primary election where one or more candidates were eliminated from the race—only to have a prevailing candidate withdraw after the primary.

Under HB16, if a candidate vacancy arises in a local, nonpartisan race within a certain time after the primary election, and if the number of remaining candidates is equal to or less than the number of open seats, then the vacancy will be filled by one of the candidates that did not prevail in the primary. The bill requires the election officer to identify the candidate “who received the highest number of votes in the primary election without receiving a sufficient number of votes to qualify for the general election ballot” and certify that candidate for the general election ballot.

Effective Date: May 8, 2018

Amends

20A-9-203

Enacts

20A-1-510.1

## **Community Reinvestment Agencies Revisions**

### **HB17**

**Rep. Sagers, D.**

This bill broadens the powers of a community reinvestment agency (CRA) to include, among other things, owning, managing, and operating real or personal property, including agency funds or collection of revenues. It allows a community to enter into an interlocal agreement with an agency to exercise agency power within that community, regardless of whether the community has created an agency. The bill authorizes a public entity to dispose of or lease the public entity's property to an agency for less than fair market value. Finally, Section 17C-1-207 has been amended to coordinate with the passage of HB15.

Effective Date: May 8, 2018

Amends

17C-1-202; 17C-1-204; 17C-1-207.

## **Alcohol Abuse Tracking Committee Relocation**

### **HB18**

**Rep. Steve Eliason**

This bill moved the Alcohol Abuse Tracking Committee from the Department of Public Safety to the Department of Health.

Effective Date: May 8, 2018

Renumbers and Amends §62A-1-121 (renumbered from §53-1-119).

### **Changes to Property Tax**

**HB21**

**Rep. McKay, D.**

This bill does three things:

One, it extends the time for centrally assessed taxpayers to file an appeal of an assessment made by the Utah State Tax Commission, from 30 days (or June 1, whichever is later) to 90 days (or August 1, whichever is later), extends the time the County must file a cross-appeal to 60 days after the taxpayer has filed an appeal, and extends the time for the County to initiate an appeal to October 1. This change may have unfortunate results. The added time is helpful for counties. However, the added time allowed to taxpayers could be harmful. The prior June 1 deadline created an urgency for taxpayers to alert the Division as to undisputed errors in the assessment. Once placed on notice of the errors, the Division had time to make corrections prior to the setting of the certified rate in the second week of June. As such, refunds could be avoided when the corrections were made. This urgency is eliminated by the new timeframe and it is likely that more refunds will be required when undisputed errors are discovered. On a related note, the bill retains the quirk in the statute that provides a county more time to initiate an appeal than to file a cross-appeal in most circumstances.

Two, it confirms the certified rate calculation to current practice by reducing the new growth adjustment by the five-year average growth rate.

Three, it requires the Division to provide UAC with certain assessment and appeal information. Unfortunately, it specifically prohibits UAC from publicly disclosing the value requested by taxpayers. This prohibition does not directly apply to the counties themselves, but it confuses the issue. Arguably, the taxpayer requested value is not commercial information. Moreover, since a county legislative body must authorize the filing of an appeal, it seems odd that the legislative body would be prohibited from discussing the taxpayer's asserted value as part of the public meeting where it discusses the appeal.

Effective Date: May 8, 2018

Amends

59-1-404; 59-2-913; 59-2-924; 59-2-1007

### **Cannabinoid Product Board Membership Amendments**

**HB25**

**Rep. Brad Daw**

The Cannabinoid Product Board has seven members: four physicians, and three medical research professionals. Previously, three members also had to be members of the Controlled Substance Advisory Committee, but this bill drops that requirement to just at least one. The board, which was already assigned to review research related

to cannabinoid products, now also must review research of “expanded cannabinoid products.”

Effective Date: May 8, 2018

Amends: §§26-61-201 and 26-61-202

### **Retirement Systems Amendments**

## **HB 28**

### **Rep. Jefferson Moss**

If you want your “division of domestic relations order” (divorce decree) to be valid, it must be on file with URS before the retiree’s death or no later than when the benefits are paid or settled.

If you reemploy (in an eligible manner) and your benefits are canceled, URS will move you back into an active status the beginning of the following month.

If you are a Division A enrollee, the death benefit for serving 10 years or less is restricted to a surviving spouse instead of a beneficiary.

While no longer having to file this list annually with URS, your employer must maintain the list of all employees that are exempt from participating in URS.

Effective Date: February 21, 2018

Amends

49-11-103, 49-11-301, 49-11-604, 49-11-612, 49-11-1204, 49-12-203, 49-13-203, 49-14-501, 49-15-501, 49-22-205

### **Public Employees Long-Term Disability Act Amendments**

## **HB 29**

### **Rep. Jefferson Moss**

This bill tightens the definitions for “date of disability”, “gainful employment”; changes “total disability” to “ongoing disability” while adding a new definition for “total disability”; adds a definition for “own occupation disability” and “workers’ compensation indemnity benefits”; and it enumerates other payments which would reduce the benefit payments hereunder.

In addition to tightening these benefits, it also provides for an interest charge when repaying any overpayments.

Effective Date: July 1, 2018

Amends

49-21-102, 49-21-401, 49-21-402

## Utah Antidiscrimination Act Amendments

### HB30

**Rep. Dunnigan,  
James**

This bill removes language instructing mediators to attempt a settlement between the parties by “conciliation and persuasion,” but also instructs the UALD to assign a mediator to offer mediation services between the parties before an investigation even begins. If the mediation services are refused, or if no settlement is reached, the UALD is instructed to “promptly assign an investigator.” It explicitly grants the UALD subpoena power during an investigation. The bill further requires that any determination and order issued at the conclusion of an investigation shall include notice “of the right to request an evidentiary hearing” and “that failure to request an evidentiary hearing . . . will result in the determination and order becoming final.”

Effective Date: May 8, 2018

Amends

34A-5-102.5; 35A-5-104; 34A-5-107; 34A-5-108; 63G-4-102.

## Uniform Construction Code Amendments

### HB 32

**Rep. Mike Schultz**

This bill creates a definition in the International Plumbing Code for a “motor vehicle waste disposal well”, defining it in part as “an injection well that discharges to the subsurface by way of a floor drain, septic system, French drain, or dry well or other system, fluid from a facility that engages in any vehicle repair or maintenance work. This bill also prohibits all new and existing motor vehicle waste disposal wells except when it is associated with a single family residence.

Effective Date: May 8, 2018

Amends

15A-2-103, 15A-3-205, 15A-3-206, 15A-3-302, 15A-3-304, 15A-3-601

## Municipal Alternate Voting Methods Pilot Project

### HB 35

**Rep. Mark Roberts**

Creates a new election procedure which allows municipalities to bypass the primary component of an election and allow for a single race with all candidates running against each other at the same time. Voters will cast their votes by preference – meaning voters must note which candidate they prefer first, second, third, etc. Ballot counting occurs in phases. Phase 1: valid first preference votes will be counted. If no candidate receives more than 50% of the valid first preference votes, the ballot-counting moves to Phase 2. Phase 2: exclude candidates who received the fewest valid first preference votes counted (in the event of a tie for fewest votes, candidate to be removed determined by lot); adding the valid second preference votes to the remaining candidates by voters who cast a valid first preference vote for the excluded candidate. If after phase 2 is completed, no candidate has received more than 50% of the valid votes counted, the ballot-counting will continue into subsequent phases until one candidate receives more than 50% of the vote. If there is

a tie between the candidates with the highest number of votes, winner is determined by lot at a public hearing within thirty days of the election. The bill also allows for batch elimination in certain instances.

This is a pilot project set to expire in 2026. Municipalities are not required to participate and can continue using primaries if they so choose. If Municipalities do elect to participate, they must give notice to the lieutenant governor before January 1 of the odd-numbered year in which the municipality intends to participate. May be a cost-effective option as it eliminates the need for a municipality to hold both a primary and general election.

Effective Date: January 1, 2019; Repealed January 1, 2026

Amends

20A-1-102; 20A-1-303; 20A-3-105; 20A-4-101; 20A-4-102; 20A-4-105; 20A-4-106; 20A-4-304; 20A-4-401; 20A-5-404; 20A-6-402; 20A-9-404; 63I-2-220

Enacts

20A-1-304 (repealed and reenacted); 20A-4-601; 20A-4-602; 20A-4-603; 20A-4-604; 20A-6-203.5

### **Free Expression Regulation Amendments**

#### **HB36**

#### **Rep. Thurston**

Codifies the ability of counties, cities, towns, or metro townships to impose time, place, manner restrictions on expressive activity on public grounds in furtherance of an important government interest. The statute defines important government interest as “access to a public building, public safety, and protection of public property.” It also expressly allows for time, place, manner restrictions on political activities.

Effective Date: 5/14/19

Enacts

11-58-101; 11-58-102; 11-58-103; 11-58-104; 11-58-105

### **Fireworks Restrictions**

#### **HB38**

#### **Rep. James Dunnigan**

This bill shrinks the window of legal dates to sell and discharge fireworks (“Class C common state approved explosives”). Sales may not begin until June 24 and must end by July 25. Discharge of fireworks can be from July 2 through July 5, July 22 through July 25, December 29 through December 31, and two days prior through Chinese New Year’s Eve. The hours remain the same (11AM until 11PM, Midnight, or 1AM depending on the date), however the maximum fine for violations (an infraction) has been increased to \$1,000. In deciding which areas should not be allowed to discharge, municipalities may now consider “historical hazardous conditions,” based on two of the last five years. There are new notice requirements imposed on municipalities which restrict discharge. Counties may not restrict

discharge areas, but may prohibit the negligent discharge of fireworks. Counties are also required to prepare of map of all restricted areas based on maps provided by municipalities. The county map must be posted on the county website and copies must be provided to every fireworks retailer in the county and the state fire marshal.

The bill also allows any “person” who incurs costs suppressing a fire or suffers damage from a fire to bring a cause of action for negligently, recklessly, or intentionally causing or spreading a fire through fireworks. Discharging fireworks in a restricted area is per se negligent, reckless, or intentional. When a minor causes the fire, the parents are civilly liable, subject to some limitations.

Effective Date: May 8, 2018

Amends: §§10-8-47, 11-3-8, 15A-5-202.5, 53-7-221, 53-7-225, and 65A-8-212

Enacts §53-7-225.1

### **Medicaid Waiver for Mental Health Crisis Services**

**HB42**

**Rep. Eliason**

Enacts §26-18-415 which requires the Department of Health and Human Services to consult with the Mental Health Crisis Line Commission to propose an amendment to the state Medicaid plan to include coverage for mental health crisis services. The section also defines mental health crisis and mental health crisis services.

Effective Date: 5/7/18

Enacts

28-18-415

### **Blood Testing Amendments**

**HB43**

**Rep. Craig Hall**

This bill was a direct response to the unfortunate circumstances surrounding the arrest of the nurse at the University of Utah hospital when an officer wanted a blood draw conducted. This situation attracted a large amount of media attention locally, nationally, and around the world, so it was well known that something would be done in this legislative session. While this bill amends several sections of the code, its practical effect does not really change anything that was not already in case law regarding blood draws. This newly enacted code simply tells us that for an officer to require a blood draw they must have either consent, a warrant, or a judicially recognized exception to obtaining a warrant. Again, this simply codified what the case law already required, and does not change the legal burden an officer has to require a blood draw. This also does not change anything for implied consent purposes.

Effective Date: May 8, 2018

Amends

- 26-1-30; 41-6a-520; 41-6a-522; 53-3-418; 58-67-305; 58-68-305; 58-71-305; 72-10-502

Enacts

77-23-213

### **Unmanned Aircraft Revisions**

**HB59**

**Rep. Pitcher, D.**

This bill amends and enacts provisions of Title 72, Chapter 14, to prohibit using unmanned aircraft to carry or drop items within correctional facilities or in a manner that interferes with the operations or security of such facilities. A violation of the former is a third degree felony, and a violation of the latter is a class B misdemeanor. Exempts persons operating unmanned aircraft for the purpose of mosquito abatement.

Effective Date: May 8, 2018

Amends

72-14-102

Enacts

72-14-304

### **Property Rights Amendments**

**HB 62**

**Rep. Tim Quinn**

This bill addresses how just compensation may be determined in eminent domain proceedings. In determining the market value of property in a partial taking, both before the taking and after the taking, the court, jury, or referee may now consider everything a willing buyer and a willing seller would consider in determining fair market value of the property after the taking. It also prohibits the factfinder from considering the assessed value on the property tax assessment for the property unless the tax assessment is deemed an admission by a party opponent.

Effective Date: May 8, 2018

Amends

78B-6-511

### **Ignition Interlock Amendments**

**HB65**

**Rep. John Westwood**

This bill addresses the issue of the ignition interlock restriction for drivers convicted of DUI where the impairing substance was not alcohol. The definition of “interlock restricted driver” will no longer include a person that is convicted of DUI when the



case does not involved alcohol, and the court notifies DLD that the case did not involve alcohol.

Effective Date: May 8, 2018

Amends

41-6a-518; 41-6a-518.2

### **Local Government Modifications**

#### **HB 66**

This bill addresses the membership of local district board of trustees:

**Rep. Stephen Handy** If the board has fewer than nine members, it must have an odd number of members, and no fewer than three. (If more than nine, it doesn't matter).

For municipal service districts in Salt Lake County, the county representation drops from two to one, and it cannot be the mayor.

Effective Date: May 8, 2018

Amends

17B-1-302, 17B-2a-404, 17B-2a-604, 17B-2a-905, 17B-2a-1106

### **National Crime Prevention and Privacy Compact**

#### **HB69**

**Rep. Stephen  
Handy**

This bill allowed Utah to join the National Crime Prevention and Privacy Compact. The Compact is a national exchange of federal and interstate criminal history records for noncriminal justice issues, i.e. employment background checks.

Effective Date: May 8, 2018

Enacts §53-10-115

### **Communications of Governmental Entity Employees and Officers**

#### **HB72**

**Rep. Fawson, Justin**

This bill effectively amends the Government Records Access and Management Act, Title 63G, Chapter 2, by classifying as a "record" any electronic mail sent in violation of 20A-11-1205(1), i.e., an e-mail sent using the email service of a "public entity" that is sent for "a political purpose," "to advocate for or against a ballot proposition," or "to solicit a campaign contribution."

Practice Tip: The bill does not specify who must determine whether the e-mail in question was sent in violation of 20A-11-1205(1), which determination might result in a civil fine or perhaps even criminal penalties (or might not if "the lieutenant governor finds that the email . . . was inadvertently sent by the person . . . using the e-mail of a public entity").

Effective Date: May 8, 2018

Amends

20A-11-1205

### **Criminal Code Amendments**

**HB77**

**Rep. Mike McKell**

This bill passed after much discussion and debate regarding the meaning of “takes indecent liberties” in the criminal code. The bill enacts new Section 76-5-416. Indecent liberties -- Definition. and provides the following definition:

As used in this part, "takes indecent liberties" means:

- (1) touching the actor's genitals, anus, buttocks, pubic area, or female breast against any part of the body of the victim;
- (2) causing the victim to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;
- (3) simulating or pretending to engage in sexual intercourse with the victim, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or
- (4) causing the victim to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

This definition applies to the following statutes:

76-5-401.1, 76-5-401.2, 76-5-404, 76-5-404.1, 76-5-412, 76-5-413, 78A-6-105, 78B-2-308

The bill also adds “pubic area” to the list of prohibited touching areas listed in the above statutes.

Effective Date: May 8, 2018

### **Child Placement Amendments**

**HB80**

**Rep. Jeremy  
Peterson**

This bill requires the Division of Child and Family Services to run a warrant check on a parent/guardian before recommending a child in the Division’s care be returned to that person’s custody. It also allows the court to deny the return of a child to a parent/guardian with an outstanding arrest warrant based on the best interests of the child.

Effective Date: May 8, 2018

Amends §78A-6-301

Enacts §78A-6-308.5

## **Safety Belt Violations Amendments**

**HB81**

**Rep. Michael McKell**

Utah code imposes a duty upon a driver to use child restraint devices for children passengers under certain ages. Courts have been required to waive the fine for such offenses when the driver provides proof of the acquisition, rental, or purchase of the proper child restraint device. This bill amends the waiver provision to only apply to a first offense. Courts are no longer required to waive the fee on subsequent offenses.

Effective Date: May 8, 2018

Amends

41-6a-1805

## **Public Transit Vehicles and Safety Belt Amendments**

**HB85**

**Rep. Stephen Handy**

This bill exempts passengers on public transit vehicles with a gross vehicle weight rating exceeding 10,000 pounds from some safety belt requirements.

Effective Date: May 8, 2018

Amends

41-6a-1804

## **Manslaughter Amendments**

**HB86**

**Rep. Michael K.  
Mckell**

This is the suicide amendment resulting from recent cases where an individual helped a suicidal person complete suicide rather than accessing support and help. Accordingly, now included as manslaughter is the conduct of when a person intentionally, and with knowledge that another individual intends to commit suicide or attempt to commit suicide, aids the other individual to commit suicide.

Practitioners (professional, licensed providers who administer medications in course of job) are not in violation of this statute, even if death is hastened.

Prosecutors should consider this additional conduct for charging purposes and, as appropriate, provide information and training to law enforcement.

Effective Date: May 8, 2018

Amends

76-5-205

## **Uniform Real Property Transfer on Death Act**

**HB94**

**Rep. Snow, Lowry**

This bill creates the “Uniform Real Property Transfer on Death Act.” It defines terms and states that the transfer of property under a “transfer on death deed” occurs only upon the transferor’s death, and further provides that, while a “transfer on death

deed” is revocable and non-testamentary, the transferor still must have the same capacity as that required to make a will at the time the deed is made. Any such deed must also “contain the essential elements and formalities of a properly recordable inter vivos deed,” must “state that the transfer to the designated beneficiary is to occur at the transferor’s death,” and must “be recorded before the transferor’s death in the public records in the County recorder’s office of the county where the property is located.” The Act is nonexclusive and does not affect any other method of transferring real property currently allowed under Utah law. The bill applies only to deeds created by a person who dies on or after May 2018.

Effective Date: May 8, 2018

Enacts

75-6-401 through 75-6-419.

### **Uniform Fiduciary Access to Digital Assets Act**

#### **HB95**

**Rep. Snow, Lowry**

This bill provides that the digital assets of a protected person may be accessed by a conservator or guardian only after an opportunity for a hearing under Title 75, Chapter 5, “Protection of Persons Under Disability and Their Property.” Digital assets are defined in section 102(10) to include “an electronic record in which an individual has a right or interest.”

Effective Date: May 8, 2018

Amends

75-11-114

### **Driving Under the Influence Revisions**

#### **HB98**

**Rep. Norman  
Thurston**

In 2017, as part of the revisions that reduced the per se BAC level from .08 to .05, the bill also created two new classes of alcohol restricted drivers. One of those was a “novice licensed driver.” This bill removes that definition from the code entirely. Because the effective date of HB155 from 2017 was not until December 30, 2018, this most recent change simply just does not go into effect, therefore no practical change will take place for any agency.

Effective Date: December 30, 2018

Amends

41-6a-501 (effective 12/30/18); 41-6a-529 (effective 12/30/18)

## **Substance Abuse and Mental Health Act Amendments**

**HB99**

**Rep. Redd, E.**

This bill amends the term “substance abuse” to “substance use disorder.” Further, it defines “community mental health center” as an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers. Deletes the definition of “licensed physician” and “local comprehensive community mental health center.”

The bill changes the date by which local substance abuse authorities and local mental health authorities must annually submit a service plan to the Division of Substance Abuse and Mental Health within the State Department of Human Services from May 1 to May 15 of each year.

Expands the Division of Substance Abuse and Mental Health within the Department of Human Services’ responsibilities by requiring it to train and certify an adult as a peer support specialist who will provide peer support services to individuals with substance use disorder, mental health disorder, or both.

Removes references to the Utah State Hospital Board and the exemption of security officers from the public safety retirement system.

The bill amends the requirements and procedures for temporary commitment of adults to those that due to a mental illness is likely to pose substantial danger to self or others if not restrained.

Makes changes to procedures and criteria for civil commitments.

Gives officers authority to not take a mentally ill individual into custody in order to avoid escalating a dangerous situation.

Effective Date:

Amends

62A-15-103; 62A-15-602; 62A-15-603; 62A-15-613; 62A-15-625; 62A-15-627; 62A-15-628; 62A-15-629; 62A-15-631; 62A-15-632; 62A-15-635; 62A-15-637; 62A-15-703; 62A-15-705.

Repeals

62A-15-402

## **Medically Complex Children with Disabilities Waiver Program**

**HB100**

**Rep. Redd, E.**

This bill requires the Department of Health to establish, through a Medicaid waiver, an ongoing program for children with disabilities and complex medical conditions.

Effective Date: May 8, 2018

Amends

26-18-410

#### **Use of Force Amendments**

HB 102

**Rep. Brian Greene**

Currently a person is not justified is using force in defense of self or another if the actor is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony. This change allows the use of force if the force is a reasonable response to factors unrelated to the commission, attempted commission, or fleeing after the commission of that felony.

Effective Date:

May 8, 2018

Amends

76-2-402

#### **Education Grant Program for Individuals in the Justice System**

HB 106

**Rep. Val Potter**

This bill establishes a pilot grant program administrated by CCJJ that will provide funding for two positions in city or county prosecutors' offices to coordinate an education program for individuals convicted of misdemeanors or third degree felonies. Compellation of the agreed upon education program would allow a reduction of the charge and/or elimination of fines and jail time.

Effective Date:

May 8, 2018

Amends

63M-7-204

Enacts

63M-7-209

#### **Candidate Filing Amendments**

HB113

**Rep. Hall**

Allows individuals who are out of state to file for candidacy if they are designate a representative that appears in person on their behalf and if they appear by video in front of the filing officer.

Effective Date: 2/21/18

Amends

10-2a-305.1; 17B-1-306; 17B-1-1001; 17B-1-1003; 20A-9-201; 20A-9-202; 20A-9-203; 20A-9-407; 20A-9-408; 20A-9-408; 20A-9-502; 20A-9-503; 20A-9-504; 20A-9-601; 20A-11-1005

### **Regulation of Alkaline Hydrolysis Process**

#### **HB 121**

**Rep. Stephen Handy**

Any Blacklist fans? Stanley Kornish? The Stewmaker? His work is now lawful in Utah. For those of you undecided on burial or cremation, you have another option: Alkaline hydrolysis, aka biocremation, resomation, even euphemistically, water cremation. The residue can be disposed of similar to cremated ashes. (So with cremation, one goes “up in smoke.” What about “water cremation?” Kerflush.)

Cities and counties can regulate the disposition of the liquid remains. Removing, without authorization, items of value from the soon to be liquefied corpse invokes the theft provisions.

Effective Date: May 8, 2018

Amends

26-4-2, 58-9-102, 58-9-302, 58-9-601, 58-9-606, 58-9-611

Enacts

58-9-613 through 58-9-618

### **Controlled Substance Database Act Amendments**

#### **HB127**

**Rep. Fawson**

Describes circumstances under which an opioid prescriber can remain in compliance by connecting electronic health records with the opioid prescription database. The amendments also describe circumstances when a prescriber remains in compliance without database access as long as lack of access as due to some system error. Finally, the amendments mandate that the Division of Occupational licensing review the database to identify prescribers who are prescribing opioids against best practices and gives the division authority to provide education to such prescribers.

Effective Date: 5/7/18

Amends

58-37f-304; 58-37f-701

### **Spendthrift Provisions**

#### **HB131**

**Rep. Lowry Snow**

Some beneficiaries of trusts enjoy a “spendthrift provision” which keeps creditors away from the proceeds before the beneficiary can enjoy his or her inheritance. That’s great for the beneficiary, but bad news for anybody who has been

victimized by the beneficiary and is entitled to criminal restitution. HB131 adds crime victims to the short list of people who can get a court order to attach distributions that would otherwise go to the criminal defendant beneficiary.

Practice tip: If you have a case where a defendant comes from money but suddenly seems broke when it comes to repaying victims, consider whether he/she is a beneficiary of a trust.

Effective Date: May 8, 2018

Amends §75-7-503

### **Juvenile Justice Modifications**

## **HB132**

Rep. Lowry Snow

This bill allows School Resource Officers to investigate crime, conduct probable cause searches, consult with administrators about enrolled minors, lawfully transport minors, take temporary custody of minors, and protect the safety of students and the school community. When a SRO believes a minor has committed a minor offense on school property when school is not in session, the SRO can refer the minor to the courts or an alternative intervention at the officer's discretion.

Until July of 2020, schools may refer habitual truants to court if the minor refuses to participate in an alternative intervention, but the minor cannot be sent to secure detention for an underlying offense of truancy.

The bill expands when a court can impose a suspended custody order to include when a new assessment/evaluation has been completed which recommends a higher level of care and nonresidential treatment options have been exhausted or are inappropriate.

When probation receives a referral that appears to be eligible for a nonjudicial adjustment, probation must provide notice to reasonably identifiable victims. Probation must determine restitution based on the best information available, including any evidence provided by the contacted victims. Victim-offender mediation is now a possible condition of a nonjudicial as well as any other reasonable action in the interest of the victim.

Prosecutors may not file a petition against a minor unless: 1- the minor does not qualify for a nonjudicial adjustment, 2- the minor declines a nonjudicial, 3- the minor fails to substantially comply with a nonjudicial, 4- the minor fails to respond to the probation department's inquiry about eligibility for a nonjudicial, or 5- the offense is one for which prosecutors are explicitly authorized to file a petition.

Regardless of a minor's risk level, prosecutors may screen and file petitions for the following six misdemeanors: DUI, reckless endangerment, negligent homicide, sexual battery, possession of a dangerous weapon on or about school premises, or unlawful possession of a firearm by a minor. Even if a prosecutor declines to file a



DUI petition, the minor must have a drug and alcohol screening, and any appropriate assessment and treatment.

When reviewing referrals for a petition, prosecutors must determine by reasonable belief that 1- the charges are supported by probable cause, 2- admissible evidence will be sufficient to prove the incident beyond a reasonable doubt, and 3- the decision to charge is in the interests of justice.

Practice Tip: When it comes to filing petitions, just because you can doesn't mean you should. Utah's code is rife with statutes drafted in response to apocryphal stories of overexuberant prosecutions. Consider the possible ramifications of filing petitions that are technically adequate but seem questionable. Remember that not only probation and the court may propose nonjudicial adjustments. Prosecutors are also statutorily authorized to refer cases for a nonjudicial adjustment offer. When reviewing juvenile referrals, the Utah legislature has asked prosecutors to specifically evaluate whether filing a petition would be in the interest of justice. Take that obligation seriously.

Effective Date: March 16, 2018

Amends: §§53F-2-410, 53G-8-211, 53G-8-506, 63I-1-253, 78A-6-117 (effective July 1, 2018), 78A-6-210, 78A-6-602, and 78A-6-603.

### **Telepsychiatric Consultation Access Amendments**

#### **HB 139**

#### **Rep Steve Eliason**

HB 139 requires the state Medicaid program to reimburse for telepsychiatric consultations and requires certain health benefit plans to provide coverage for the use of physician-to-physician psychiatric consultations using telehealth services.

Effective Date:

May 8, 2018

Amends

26-18-13.5, 31A-22-647

### **Early Voting Amendments**

#### **HB141**

#### **Rep. Westwood, J.**

Election officers in Utah have the option to open early vote locations for voters to appear and cast their votes up to fourteen days before election day. However, some jurisdictions—particularly jurisdictions that offer vote by mail—have seen diminishing participation in early, in-person voting. Accordingly, it has become less cost-effective to conduct early voting for such an extended period of time. And because of this, some election officers have considered no longer conducting early voting.

HB141 allows election officers to conduct early voting on a reduced time frame. Instead of opening the early vote locations fourteen days before the election and

keeping them open until the Friday before election day, election officers may now make early, in-person voting available for just a few days (but no fewer than four days).

Effective Date: May 8, 2018

Amends

20A-3-202, -202.3, -601 and -604

### **Impact Fee Amendments**

#### **HB 142**

**Rep. Derrin Owens**

“Municipal natural gas facilities” are now added to the list of impact fee facilities that have a life expectancy of 10 or more years. Which means such a facility can be included in your capital facilities plan in calculating your impact fees.

Effective Date: May 8, 2018

Amends

11-36a-102

### **Driver License Suspension Amendments**

#### **HB144**

**Rep. A Cory Maloy**

Utah Code contains provisions where a conviction of many crimes, even those not related specifically to driving a vehicle, results in an automatic suspension of one’s driver license. This bill modifies a number of those offenses that have to do with controlled substances and requires that the offense has to occur when the defendant was an operator of a vehicle when the violation happened for the driver license to be suspended.

Effective Date: May 8, 2018

Amends

53-3-218; 53-3-220

### **Pedestrian Safety Amendments**

#### **HB145**

**Rep. Steve Eliason**

This bill removes some language to the requirements drivers face when approaching crosswalks and school crossings. Drivers are simply required to come to a complete stop if the crosswalk or crossing is occupied by a pedestrian and removes any of the other qualifying language about school crossing signs that existed previously.

This bill also adds a couple other types of roadways to the list where individuals are prevented from blocking or impeding traffic. These roadways include highways where there is a median and those highways that have a fixed guideway or any other railway that shares the highway right-of-way.

Effective Date: May 8, 2018

Amends

41-6a-1002, 41-6a-1009

### **Post Retirement Reemployment Restrictions Act Amendments**

**HB 146**

**Rep. Douglas Sagers**

This bill repeals the requirement that, for affiliated emergency service workers, the termination date of the reemployment is considered the worker's retire date for calculating the one-year separation requirement.

Effective Date: July 1, 2018

Amends

49-11-1205

### **Retirement Forfeiture for Employment Related Offenses**

**HB147**

**Rep. Hall, Craig**

Existing law requires that an employee's "participating employer" shall notify the retirement system if an employee is "charged with an offense that is or may be an employment related offense" and if "the employee is acquitted of the offense," and "if the employee is convicted of an offense that may be an employment related offense," the employer "shall . . . "conduct an investigation, which may rely on the conviction, to determine whether the conviction is for an employment related offense and the date on which the employment related offense was initially committed." This bill simply clarifies that, notwithstanding the requirements for employers, a "district attorney, a county attorney, the attorney general's office, or the state auditor may notify the [retirement system] and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section." Should that occur, the "participating employer," on receipt of such notification, "shall immediately report to the entity that provided the notification . . . (i) if the employee is acquitted of the offense, (ii) if the employee is convicted of an offense that may be an employment related offense, and (iii) "when the participating employer has concluded its duties under this section if the employee is convicted, including conducting an investigation, making a determination . . . that the conviction was for an employment related defense, and notifying the [retirement system]."

Effective Date: July 1, 2018

Amends

49-11-1401.

### **Good Samaritan Law Amendments**

**HB152**

This bill defines terms and grants immunity for damages in a civil action if "a person uses reasonable force to enter a locked and unattended motor vehicle to remove a confined child" if the following criteria are met: (i) the person has a good faith belief

**Rep. Quinn, Tim**

that the confined child is in imminent danger of suffering physical injury or death unless the confined child is removed from the motor vehicle; (ii) the person determines that the motor vehicle is locked and there is no reasonable manner in which the person can remove the confined child from the motor vehicle; (iii) before entering the motor vehicle, the person notifies a first responder of the confined child; (iv) the person does not use more force than is necessary under the circumstances to enter the motor vehicle and remove the confined child from the vehicle; and (v) the person remains with the child until the first responder arrives at the motor vehicle. “Child” is defined as “an individual of such an age that a reasonable person would perceive the individual as unable to open the door of a locked motor vehicle, but in any case younger than 18 years of age.”

Practice Tip: Note that a person is “not immune from civil liability . . . if the person fails to abide by any of the provisions of Subsection (4)(a) or commits any unnecessary or malicious damage to the motor vehicle.”

Effective Date: May 8, 2018

Amends

52-3-1; 52-3-2

### **Controlled Substance Database Revisions**

**HB 158**

**Rep. Brad Daw**

This bill modifies the requirements related to providing information to the Division of Occupational and Professional Licensing (the “Division”) that is included in the controlled substance database (the “Database”). The prior statute required only that the pharmacist-in-charge submit information to the Database, but this bill expands this duty to include both the pharmacist-in-charge and the pharmacist (collectively the “Pharmacists”). The Division shall set procedures for submitting information and data as well as the types of data and format with which the Pharmacists must comply. If a Pharmacist, or a third party under contract with the pharmacist-in-charge, fails to submit information to the Database after the Division has requested the information, the Division may refuse to issue or renew a license to the Pharmacist; revoke or suspend the Pharmacists’ license; issue a public recommend, impose a civil penalty on the Pharmacist or third party up to \$1000 for each dispensed prescription not submitted in compliance with this section, etc.

This bill also expands the Division’s scope to allow them to share information from the Database with members of Utah’s Opioid Fatality Review Committee so that they may review specific opioid-related fatalities and recommend policies.

Effective Date: May 8, 2018

Amends: §§58-37f-203, 58-37f-301, and 58-37f-602.

## **Auto Registration Requirements**

**HB161**

**Rep. Christine  
Watkins**

Utah code previously required that vehicle registration cards be signed in ink by the owner and that the person driving the vehicle shall display the registration card upon demand of a peace officer. An owner is no longer required to sign a vehicle registration card, and drivers are no longer required to display the vehicle registration upon demand of the police officer. However, we are still strongly encouraged to carry the registration card in the vehicle, for convenience of the peace officer. So, this is a bit like the pirate code now, more of a guideline than a rule.

Effective Date: May 8, 2018

Amends

41-1a-214

## **License Plate Transfer Amendments**

**HB162**

**Rep. Norman  
Thurston**

This bill allows for a previous owner to transfer the license plate on a vehicle to a new owner as part of the sale of the vehicle. The new owner is still required under the law to apply to the division to have the previous owner's plate assigned to the new owner for the plate to be valid. The new owner must meet the same eligibility requirements as the previous owner if the plate is a personalized or specialized group plate that has specific requirements under the code.

Effective Date: January 1, 2019

Amends

41-1a-401; 41-1a-413; 41-1a-701; 41-1a-703

## **Political Subdivision Lien Authority**

**HB 168**

**Rep. R. Curt Webb**

This bill clarifies certain existing grants of political subdivision lien authority to ensure that each grant provides an identifiable effective date, notice mechanism, and enforcement mechanism; imposes limits on political subdivision liens. It also provides that certain political subdivision liens are invalid against a subsequent bona fide purchaser if the lien is not recorded before the purchase, so recording liens will be critical to protect your interests. The legislation also addresses the priority status of a political subdivision lien listed on the property tax notice, and allows a tax sale for delinquencies of any item that is statutorily authorized to be included on the property tax notice.

Effective Date: May 8, 2018

Amends

10-7-30, 10-8-17, 10-8-19, 10-11-4, 11-42-202, 11-42-501, 11-42-502, 11-42-502.1, 11-42a-201, 11-42a-301, 11-42a-303, 17B-1-902, 17B-2a-506, 17B-2a-1007, 59-2-1305, 59-2-1317, 59-2-1323, 59-2-1324, 59-2-1331, 59-2-1332.5, 59-2-1326, 59-2-1327, 59-2-1332, 59-2-1333, 59-2-1335, 59-2-1338, 59-2-1339, 59-2-1342, 59-2-1343, 59-2-1345, 59-2-1346, 59-2-1349, 59-2-1351, 59-2-1351.1, 59-2-1351.5, 59-2-1352, 59-2-1353, 59-2-1355, 59-2-1358, 59-2-1359, 59-2-1360, 59-2-1361, 59-2-1362, 59-2-1363, 59-2-1365, 59-2-1366, 59-2-1372

Enacts

11-58-101, 11-58-102, 11-58-103, 59-2-1301.5

Repeals and Re-enacts

10-7-31

### **Licensing Fee Waivers Amendments**

**HB170**

**Rep. Pulsipher, S.**

This bill waives the Department of Occupational and Professional Licensing fees set out in Utah Code 58-1-301(1) for individuals applying for first time licenses if, at the time of the initial licensure, the applicant is in full-time active military service with the United States, National Guard, or a reserve component of the armed forces or is receiving public assistance from the Department of Workforce Services in the Family Employment Program set up in Utah Code 35A-3-302 or General Assistance Program as described in Utah Code 35A-3-401.

Effective Date: May 8, 2018

Enacts

58-1-301.3

### **Occupational Licensing Requirement Amendments**

**HB 173**

**Rep. Cory Maloy**

This bill defines a “resident” as an individual with employment and domicile in Utah, and holds an unexpired Utah driver license or Utah identification card. This bill allows the Division of Occupational and Professional Licensing (the “Division”) to issue a license, without examination, to residents when they have been licensed in a state, district, or US territory or in a foreign country. The Division will determine whether the education, experience, and examination requirements outside Utah were substantially equal to the current Utah requirements to justify licensing without examination.

Licensing without examination may also be permitted if, after being licensed outside Utah, the resident has at least one year of experience in the state, district, or US territory where the license was issued, and if the Division determines that the resident possesses the experience necessary to obtain the license that is sought.

Before issuing the license, the resident must pay a fee and produce evidence of their identity and qualifications.

Effective Date: May 8, 2018

Amends §58-1-302

### **Utah Digital Health Service Commission Membership Amendments**

**HB174**

**Rep. Spendlove, R.**

This bill changes the composition of the Utah Digital Health Service Commission by increasing the members from seven to eight and adding a membership category for individuals who use digital health service in serving mental or behavioral health populations.

Effective Date: May 8, 2018

Amends

26-9f-103; 26-9f-104.

### **Temporary Replacement for County Elected Officials**

**HB176**

**Rep. Potter, Val**

This bill provides a mechanism to appoint interim replacements to fill vacant county offices if the elected officeholder has vacated the office permanently for any reason.

Specifically, until a county legislative body may appoint an interim replacement as provided by current law, the interim manager will be: (i) for a county office with one chief deputy, the chief deputy; (ii) for a county office with more than one chief deputy, the chief deputy with the most cumulative time served in that position or the chief deputy previously designated by the elected officeholder; (iii) for a county office with no chief deputy, the management-level employee with the highest seniority level or, if two or more management-level employees have the same seniority level, either the employee with the most cumulative time served in that position or the employee previously designated by the elected officeholder.

The bill also provides that any temporary manager of a county office, regardless of how selected, need not take a new oath of office, must comply with the Uniform Fiscal Procedures Act for Counties, and may not change the compensation of an employee, or promote or demote an employee or change an employee's job title, unless approved by the county legislative body. In addition, a temporary office manager may not "exceed by more than 5% any expenditure that was planned before the county office was vacated" unless approved by the county legislative body.

The temporary office manager may receive, if approved by the county legislative body, a performance award after the county legislative body appoints the interim replacement and that interim replacement is sworn into office.

Effective Date: May 8, 2018

Amends

20A-1-508

### **State Training and Certification Requirements**

HB179

**Rep. Ivory, Ken**

Of relevance here, this bill requires that “[e]ach state agency or political subdivision that provides any training or certification that [the] state agency or political subdivision requires a public employee or public official to complete” must present the training or make the training available in an online web-based format unless the training or certification: (i) includes a physical or interactive component that, in the reasonable determination of the agency or political subdivision, the attendee can complete only in person or the training or certification takes place over consecutive sessions; or (ii) no required attendee will need to travel more than 50 miles from the attendee’s primary residence or place of employment, whichever is closer to the training site, to attend the training.

Effective Date: May 8, 2018

Amends

4-2-103; 9-1-201; 11-13-225; 13-1-2; 17B-1-312; 19-1-201; 26-1-30; 31A-2-201; 32B-2-207; 34A-6-109; 35A-1-104; 41-6a-303; 52-4-104; 53-1-106; 53B-1-103; 53D-1-303; 53E-3-401; 59-2-1001; 62A-1-111; 63F-1-104; 63G-6a-303; 64-13-6; 67-3-1; 67-5-1; 67-5a-1; 67-5b-102; 67-19-6; 67-19e-110; 71-802; 72-1-201; 76-9-907; 78A-2-107; 78B-6-204; 79-2-202.

Enacts

7-1-212; 10-1-204; 17-50-108; 63A-1-117; 63G-22-101 through 63G-22-103.

### **Hazardous Materials Emergency Amendments**

HB 194

**Rep. Kelly B. Miles**

Previously, this statute only allowed the Hazardous Chemical Emergency Response Commission to recover costs and expenses from a negligent party that were incurred by state agencies. The new bill expands recovery of such expenses to include political subdivisions, or interlocal entities that provide emergency services to a political subdivision pursuant to a written agreement.

Effective Date: May 8, 2018

Amends

53-2a-703

### **Medical Cannabis Policy**

HB 195

This bill creates a right to try cannabis-based treatments for patients who have been medically confirmed to die within six months if their physician believes it will provide some benefit to the patient and the cannabis is obtained from a state-



**Rep. Brad Daw**

approved source. A physician's recommendation permits a terminally ill patient to access a one-month supply of cannabis, and this recommendation must be renewed when the one-month supply is exhausted. A physician cannot recommend this treatment to more than 25 patients at a time. A physician or licensed health-care provider does not breach their standard of care by recommending or assisting in cannabis-based treatments, and cannot be subject to liability of any kind if any harm results. A patient must sign an informed consent document which contains the possible positive and negative treatment outcomes and recognizes that their insurance has no responsibility to cover the cost of the treatment and may deny coverage for use of the investigational treatment.

Effective Date: May 8, 2018

Amends: §§58-37-3.6, 58-85-102, 58-85-104, and 58-85-105

Enacts §58-85-103.5

**Breastfeeding Protection Act**

**HB196**

**Rep. Fawson, J.**

This bill expands the prohibition of discrimination in business establishments, places of public accommodation, or enterprises regulated by the state to include pregnant women as a protected class. The bill expands the definition of pregnancy to include pregnancy-related conditions, including breastfeeding, lactation, or other medical conditions related to breastfeeding. This bill also affirms the right of women to breastfeed or lactate in any place of public accommodation.

Effective Date: May 8, 2018

Amends

13-7-1; 13-7-2; 13-7-3

Enacts

13-7a-101; 13-7a-102; 13-7a-103

**Cannabis Cultivation Amendments**

**HB 197**

**Rep. Brad Daw**

This bill designates that the Department of Agriculture (the "Department") shall cultivate cannabis for academic or medical research purposes January 1, 2019. The Department may contract with a private entity to cultivate cannabis if the Department provides strict oversight to ensure sufficient security protocols and compliance with all laws, regulations, and payment of fees.

Additionally, the Department must establish a state dispensary by July 1, 2019 to receive all cannabis that has been processed into a medicinal dosage form. The dispensary will make rules and sell cannabis, at a price set by the Department, to

qualified academic research institutions, medical research institutions, or physician-recommended patients. A dispensary-courier service may be contracted by the Department. Furthermore, depositories are required to pay an annual fee.

The Department will also issue licenses to cannabis payment processors (“Processor”) who will facilitate electronic payments between cannabis producers and entities engaged in academic or medical research. Each license is subject to renewal every two years and Processors will be evaluated by the Department. If a Processor is not available, the Department may allow an entity to use cash to pay for cannabinoid products and services. The Department may examine the records of a Processor at any time and if violations are found may issue fines or cease and desist orders.

Finally, this bill allows people to possess, process, and grow cannabis if authorized to do so for medical or academic research purposes and has sufficient security protocols.

Effective Date: May 8, 2018

Amends: §§7-1-401, and 58-37-3.6.

Enacts: §§4-41-201 through 204, 4-41-301 through 304, 7-26-101 through 102, 7-26-201 through 204, 7-26-301, and 7-26-401.

### **Attorney General Responsibility Amendments**

#### **HB198**

**Rep. Nelson**

Requires the Attorney General to provide legal opinions to the legislature upon request. The section includes provisions for conflict in attorney-client relationships but does not allow the Attorney General to refuse to provide an opinion to the legislature on the basis of conflict of interest or attorney-client privilege.

Effective Date: 5/7/18

Amends

67-5-1

Enacts

67-5-1.1

### **Modifications to Election Law**

#### **HB 218**

**Rep. Rebecca  
Chavez-Houck**

Makes changes to the voter registration form, process, and time periods. Allows any person to request that their voting registration records be classified as private. Changes the voter registration form and includes applications for state identification cards to serve as voter registration forms as well. Allows non-registered voters to vote by provisional ballot during the early voting period or on the day of the election so long as they are otherwise legally entitled to vote and have valid ID and proof of

residence. Removes the voter registration deadline and requires county clerks to inform any applicant whose registration form they have received how they can change their political affiliation and how they can cancel their voter registration. A county administering an election by absentee ballot – entirely or partially – can reduce the early voting period so long as: (1) the early voting period begins 14 days before the election; (2) ends on the election date; (3) the early voting period includes at least 4 days; and (4) the clerk provides notice. A municipality that administers an election entirely by absentee ballot is not required to conduct early voting. This provision no longer applies to counties. Changes deadlines relating to absentee ballots from the Thursday before the election to the Tuesday before the election.

Effective Date: May 8, 2018

Amends

20A-2-102.5; 20A-2-104; 20A-2-108; 20A-2-201; 20A-2-202; 20A-2-204; 20A-2-205; 20A-2-206; 20A-2-304; 20A-2-306; 20A-2-307; 20A-3-302; 20A-3-304; 20A-3-306; 20A-3-601; 20A-3-605; 20A-4-107; 20A-6-105; 63G-2-302

Enacts

20A-2-207

### **Peace Officer Amendments**

**HB 222**

**Rep. Cory Maloy**

This new law makes it clear that failure to respond to the command of a “peace officer” is a violation unless the offender is in a motor vehicle. If in a motor vehicle the command to stop must come from a” law enforcement officer.” “Peace Officer” is a broad category that includes correctional officers, special function officers, federal officers and law enforcement officers.

Effective Date:

May 8, 2018

Amends

41-6a-210, 53-3-220, 76-8-305.5, 76-8-1403

### **County Government Change Election Amendments**

**HB224**

**Rep. Froerer. G.**

This bill modifies the process by which a county changes its form of government, as from a county commission to a county council. It amends the process for creating an appointment council and allows that council to be initiated by a petition or a legislative body resolution. It prohibits a change if another proposal is pending. The bill creates a system for citizen petitioners to file a notice of intent to gather signatures; sets a deadline for petitioners to file the petition; and provides that the clerk review signatures and certify or reject a petition within a limited time. The process includes the appointment of a chair of a study committee; requires a study

committee to review the optional forms of government and submit a report to the county clerk; and provides that if a study committee recommends that the form of a county's government not change, the process to change the county's form of government is concluded. The county clerk is required to post an optional plan on the county's website for a specified period of time before an election on the optional plan. If the optional plan is approved by a majority of voters who vote on the optional plan, the proposed plan is adopted. There is a grandfather provision for counties which have initiated the process to change the county's form of government as of the effective date of this bill.

Effective Date: March 15, 2018

Practice tip: County attorneys who are involved in a change of government need to read the bill with care, as it makes both significant and subtle changes to the existing process and also provides different procedures for different counties. As a practical matter, Grand and Morgan counties will be required by the bill to change to an authorized form of government at an election in November 2018.

#### Amends

17-15-27; 17-16-6; 17-19a-203; 17-31-8; 17-43-201; 17-43-301; 17-53-101; 17B-2a-1106; 17C-1-203; 17D-2-203; 20A-1-203; 20A-1-508; 20A-9-409; 26A-1-102; 59-2-919; 63I-2-217; 68-3-12.5.

#### Enacts

17-52a-101; 17-52a-104; 17-52a-305

#### Renumbers and Amends

17-52a-102; 17-52a-201; 17-52a-202; 17-52a-203; 17-52a-204; 17-52a-301; 17-52a-302; 17-52a-303; 17-52a-304; 17-52a-401; 17-52a-402; 17-52a-403; 17-52a-404; 17-52a-405; 17-52a-406; 17-52a-501; 17-52a-502; 17-52a-503; 17-52a-504; 17-52a-505.

#### Repeals

17-52-207.

#### Citation Authority Amendments

### HB226

**Rep. Christofferson,  
K.**

This bill amends language adopted last year curtailing the authority of municipal non-law-enforcement officers to issue misdemeanor citations. Specifically, despite that general prohibition, fire officers and animal control officers still “may issue a criminal citation for a violation that is punished as a misdemeanor if the violation threatens the health and safety of an animal or the public.” The bill also clarifies that animal control officers of a “county, municipality, or special service district” may issue citations for misdemeanors or infractions.

Effective Date: May 1, 2018

Amends

10-3-703; 77-7-18

### **Child Sexual Abuse Prevention Training Amendments**

**HB 228**

**Rep. Angela  
Romero**

This bill requires school districts and charter schools to provide, every other year, training on child sexual abuse prevention and awareness to school personnel in elementary and secondary schools. Personnel will be trained in how to respond in a supportive and appropriate manner when a child discloses sexual abuse. These schools shall also provide training to parents or guardians of elementary school students on how to recognize warning signs of child sex abuse and how to discuss this topic with children.

Additionally, the schools may instruct elementary school students about child sexual abuse prevention using age-appropriate curriculum approved by the State Board of Education. Parents or guardians must be notified in advance of what will be taught, given an opportunity to review instructional materials, and allowed the opportunity to be present during instruction. A student must be excused from the instruction at the request of a parent or guardian. Schools shall, upon request, provide the State Board of Education evidence of compliance with these standards.

Effective Date: May 8, 2018

Amends §53G-9-207

### **Compulsory Education Revisions**

**HB 234**

**Rep. Jefferson Moss**

A student is considered truant from school if he/she is absent and does not have a “valid excuse” for the absence. This bill amends the definition of a “valid excuse,” by specifying that an illness, which was already considered a valid excuse, may be either mental or physical.

Effective Date: May 8, 2018

Amends

53G-6-201

### **Compensatory Service in Lieu of Fine Amendments**

**HB 248**

**Rep. Brian King**

When a defendant is sentenced to pay a fine for an infraction, class C or class B misdemeanor, the court shall allow the defendant to complete compensatory service in lieu of the payment of the fine, if the offender so desires. "Compensatory service" means service or unpaid work performed by a person, in lieu of the payment of a criminal fine, for a state or local government agency, an entity that is approved as a nonprofit organization under Section 501(c) of the Internal Revenue Code or any other entity or organization if prior approval is obtained from the court. The court shall credit timely completed compensatory service against the fine or bail amount at the

rate of \$10 per hour and shall allow the defendant a reasonable amount of time to complete the service. Appropriate verification must be provided from the agency that received the service. Compensatory service is not allowed for the payment of restitution.

Effective Date:

May 8, 2018

Amends

76-3-205

Enacts

76-3-301.7

### **Statewide Resource Management Plan Adoption**

**HB249**

**Rep. Stratton, K.**

This bill adopts a statewide resource management plan (Plan) and modifies the duties of the Public Lands Policy Coordinating Office (Office). State agencies and political subdivisions must “refer to and substantially conform” to the Plan “when making plans for public lands or other public resources.” The Office monitors implementation and “federal, state, and local government compliance with the [P]lan.” State agencies and political subdivisions must keep the Office informed of “substantive modifications” to their resource management plan. The Office reports annually to the Commission for the Stewardship of Public Lands (Commission) about any local modifications and makes recommendations about modifications to the Plan. The Commission may recommend changes to the Plan to the Legislature. The bill expressly states that it does not preempt local land use authority granted under LUDMA but also recognizes a presumption in federal regulations that “when state and local government policies, plans, and programs conflict, those of higher authority will normally be followed.” Thus, if a county’s resource management plan directly conflicts with the Plan, the provisions of the Plan may preempt the county’s resource management plan when applied to public lands.

Effective Date: May 8, 2018

Amends

63J-4-603; 63J-4-607

Enacts

63L-10-101; 63L-10-102; 63L-10-103; 63L-10-104.

### **Building Permit and Impact Fee Amendments**

**HB 250**

This bill:

**Rep. Mike Schultz** Expands the time period within which a developer can challenge the timely use of impact fees. (If the fees weren't used within the six year period, yet were used thereafter, the developer must make the claim within the seventh year. If the fees were not used within that period and have still not been spent, the claim must be made before the end of the eighth year.)

Expands the authority of the Property Rights Ombudsman to provide education and training about land use laws and land use dispute resolutions.

Increased the amount of money from the State's 1% surcharge that is to be used to educate building inspectors, developers, and to fund the additional training by the Ombudsmen in #2 above.

Effective Date: May 8, 2018

Amends

11-36a-603, 11-36a-701, 11-36a-702, 13-43-203, 15A-1-209

### **DUI Program Amendments**

### **HB252**

**Rep. Justin Fawson**

This bill will not have an immediate wide impact upon DUI programs throughout the state, however the provisions in this bill and its predecessor in 2017 could eventually be of importance all throughout the state. Other states have adopted the 24/7 Sobriety Program to reduce recidivism in certain DUI offenders. The Utah legislature approved funds a couple years ago to run a pilot 24/7 program in the state. Subsequently in 2017 the legislature passed HB 250, which laid the groundwork and allowed courts to utilize the 24/7 program. This bill amends a few provisions from the 2017 bill, fixing some things that will help the program move forward. The pilot program will continue in Weber County, and depending upon what is determined, we may see this roll out throughout the state. Stay tuned...

Effective Date: March 16, 2018

Amends

41-6a-515.5

### **Moderate Income Housing Amendments**

### **HB 259**

**Rep. Logan Wilde**

This bill requires counties and municipalities and other similar political subdivisions (but not towns) with a population of 5,000 or more to include plans for moderate income housing in the general plan. If you do not address moderate income housing in your general plan, you must do so by July 1, 2019. It must include an analysis for the opportunity of developing moderate income housing within the next five years. It modifies what is required in the general plan, and it changes the biennial review and reporting requirements (including a formula for analysis) in relation to the moderate income housing component in the general plan.

Effective Date: May 8, 2018

Amends

10-9a-401, 10-9a-403, 10-9a-404, 10-9a-408, 17-27a-401, 17-27a-403, 17-27a-404, 17-27a-408, 35A-8-804

Affected by the Coordination Clause

10-9a-408

### **Body Camera Amendments**

#### **HB265**

**Rep. Daniel McCay**

This bill provides that body camera recordings made by law enforcement officers while on duty or acting in their official capacity, may not be retained, electronically or otherwise, by a private entity if the private entity has authority to withhold the recording or prevent access or disclosure of the recording.

If your jurisdiction has a contract with a private storage entity, you will want to look at this statute to see under what conditions you may or may not continue to use such services.

Effective Date: May 8, 2018

Amends

77-7a-107

### **Identity Theft Paraphernalia Provisions**

#### **HB 269**

**Rep. Patrice Arent**

This bill modifies the elements of a financial transaction card offense and modifies the elements of unlawful possession of another's identifying documents. This bill increases the penalty for the unlawful possession of a financial transaction card information of a certain number of individuals and increases the penalty for the unlawful possession of identifying documents of a certain number of individuals.

Regarding the transaction card offenses, it is now a second-degree felony if an individual possesses, sells, or transfers any information necessary for the use of 100 or more financial transactions cards with the intent to use the information in violation of section 76-6-506.2 or with the knowledge that the information will be used by another in violation of section 76-6-506.2.

In regards to the unlawful possession of another's identifying documents offense, it is now a second degree felony if an individual obtains or possesses identifying documents of 100 or more individuals with knowledge that the individual is not entitled to obtain or possess the identifying documents; or with the intent to deceive or defraud; or assists another person in obtaining or possessing identifying documents of 100 or more individuals with the knowledge that the person is not



entitled to obtain or possess the identifying documents or with knowledge that the person intends to use the identifying documents to deceive or defraud.

Under 76-6-1105(2)(b)(i), an individual is guilty of a third degree felony if the individual obtains or possesses identifying documents of more than two, but fewer than 100, individuals; with the knowledge that the individual is not entitled to obtain or possess the identifying documents; or with the intent to deceive or defraud; or assists another person in obtaining or possessing identifying documents of more than two, but fewer than 100, individuals; with the knowledge that the person is not entitled to obtain or possess the multiple identifying documents; or with knowledge that the person intends to use the identifying documents to deceive or defraud.

Previously the law had mentioned “multiple documents.” This bill clarifies “multiple documents” to mean more than 2 but less than 100 (Section 76-6-1105(2)(b)(i)), or 100 or more (Section 76-6-1105(2)(c)(i)).

This bill also clarifies previous language and provides new definitions, including “identifying documents.”

Effective Date: May 8, 2018

Amends: §§76-6-502, 76-6-506.3, 76-6-1105, and 78B-9-104.

### **Criminal Judgment Account Receivable**

#### **HB 273**

**Rep. Elizabeth  
Weight**

This bill requires the court to accept any amount tendered against a criminal judgment account receivable on the day of sentencing before converting an unpaid account to a civil judgment.

Effective Date: May 8, 2018

Amends §77-32a-102

### **Design Professionals Liability Amendments**

#### **HB 279**

**Rep. Kay J.  
Christofferson**

Engineers and architects seem to have better protection than those granted qualified immunity! This bill applies only to government projects involving design professionals (e.g., architects and engineers). Any provision of an agreement between a governmental entity and a design professional purporting to create a standard of care must fall within the definitions created in this law. Moreover, any indemnification agreement may not require a design professional to indemnify, hold harmless, or reimburse a person for attorney fees or other costs (except in the case of the design professional’s breach of contract, negligence, recklessness, or intentional misconduct, or the design professional’s sub-consultant’s negligence). Any indemnification provision that violates this law will be considered void.

Effective Date: May 8, 2018

Enacts

13-8-7

### **Reproductive Education Amendments**

**HB 286**

**Rep. Justin  
Fawson**

This bill modifies curriculum requirements to include instruction in refusal skills and the harmful effects of pornography. This bill clarifies that a student shall receive instruction on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12. This bill also requires a local school board to review every two years data concerning teen pregnancy, child abuse, and sexually transmitted diseases; policies and instruction; and the number of pornography complaints.

This bill also defines terms (i.e., “board,” “local school board,” “Parent,” and “refusal skills”), clarifies ambiguous language, updates outdated terminology (i.e., replaces “human sexuality” with “sex education”) and repeals repetitive language.

Effective Date: May 8, 2018

Amends §§53G-10-402 and 53G-10-403

### **Workers’ Compensation Claims Amendments**

**HB 288**

**Rep. Ken Ivory**

This bill makes it unlawful for an employer to knowingly or intentionally impede or diminish an employee’s efforts to make a claim or receive workers’ compensation benefits. Additionally, an employer may not suspend, discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee because the employee claims or attempts to claim workers’ compensation benefits. Under this amended bill, a fine of up to \$5,000 may be imposed against an employer for each violation.

Effective Date: May 8, 2018

Enacts

32A-2-114

### **Sentencing Commission Length of Supervision Guidelines**

**HB 291**

**Rep. Eric  
Hutchings**

This bill requires the Utah Sentencing Commission to develop guidelines relating to the length of supervision of adult offenders on probation or parole and to make recommendations to the Legislature, the courts and the governor; provides that the length of an offender’s probation or parole term may not exceed the length of an offender’s maximum sentence, unless the maximum sentence is one year or less; modifies the circumstances under which an individual may be discharged following a parole revocation; requires the Utah Board of Pardons and Parole and courts to terminate probation or parole in accordance with the supervision length guidelines developed by the Utah Sentencing Commission; and removes the following: certain

lifetime parole requirements; the requirement that an offender found guilty with a mental illness and placed on probation or parole must be supervised for at least five years; and the prohibition on termination of probation or parole resulting from a driving under the influence conviction.

The Utah Sentencing Commission's purpose is amended to include developing guidelines and proposing recommendations regarding the length of the supervision of adult offenders on probation or parole in order to: increase equity in criminal supervision lengths; respond to public comment; relate the length of supervision to an offender's progress; take into account an offenders' risk of offending again; relate the length of supervision to the amount of time an offender has remained under supervision in the community; and enhance the dissection of the sentencing judges while preserving the role of the Board of Pardons and Parole.

For offenders placed on probation under Section 77-18-7 or parole under Subsection 76-3-202(1)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole.

Every individual who is committed to the state prison to serve an indeterminate term and, after December 31, 2018, is released on parole, shall complete a term of parole that extends through the expiration of the individual's maximum sentence unless the parole is earlier terminated.

The subsection that prohibited termination of probation or parole resulting from a conviction of driving under the influence has been removed.

The subsection that required lifetime parole for convictions for certain offenses (child kidnapping, aggravated kidnapping involving a sexual offense, rape, rape of a child, object rape, forcible sodomy, sodomy on a child, sexual abuse of a child and aggravated sexual abuse of a child or aggravated sexual assault) was removed.

The subsection that required evidence that a parolee had obtained a high school diploma, GED, or a vocational certificate (or documentation of the inability to receive the former) to be eligible for early termination from parole has been removed.

It is no longer required that a parolee who has a mental illness be on parole for a minimum of five years. Rather, the board may not reduce the period of parole without considering an updated report on the offender's current mental condition.

The subsection that allowed a court to require that the defendant obtain a high school diploma, a GED, or a vocational certificate as a condition of probation was removed.

Probation of an individual placed on probation after December 31, 2018 may not exceed the individual's maximum sentence, except probation of an individual

placed on probation after December 31, 2018 whose maximum sentence is one year or less may not exceed 36 months. If a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves relating to the same sentence may not exceed the defendant's maximum sentence.

If the board returns the parolee to parole, the length of the parole may not be for a period that exceeds the length of the parolee's maximum sentence.

Effective Date: May 8, 2018, except 63M-7-404 is effective 7/1/18

Amends: §§41-6a-505, 63M-7-404, 63M-7-405, 64-13-21, 76-3-202, 77-16a-201, 77-16a-205, 77-18-1, 77-27-5, 77-27-7, 77-27-9, and 77-27-11.

### **Driving Under the Influence Modifications**

**HB295**

**Rep. Steve Eliason**

This bill simply enhances a DUI offense if someone is operating their vehicle in the wrong direction of traffic on a freeway or controlled access highway. If someone is driving the wrong direction on either a controlled access highway or a freeway while DUI, then the offense is a class A misdemeanor. The rationale behind this bill is that these DUI offenses are exponentially more dangerous than a DUI when someone is driving in the proper direction, so they should not be treated the same. One thing to be aware of regarding this change, and any other DUI offense that is charged as a class A misdemeanor or above, is that the plea deal of Impaired Driving is not available for this class of DUI offenses without amending the DUI to a class B misdemeanor. A DUI plea must be entered as a class B misdemeanor for the conviction of Impaired Driving to be able to apply.

Effective Date: May 8, 2018

Amends

41-6a-503

### **Victim Advocate Confidentiality Amendments**

**HB 298**

**Rep. Michael  
McKell**

Representative McKell wanted to establish some level of confidentiality for victim advocates related to information received from victims. After several attempts to find the right balance of information that should and should not be disclosed by advocates working for police, prosecutors and other government or nongovernmental agencies, it became clear that the issue required much more thought and study. Therefore, the bill establishes a task force to consider the many issues and to report its results by November 2018 to the Judiciary Interim Committee, including presenting proposed legislation or rule changes.

Effective Date:

May 8, 2018

Enacts

36-29-103

### **Cultivation of Industrial Hemp**

HB 302

**Rep. Brad Daw**

This bill authorized the Department of Agriculture and Food to license a person who wishes to participate in an industrial hemp research pilot program; creates a process to register an industrial hemp product; prohibits a person from cultivating industrial hemp without a license; and prohibits the distribution of an industrial hemp product without registration.

The Department of Agriculture and food shall establish requirements for a license to participate in an industrial hemp research pilot program; set sampling and testing procedures for industrial hemp; and define a class of category of an industrial hemp product that is eligible for sale, transfer, or distribution to a member of the public.

A person seeking to cultivate industrial hemp shall provide to the department the legal description and global positioning coordinates sufficient for locating any field or greenhouse used by the person to grow industrial hemp; and written consent allowing a representative of the department and local law enforcement to enter all premises where industrial hemp is cultivated, processed, or stored.

An individual who has been convicted of a felony and an individual who has been convicted of a drug-related misdemeanor within the last 10 years are not eligible to obtain a license under this chapter.

4-41-104 requires that an industrial hemp product be registered with the department and outlines the requirements for registration.

4-41-105 makes it unlawful for a person to who is not licensed to cultivate, handle, process or market living industrial hemp product. It is also unlawful for any person to distribute or market an industrial hemp product that is not registered with the department. The department may seize and destroy hemp plants or products that do not comply with this chapter.

This bill defines terms including “industrial hemp license,” “industrial hemp product,” “licensee,” “person,” and “research pilot program.”

Effective Date: May 8, 2018

Amends: §§4-41-102 and 4-41-103

Enacts: §§4-41-104 and 4-41-105

### **Drinking Water Source Sizing Requirements**

HB 303

Requires community water systems serving a population of 500 or more to annually collect water use data and report to the Division of Water Rights. Requires submission

**Rep. Scott Sandall**

of plans for a substantial addition or alteration of a community water system. Director of the Division will then establish system-specific source and storage minimum sizing requirements for community water systems. Requirements vary depending on the population served (more than 3300, between 500 and 3300, and fewer than 500). Director must establish a schedule for transitioning from statewide sizing standards to system-specific standards. Wholesale water suppliers exempt from system-specific provisions if the supplier serves a population of more than 20,000 and a wholesale population that is 75% or more of the total population served.

Effective Date: May 8, 2018

Amends

19-4-102; 19-4-104

Enacts

19-4-114

**Fire Code Amendments**

**HB 305**

**Rep. Walt Brooks**

This bill addresses the types of access areas that are required to be present for firefighting in construction or demolition sites. Specifically, it requires approved vehicle access on these sites and there must be vehicle access to within 100 feet of temporary or permanent fire department connections. Access shall be provided by either temporary or permanent roads that comply with local standards. If an improvement completion assurance has been posted, local jurisdictions may not require permanent roads, or asphalt or concrete on temporary roads, before final approval of the structure served by the road. Temporary or permanent fire department access roads must be functional before construction above the foundation begins and before an appreciable amount of combustible construction materials are on site.

Effective Date: May 8, 2018

Enacts

15A-5-205.6

**Arrest Amendments**

**HB 321**

**Rep. Kelly Miles  
Miles**

If a jail accepts custody of a person arrested under 77-7-23,(arrest without a warrant,) the duties under that section imposed on the arresting peace officer (such as submission of PC Statement, arranging for appearance for arraignment and the setting of bail) are transferred to the jail and the jail's personnel.

This change is a result of case law that indicated that the current Utah Law imposed those obligations on the arresting officer as well as the jail.

Effective Date:

May 8, 2018

Amends

77-7-23

### **Non-Emergency Patient Transportation Safety Amendments**

**HB 322**

**Rep. Edward H.  
Redd**

This bill addresses specific circumstances and scenarios as to when a licensed ambulance or paramedic may refuse or delay interfacility transportation of an already admitted patient from an emergency room or hospital unit to another medical facility. It permits refusal or delay of interfacility transportation where the patient (1) is a basic life support patient (as defined); (2) the request for transport is made between 12:00 a.m. and 6:00 a.m.; (3) the request does not create an unreasonable burden on the originating site; (4) the patient is 18 years old or older; and (5) the request is for a route that, at the time of the request, would require more than 55 miles of driving, staffing levels or equipment are below established levels, or there are hazardous weather conditions.

If a provider refuses or delays transportation, however, the receiving health care provider is required to hold a bed for the patient until either the receiving health care provider is notified that the bed is no longer needed or until 6:00 a.m. after the initial notification is given, plus a reasonable amount of time for transportation from the originating site to the receiving site.

Effective Date: November 30, 2018

Amends

26-8a-102, 26-8a-303, 26-8a-305

Enacts

26-8a-602

### **Tobacco Regulations Amendments**

**HB 324**

**Rep. Bradley G.  
Last**

This bill amends the definition of a “retail tobacco specialty business” to mean an establishment where tobacco products account for more than 35% of the total quarterly gross receipts for the establishment; 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products; 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, or the retail space features a self-service display for tobacco products.

It also now prohibits anyone from operating a retail tobacco specialty business in a municipality unless the person first obtains a license to do so from the municipality in which the business is located. A municipality may not issue or renew a license to

the person unless he complies with specified zoning requirements and obtains a valid Tobacco Retail Permit from the local health department and a valid license to sell tobacco products from the State Tax Commission.

This bill also expands the definition of smoking to include carrying any lighted or heated cigar, cigarette, pipe, or hookah that contains tobacco or any plant product intended for inhalation, shisha or non-tobacco shisha, nicotine, a natural or synthetic tobacco substitute, or a natural or synthetic flavored tobacco product.

This bill also provides criteria that each applicant must provide to the local health department in order to obtain a permit to sell tobacco.

Effective Date: July 1, 2018

Amends

10-8-41.6, 17-50-333, 26-38-2, 59-14-201, 59-14-803, 76-10-105.1, 77-39-101

Enacts

26-62-101, 26-62-103, 26-62-201, 26-62-202, 26-62-203, 26-62-204, 26-62-205, 26-62-301, 26-62-303, 26A-1-128

### **Rural Online Initiative**

This bill requires the Utah State University to administer a pilot program designed to help people (including high school students) living in rural areas to obtain employment or operate a business that can primarily be done online. The bill allows the University to consider input from counties and to administer the program through a county extension office. The pilot program will start with one county selected by the University.

Effective Date: May 8, 2018

Amends

63I-1-253

Enacts

53B-18-1501

### **Government Non-Profit Amendments**

11-13a-102(4)(b) says that the definition of a governmental non-profit corporation does not include a water company unless the water company is wholly owned by the government. That definition had a sunset provision of July 1, 2019. That sunset provision is repealed, so the definition lives to fight another day – or session.

Effective Date: May 8, 2018

## **HB 327**

**Rep. Michael E.  
Noel**

## **HB 341**

**Rep. McKell**



Amends

63I-2-211

### **Youth and Child Welfare Amendments**

**HB343**

**Rep. Walt Brooks**

This bill amends and defines terms, amends the definition of sexual abuse, amends provisions related to runaway children, requires a court or DCFS to take into consideration a child's wishes for placement and makes other technical changes.

When determining who to place a child with in an emergency placement situation, courts may now consider the child's wishes if the child is of sufficient maturity to articulate his or her wishes in relation to the placement.

If placement is to be with a friend, (1) DCFS is required to consider more than one friend designated by each parent or legal guardian and one friend designated by the child, if the child is mature enough to sufficiently articulate their wishes, (2) may limit the number of designated friends to two, and (3) shall give preference to the child's friend if the child is sufficiently mature and the reason for removing the child is due to sexual abuse of the child.

It is a class B misdemeanor for a person, and now a temporary homeless youth shelter, to knowingly and intentionally harbor a child, knowing the child is a runaway, fails to notify by telephone or other reasonable means of the location of the child to the parent or legal guardian, DCFS, a youth services center and fails to make the proper notification within 8 hours after becoming aware the child is a runaway or the time that the person begins harboring the runaway.

A person, or temporary homeless youth shelter, shall report to DCFS (1) child abuse or neglect if the person has an obligation to report; or (2) if within 48 hours after the person begins harboring the child (i) the person continues to harbor the child; and (ii) the person does not make direct contact with: a parent or legal guardian, DCFS, a youth services center or a peace officer or the nearest detention center if a court order has been issued authorizing a peace officer to take the minor into custody.

Sexual abuse of a child now includes the definition, "subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage." No more "child brides."

At the time of a shelter hearing then the child is removed from the custody of one parent and NOT placed in the custody of the other parent, the court can now ask a child who is of sufficient maturity to articulate his or her wishes, if they would like to be placed with a relative or friend and who they would prefer.

Effective Date:

May 8, 2018

Amends

62A-4a-209, 62A-4a-501, 78A-6-105, 78A-6-307, 78A-6-307.5

### **Local Government Plan Review Amendments**

**HB 346**

**Rep. Mike Schultz**

This bill makes permanent a law that went into effect last year regarding the rules, time limits, and scope for the review of construction project plans. Various modifications were made, such as limited the scope of what is allowed in certain kinds of plan reviews. The bill also added some rules, including that a town or city must complete the review of plans related to a construction project within 2-3 weeks, depending on the kind of project. Failure to do so, or obtain a waiver from the applicant, will mean the city or town may not require a plan review (subject to certain conditions). Three exceptions to this time limit are: If the plans are returned to the applicant for a substantive change; a “deferred submittal” which is mutually agreed upon; and when a third party review is required due to the technical nature of a portion of the project (geo-tech; fire suppression system; etc.)

Effective Date: May 8, 2018

Amends

10-5-132, 10-6-160, 17-36-55, 63I-1-210, 63I-1-217

### **Secondhand Merchandise Dealers Amendments**

**HB 348**

**Rep. Rebecca P. Edwards**

This bill helps us significantly by giving us the definition of a “children’s product” to mean an item that is for the exclusive use of children, or for the care of children, including clothing and toys. It also adds the definition of “children’s product resale business” to mean a business operating at a commercial location and primarily selling children’s products. In adding these definitions to this bill, it exempts any business that resales children’s products from the requirements regarding secondhand merchandise dealers.

Effective Date: May 8, 2018

Amends

13-32a-102, 13-32a-104

### **Billboard Amendments**

**HB 361**

**Rep. Francis D. Gibson**

This bill allows billboard owners greater control over restoring or upgrading billboards—or even relocating them—without municipality or county approval. Certain restrictions would apply, but in sum, the bill gives owners greater flexibility to avoid oversight. For example, if an owner sends notice to a municipality that it would like to relocate a billboard within 1 mile of an existing location, and if the

municipality fails to respond within 180 days, the owner may do so without further approval.

The legislation also clarifies the process for eminent domain proceedings involving billboards.

Effective Date: May 8, 2018

Amends

10-9a-511 to 513, 17-27a-510 to 512

### **Substance Abuse Disorder Treatment Amendments**

#### **HB 366**

**Rep. LaVar  
Christensen**

Last year the Legislature passed the Essential Treatment and Intervention Act that allows a relative to petition a district court to order a drug addict to undergo essential treatment. The burden of proof is on the relative to show by clear and convincing evidence that the individual 1- suffers from a substance abuse disorder, 2- can reasonably benefit from the essential treatment, 3- is unlikely to substantially benefit from a less-restrictive alternative, and 4- presents a serious harm to self or others.

HB 366 adds to the requirements adopted last year by:

Requiring a binding commitment to pay for the treatment from the petitioner.

Providing remedies for failure to comply with a court order, including taking the subject into protective custody.

Authorizing appointment of a relative as the temporary personal representative of the person receiving essential treatment.

Effective Date:

May 8, 2018

Amends

62A-15-1202, 62A-15-1203, 62A-15-1205, 62A-15-1207

Enacts

62A-15-1205.5, 62A-15-1207.5

### **Transient Room Tax Amendments**

#### **HB 367**

Authorizes cities and counties to use revenues from the transient room tax to repair and upgrade county roads and city streets.

**Rep. Michael Noel**

Effective Date: May 8, 2018

Amends

17-31-2

### **Auto Dealership License Amendments**

**HB 369**

**Rep. Kim F.  
Coleman**

Welcome to Utah, Tesla! This bill creates a direct-sale manufacturer license and a direct-sale manufacturer salesperson license and specifically defines those persons who fit within that category. It also provides conditions and terms under which persons in these roles may sell motor vehicles or act as a dealer.

Effective Date: May 8, 2018

Amends

41-3-102, 41-3-103, 41-3-105, 41-3-201, 41-3-201.7, 41-3-202, 41-3-203, 41-3-204, 41-3-206, 41-3-209, 41-3-210, 41-3-702

Enacts

13-14-108

### **Suicide Prevention and Medical Examiner Provisions**

**HB370**

**Rep. Steve Eliason**

This bill defines terms, amends provisions regarding medical examiner records, expands the scope of suicide prevention programs in schools, increases the funding available for school-based suicide prevention programs, among other things.

Immediate relative now means an individual's spouse, child, parent, sibling, grandparent or grandchild.

Medical examiner records means all information the medical examiner obtains regarding a decedent and reports the medical examiner makes regarding a decedent.

The judiciary or a state or local government entity that retains a record of a decedent shall provide a copy of the record to the medical examiner in accordance with federal law, and upon receipt of the ME's written request for the record.

It is a class B misdemeanor to fail to provide the requested records within 10 days of the request.

The ME shall provide a copy of their final report, including the autopsy report, toxicology report, lab reports and investigative reports to (1) a decedent's immediate relative; (2) decedent's legal representative; (3) a physician who attended the decedent during the year before the decedent's death; or (4) as necessary to perform their professional duties, a county attorney, district attorney, criminal defense attorney, or other law enforcement officer with jurisdiction.

The ME may provide the report to a researcher who meets the specific requirements of the statute.

The state suicide prevention coordinator shall award a grant to each institution of higher education that applies for and meets the requirements of the grant, including implementation of a School Safety and Crisis Line.

Elementary schools can receive grant funding for the implementation of suicide prevention, resiliency, and anti-bullying programs.

A school district or charter school, in the secondary grades, SHALL implement a youth suicide prevention program. Training shall address (1) bullying and cyberbullying, (2) prevention of youth suicide, (3) youth suicide intervention, (3) “postvention” for family, students and faculty, (4) underage drinking of alcohol, (5) methods of strengthening the family, and (6) methods of strengthening a youth’s relationships in the school and community.

You can now make a contribution the Governor’s Suicide Prevention Fund when you file your state income taxes.

Effective Date: May 8, 2018

Amends

26-4-2, 26-4-11, 26-4-17, 53F-5-206, 53G-9-702,, 59-10-1304, 62A-15-102, 62A-15-1101, 62A-15-1102, 63M-7-301, 63M-7-303

Enacts

53E-10-506, 59-10-1320, 62A-15-114, 62A-15-115, 62A-15-1100, 62A-15-1103

### **Waste Management Amendments**

**HB373**

**Rep. Perry, Lee**

This bill provides that, by January 1, 2019, the Division of Waste Management and Radiation Control will, with upgraded technology and training as described in the bill, allow an owner or operator “of a solid waste management facility” to elect to self-inspect the solid waste management facility. The training to be provided by the division must be no longer than five hours total, but must be sufficient to ensure that an owner or operator learns how to self-inspect the solid waste management facility. An owner or operator who elects to self-inspect shall: (i) provide all information to the division that is required by law; and (ii) conduct the self-inspection annually and send a self-inspection report, certified by an individual who completed the required training, to the division upon completion. Regardless, the division must also ensure that the solid waste management facility is inspected by an authorized division employee at least once every five years, regardless of whether the facility elects to self-inspect, and every three to five years if the facility does not elect to self-inspect. The division must also inspect any solid waste management facility “promptly upon receipt of a credible complaint about the solid waste management facility” or “upon

request by the solid waste management facility or upon issuance of a notice of violation.”

The bill also requires the creation of a revised fee schedule for the “treatment, transfer, and disposal” of all nonhazardous solid waste, which shall be “equitable and fair, though not necessarily equal or uniform.” The goal of this language is to better incorporate the actual cost of regulation at each facility into the fees each facility is required to pay annually.

This bill also creates the Division of Waste Management and Radiation Control Expendable Special Revenue Fund. It requires that the first \$200,000 collected from waste disposal fees listed in Subsection (2) will be deposited in that account, with the balance of the money deposited in the Environmental Quality Restricted Account. The “Expendable Special Revenue Fund” may be used to upgrade technology for permitting and compliance purposes, and other expenditures that will result in increased efficiency and reduced cost. Those technology upgrades may include: digitized forms that may be available online; tracking expenses of a division employee, including travel time to inspected facilities; and increasing employee efficiency and government transparency. Monies in the fund may also be used to create training materials for the owner or operator of a solid waste management facility to learn how to self-inspect the facility.

Effective Date: July 1, 2018

Amends

19-1-108; 19-6-109; 19-6-119; 19-6-307; 63I-2-219.

Enacts

19-6-126.

### **Land Use Amendments**

## **HB 377**

**Rep. Mike Schultz**

This legislation imposes specific requirements on conditional use permits, including clarifying conditional use decisions as “administrative” in nature. The bill also prohibits cities and counties from denying a building permit application where the land use authority has accepted an improvement completion assurance and the minimum improvements required by the fire and building code are installed.

Effective Date: May 8, 2018

Amends

10-9a-103, 10-9a-507, 10-9a-509, 10-9a-604.5, 10-9a-801, 10-9a-802, 17-27a-103, 17-27a-506, 17-27a-508, 17-27a-604.5, 17-27a-801, 17-27a-802

## **Agricultural Water Optimization**

**HB 381**

**Rep. Timothy  
Hawkes**

Creates the Agricultural Water Optimization Task Force which is designed to identify critical issues facing Utah's long-term water supply, in particular regarding agricultural use. The task force is required to issue requests for proposals and thereafter award grants to study these issues. The task force must issue a report on November 30 of each year. There is not a member on the task force specifically designated to represent municipalities or counties.

Effective Date: The bill will take effect upon the day it is enacted. The specific day depends on the manner of enactment.

Amends

73-10g-101

Enacts

73-10g-201; 73-10g-202; 73-10g-203; 73-10g-204

## **Opioid Abuse Prevention and Treatment Amendments**

**HB 399**

**Rep. Steve Eliason**

The Department of Health must develop a pamphlet with the following information regarding opiates: risk of dependency and addiction, methods for proper storage and disposal, alternative options for pain management, benefits naloxone, and resources for patients who believe they have a substance abuse disorder. Pharmacists who dispense certain prescriptions for opiates must affix a warning label stating: "Caution: Opioid. Risk of overdose and addiction". Pharmacists who sell or dispense Schedule II or III opiate drugs must also display an informational brochure.

Practice pointer: Pharmacists are not in violation of the statute if they are unable to obtain the informational pamphlet from the Department of Health for any reason.

Effective Date: May 8, 2018.

Amends §58-37-7

Enacts §26-55-109

## **Affordable Housing Amendments**

**HB 430**

**Rep. Rebecca P.  
Edwards**

This bill creates a 20-member commission within the Department of Workforce Services called the "Commission on Housing Affordability." Its duties will include performing studies about, improving awareness of, recommending steps to address affordable housing needs. The commission may request information from state or local government entities, including reports, audits, projections, and statistics.

Effective Date: May 8, 2018 (Sunsets on July 1, 2019)

Amends

63I-1-235

Enacts

35A-8-2101 to 2104

### **Controlled Substances Act Amendments**

**HB 434**

**Rep. Paul Ray**

This bill adds as 7 drugs into the Schedule I drug list. The bill also adds 4 substances as controlled substances.

Effective Date: May 8, 2018.

Amends §§58-37-4 and 58-37-4.2

### **Coordinated Penalties for Sexual Abuse**

**HB 439**

**Rep. LaVar  
Christensen**

Several years ago the legislature passed provisions that, arguably, made sexual activity between a minor and a teacher (or other school employee or volunteer) either a class A misdemeanor or a 3RD degree felony. This bill reverses those changes and once again allows sexual activity between a minor and a school employee to be handled the same as all other sexual activity between a minor and a person in a “position of special trust” as defined by 76-5-404.1.

Effective Date:

May 8, 2018

Amends

76-4-401, 76-5-401.1, 76-5-401.2

Enacts

76-3-203.13

### **Homeowners Association Modifications**

**HB 454**

**Rep. Gage Froerer**

This bill creates new provisions that govern whether and how a management committee may act on behalf of owners, including using funds, imposing sanctions or pursuing legal action. It also requires homeowners associations to more quickly and readily provide information to members or other parties.

Effective Date: May 8, 2018

Amends



57-8-7.5, 57-8-10.1, 57-8-17, 57-8a-209, 57-8a-211, 57-8a-227

Enacts

57-8-10.7 57-8-59, 57-8-60, 57-8a-212.5, 57-8a-230

### **Alcohol Amendments**

**HB456**

**Rep. Wilson**

Amends many of the requirements for alcohol license holders. Specifically, the amendments clarify which license holders qualify for a historical variance, the mandatory distance between a bar entrance and a community, the circumstances under which businesses may hold multiple licenses, age requirements for food service workers, and training requirements for license holders.

Effective Date: May 8, 2018

Amends

32B-1-102; 32B-1-202; 32B-1-407; 32B-1-407; 32B-1-606; 32B-2-210; 32B-2-605; 32B-3-102; 32B-3-205; 32B-4-415; 32B-5-202; 32B-5-207; 32B-5-307; 32B-5-308; 32B-5-405; 32B-5-406; 32B-6-202; 32B-6-205; 32B-6-205.2; 32B-6-302; 32B-6-305; 32-6-305.2; 32B-6-403; 32B-6-404; 32B-6-404.1; 32B-6-406; 32B-6-409; 32B-6-503; 32B-6-605; 32B-6-902; 32B-6-905; 32B-6-905.1; 32B-7-202; 32B-7-401; 32B-8a-202; 32B-8a-203; 32B-8b-102; 32B-8b-301; 32B-8b-302; 53F-9-304; 53G-10-406; 62A-15-401; 63I-2-232

Enacts

32B-6-205.4; 32B-6-305.4; 32B-6-605.1; 32B-6-905.3

### **Homeless Services Amendments**

**HB462**

**Rep. Eliason, S.**

This bill grants the executive director of the Housing Board the ability to use funds to purchase an existing facility that will provide temporary housing for the homeless in an area that does not require rezoning prior to actually providing such housing. Further, a city or county mayor assigned to sit on the Homeless Coordinating Committee may now fulfill such representation through a designee.

When the Homeless Coordinating Committee awards a grant as provided in 35A-8-604, priority shall be given to a homeless shelter located in a county of the first class that has the capacity to provide temporary shelter to at least 200 individuals per night, and the Homeless Coordinating Committee must consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the shelter.

The bill also enacts a number of reporting requirements for the Housing and Community Development Division due on or before October 1 of each year,

including the number and percentages of available low income and affordable housing units in each county and municipality. The bill then specifies what sums of money are to be appropriated for the fiscal year beginning July 1, 2018, through June 30, 2019, in addition to any amounts previously appropriated for fiscal year 2019.

Effective Date: May 8, 2018

Amends

35A-8-505; 35A-8-601; 35A-8-604; 35A-8-605

Enacts

35A-8-805

### **Residential Vocational and Life Skills**

**HB 468**

**Rep. Paul Ray**

This bill creates a registration process within the Department of Commerce for a residential, vocational, and life skills program. The bill regulates the operations of the programs by creating disclosure requirements to applicants, mandatory participant screenings, and monitoring program facilities.

Effective Date: May 8, 2018.

Amends §§13-2-1, 62A-2-101

Enacts §§13-53-101 through 13-53-110

### **Medicaid Expansion Revisions**

**HB472**

**Rep. Spendlove, R.**

This bill directs the Department of Health to submit a Medicaid waiver request in accordance with the requirements outlined in the bill to the federal government by January 1, 2019. If the federal government agrees to the State's requested waivers, this bill would expand Medicaid to all households with income less than 95% of the federal poverty level who are not eligible for Medicaid program enrollment (except the Primary Care Network program) as of May 8, 2018. Where available, it would provide Medicaid benefits through the state's Medicaid accountable care organizations and integrate behavioral and physical health services. There would be a work requirement for certain qualified adults and a requirement that individuals enroll in employer-provided insurance plans if available. The bill also makes changes to how the annual assessment is calculated and creates a new Medicaid expansion hospital assessment. The waiver under the bill would also obtain maximum federal financial participation and give the State flexibility in enrollment (if federal funding is reduced or eliminated).

Finally, the amendments to Section 26-36b-103 contained in this bill supersede the amendments to Section 26-36b-103 contained in HB14 and SB125.

Effective Date: May 8, 2018

Amends

26-18-18; 26-36b-103; 26-36b-201; 26-36b-202; 26-36b-203; 26-36b-204; 26-36b-205; 26-36b-206; 26-36b-207; 26-36b-208; 26-36b-209; 26-36b-210; 26-36b-211; and 63I-1-226.

Enacts

26-18-415; 26-36c-101; 26-36c-102; 26-36c-103; 26-36c-201; 26-36c-202; 26-36c-203; 26-36c-204; 26-36c-205; 26-36c-206; 26-36c-207; 26-36c-208; 26-36c-209; and 26-36c-210.

Affected by Coordination Clause

26-36b-103

**Election Law Changes**

**HB491**

**Rep. Edwards**

Enacts § 36-16b-101-304, which allows the Legislature to submit a nonbinding opinion question to voters by passing a joint resolution. It establishes the procedure for submitting opinion questions, the duties of the Lieutenant Governor, duties of county clerks, and provides the manner of publishing the opinion question(s) prior to election day. It also provides for a canvass of returns for determining the vote on opinion questions, as well as defining “opinion question” and “originating house”.

Effective Date: 5/7/18

Amends

20A-6-107; 63I-2-220; 63I-2-236

Enacts

36-16b-101; 36-16b-102; 36-16b-103; 36-16b-201; 36-16b-202; 36-16b-203; 36-16b-204; 36-16b-301; 36-16b-302; 36-16b-303; 36-16b-304

# SENATE BILLS

## Election Law Modifications

**SB17**

**Sen. Harper**

Modifies the provisions of a notice of election to conform with existing law, amends the date of submission for a 100-word candidate qualifications statement to the first business day in August before the date of the election, and requires a registered political party to notify the lieutenant governor on or before February 15 of each even numbered year, when the party's political conventions will be. This bill also requires notification within 1 business day of any convention date changes. This bill further modifies the director of elections' rulemaking authority, modifies the declaration of candidacy for a write-in candidate, and makes technical changes.

Effective Date: 5/7/18

Amends

20A-4-107; 20A-5-101; 20A-7-702; 20A-9-403; 20A-9-601

Enacts

20A-8-402.5

## Competency to Stand Trial Amendments

**SB19**

**Sen. Fillmore,  
Lincoln**

This bill restricts the timelines for a defendant to be evaluated for competency and, if found incompetent, to be restored to competency by the Department of Human Services (DHS).

A forensic evaluator is required to provide an initial competency report within 30 to 45 days of receiving a court order. If the evaluator's opinion is that the defendant is incompetent, the report must indicate the factors that contribute to incompetency and whether there is a substantial probability that restoration treatment may restore competency in the foreseeable future. If a court decides the defendant is incompetent, the court should order the defendant committed to the Department of Human Services for restoration treatment. The Department is required to provide treatment of "sufficient scope and duration to: restore the individual to competency; or determine whether the individual can be restored to competency in the foreseeable future." §77-15-6(c).

The phrase "foreseeable future" comes from a US Supreme Court Decision in 1972 in which the court held "...a person charged by a State with a criminal offense who is committed solely on account of his incapacity to proceed to trial cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future."

Jackson v. Indiana, 406 U.S. 715, 738 (1972). With the passage of SB 19, the “foreseeable future” timeline for restoration depends on defendants’ most serious alleged offense. If defendants’ most serious alleged offense are class B misdemeanors or lower, they must be released if they have not been restored within 60 days unless civil commitment proceedings have been initiated. For higher level offenses, the maximum restoration term is the maximum period of incarceration the defendant could receive if the defendant were convicted of the most serious offense charged (i.e. one year for a class A misdemeanor). Forensic examiners are required to keep the court updated on restoration efforts, starting with a progress toward competency evaluation within 90 to 135 days after receiving the court’s commitment order.

On receiving the initial progress report, the court must hold a hearing and determine whether the defendant is competent, incompetent with a substantial probability of restoration in the foreseeable future, or incompetent without a substantial probability of restoration. Competent defendants proceed with their criminal case. If a defendant is found incompetent without a substantial probability of restoration in the foreseeable future, the court must order the Defendant released from commitment to the Department unless the prosecutor informs the court that a civil commitment proceeding will be commenced within seven days of the court’s ruling. If a defendant is found incompetent with a substantial probability of restoration in the foreseeable future, the defendant may remain in the Department’s care. The court must schedule a review hearing at the earlier of the Department’s best estimate of restoration or 90 days.

If the court finds a defendant is still incompetent at that review hearing, the court must order the defendant released or temporarily detained pending civil commitment. There are only five offenses that are exempt and allow for competency restoration efforts to continue: aggravated murder, murder, attempted murder, manslaughter, or a first-degree felony. Even in those five situations, the court must find that the defendant is making “reasonable progress toward restoration” for the Department to continue restoration treatment and the court may only extend restoration efforts another nine months. At that point, only defendants charged with murder or aggravated murder may receive further restoration treatment from the Department for up to another 24 months. At that point, all defendants who are not competent must be ordered released or temporarily detained pending civil commitment proceedings.

Effective Date: May 8, 2018

Amends

62A-1-104; 62A-1-108.5; 77-15-1 through 77-15-7; 77-15-9.

Enacts

77-15-3.5

## **Misdemeanor Amendments**

### **SB20**

#### **Sen. Dan Thatcher**

This bill repeals a section of the Wildlife Resources Code which made it a misdemeanor to alter or change a government issued license, permit, tag, or certificate of registration “with intent to defraud.” The bill also amends 44 sections which identified offenses as a “misdemeanor” to a “class B misdemeanor.” Most significantly this bill creates a deadline for local governments, municipalities and counties, to specify the level of offenses in their criminal ordinances. “After June 30, 2019, an offense designated as a misdemeanor in a county or municipal ordinance without specification as to punishment or category is an infraction...”

Practice tip: The repeal of §23-20-27 should not have any impact on prosecutions of hunters who poach with fraudulent tags since altering a writing with purpose to defraud is still a third-degree felony under §76-6-501(2). If you represent a municipal or county legislative body, your entities have one year to review and update criminal ordinances before any unspecified misdemeanor becomes an infraction.

Effective Date: May 9, 2018 (except §76-3-104 which is June 30, 2019)

Amends: §§9-7-214, 9-9-211, 10-3-908, 11-1-6, 11-6-3, 13-10-6, 17-30-22, 17-43-308, 23-15-4, 30-1-11, 34-19-12, 34-28-4, 34-28-12, 34-29-1, 34-29-6, 34-29-20, 34-30-9, 34-32-3, 34-33-2, 34-34-17, 34A-2-108, 34A-2-803, 39-1-53, 39-7-113, 39-7-114, 39-7-115, 39-7-117, 42-3-5, 52-3-3, 53B-3-108, 53B-17-304, 53E-4-407, 54-3-21, 54-5-4, 56-1-12, 56-1-14, 56-1-16, 56-1-29, 63A-5-502, 71-10-3, 72-10-412, 76-3-104, 78A-2-411, 78A-6-111, and 78B-1-126.

Repeals §23-20-27

## **Public Safety and Firefighter Retirement Death Benefits**

### **SB 21**

#### **Sen. Mayne**

Additional options are now available for the surviving spouse of a public safety officer or firefighter; the current benefit remains, with additional options based on whether the death occurred in the line of duty, and the number of years of service credit the member has.

Effective Date: July 1, 2018

Amends

49-14-501, 49-14-502, 49-15-502, 49-16-501

## **Local Government Indigent Defense Requirement**

### **SB 24**

**Sen. Daniel W. Thatcher**

This bill requires local governments to attach, for each ordinance that passes, a statement indicating that the municipality is required to provide for indigent legal defense when a penalty for a violation of the ordinance includes any possibility of imprisonment.

Effective Date: May 8, 2018

Amends

10-3-704, 17-53-223

## **Campaign Finance Amendments**

### **SB26**

**Sen. Harper, W.**

This bill modifies the deadline by which state office candidates must report receipt of certain contributions or public service assistance or dispose of anonymous contributions. It also modifies the expenditure threshold for requiring county political parties to file financial statements and changes the penalties for county political parties failing to file a required financial statement. The bill modifies and enacts financial requirements for political action committees, political issues committees, and politically active corporations. It modifies reporting requirements for school board office candidates and changes reporting requirements for independent expenditures.

Effective Date: May 8, 2018

Amends

20A-11-201; 20A-11-301; 20A-11-401; 20A-11-510; 20A-11-511; 20A-11-512; 20A-11-601; 20A-11-602; 20A-11-704; 20A-11-705; 20A-11-801; 20A-11-802; 20A-11-803; 20A-11-1005; 20A-11-1301; 20A-11-1502; 20A-11-1703; 20A-11-1704; 20A-12-303

## **Relationship Violence and Offenses Amendments**

### **SB27**

**Sen. Todd Weiler**

This is a comprehensive bill covering a significant number of changes and revisions to issues related to domestic violence, protective orders and civil stalking injunctions. All prosecutors need to read this bill! In summary, here are some highlights of the changes:

- (1) Law enforcement duties are outlined with respect to responding to allegations of stalking and dating violence. The duties afford crime victims of these offenses the same protection and notice as previously outlined for domestic violence cases.
- (2) Allows for respondent to be present through video conference to participate in protective order hearings.
- (3) Provides limitations on courts issuing mutual civil stalking injunctions and protective orders to restrict orders being issued *against* persons who have an

- order issued previously against the subsequent petitioner, restrict orders being issued unless a separate filing and hearing occurred, and restrict orders being issued unless done so with findings made by the originating issuing judge – or at least a showing that the originating judge could not hear the matter or had been consulted previous to the subsequent judge issuing the order.
- (4) Expands list of potential domestic violence related offenses.
  - (5) Redefines “Married and living together” and “Separated” to mean a couple, not a “man and a woman” as previously defined.
  - (6) Provides for the return of any confiscated weapon if a civil stalking injunction or protective order is not issued or is terminated.
  - (7) Redefines under the definition of cohabitant,
    - a. the relation of “by blood or marriage to the other party” to only include “the person’s parent, grandparent, sibling, or any other person related by consanguinity or affinity to the second degree”,
    - b. adds the relational category of: “is or was in a consensual sexual relationship with the other party”
  - (8) Expands the courts ability to issue protective orders or modifications, exparte, based upon a “substantial likelihood domestic violence or abuse will occur.
  - (9) Provisions within a protective order are revised:
    - a. Moves the harassment prohibition from the contact provision to the threats of abuse provision.
    - b. Includes “or any designated family or household member” language to the contact provision and stay away provisions “within a specified distance”.
    - c. Allows the court to govern a respondent’s contact with petitioner at respondent’s school, employment or place of worship if that location is mutually attended by the parties. The court cannot exclude respondent from those locations.
  - (10)Dismissals of protective orders upon entry of the decree of divorce must now be preceded by the respondent filing a motion in both the divorce and protective order cases and petitioner being personally served. Dismissal remains dependent on the court finding that the petitioner no long has a reasonable fear of future harm or abuse in consideration of the unchanged factors outlined in subsequent provisions.

Prosecutors will need to review this bill as the changes impact multiple statutes in more ways and details than as summarized. Training of law enforcement will need to occur as appropriate.

Effective Date: May 8, 2018



Amends

57-22-5.1, 76-5-106.5, 76-5-108, 77-36-1, 77-36-2.1, 78B-7-102, 78B-7-105 through 109, 78B-7-115

Enacts

77-3a-101.1, 78B-7-115.5, 78B-7-408 and 409

### **County Listing of Local Government and Limited Purpose Entities (helping Google, Part 2)**

#### **SB 29**

**Sen. Henderson**

Hello Counties. You know all of that information the Lt. Governor is collecting from everyone? (SB 28) For all of those entities within your county you get to post it on your website beginning July 1, 2019 (the same date all the information is due to the State. It does not say your county needs to post your own information).

Effective Date: July 1, 2018

Enacts

17-15-31

### **Aggravated Murder Amendments**

#### **SB30**

**Sen. Karen Mayne**

In this bill the grounds for enhancing a murder offense to aggravated murder was revised to clarify that

The Criminal Code Evaluation Task Force is created through this legislation and tasked to review the criminal code and make recommendations regarding the proper classification of crimes by degrees of felony and misdemeanor.

This bill requires no additional action by local government.

Effective Date: May 8, 2018, except the amendments to Section 76-5-202 take effect on July 1, 2019.

Amends

76-5-202

Enacts

36-29-103

### **DNA Amendments**

#### **SB 33**

This bill corrects fees collected by sheriff for obtaining a DNA specimen and repeals language regarding when postconviction testing of DNA may be requested.

**Sen. Lyle W.  
Hillyard**

The fee is now \$150 instead of \$100 for obtaining a DNA specimen.

The subsection that restricted the ability to order DNA testing if DNA testing was available at the time of trial has been removed.

Effective Date: May 8, 2018

Amends §§17-22-20.5, 53-10-407, and 78B-9-301

**Legislative Water Development Commission**

**SB 34**

**Sen. Margaret  
Dayton**

Removes the repeal date for the State Water Development Commission. The continuation of this commission impacts local governments insofar as the commission makes decisions regarding the state's role in meeting the water needs of municipalities and industrial sectors. In addition, the commission has a role in establishing criteria for water data and data reporting and establishing conservation targets based on that data.

Effective Date: May 8, 2018

Amends

63I-1-273; 73-27-103

**Local Option Sales and Use Tax Distribution Formula Amendments**

**SB 36**

**Sen. Howard  
Stephenson**

Removes requirement that counties/cities/towns receive between .75% - 1% of sales and use tax revenues collected within the boundaries of the county/city/town. Counties/cities/towns who in FY 2012-13 received a tax revenue distribution equal to the total amount of tax revenue received from local sales and use tax for FY 2004-05 will receive the greater of either 50% of each dollar collected from the sales and use tax or the total amount of tax revenue received from local sales and use tax for FY 2004-05. The aforementioned counties/cities/towns may impose a local sales and use tax until no later than June 30, 2030.

Effective Date: May 8, 2018

Amends

59-12-205; 59-12-302; 59-12-354; 59-12-403; 59-12-603; 59-12-703; 59-12-802; 59-12-804; 59-12-1102; 59-12-1302; 59-12-402; 59-12-2103; 59-12-2206

**Sales and Use Tax Exemption Amendments**

**SB37**

**Sen. Stephenson, H.**

This bill eliminates the requirement that the resale occur in this state for the "purchase for resale" exemption to apply for sales and use tax. Curiously, the fiscal note indicated there would be no fiscal impact.

Effective Date: Retrospective to January 1, 2018

Amends

59-12-10

### **Local Elected Officer Amendments**

**SB38**

**Sen. Thatcher,  
Daniel**

This bill provides for the removal of elected county officers in the event of mental incapacity. The procedures set forth in the bill may be utilized by a county only if the county legislative body adopts the provisions of the bill by ordinance, with no additions, deletions, or modifications. The procedures also may apply only in counties where the legislative body consists of at least five members.

The procedure to remove an elected official generally may proceed as follows:

First, the county legislative body must hold a closed meeting to (i) discuss whether the subject officer has the mental capacity to fulfill the essential functions of the office, with or without reasonable accommodation, and (ii) give the subject officer an opportunity to discuss the officer's mental capacity to fulfill the essential functions of the office and any reasonable accommodation that might enable the subject officer to continue to function in the applicable office. The officer may bring one individual to the meeting to assist the officer in the discussion.

Second, if the county legislative body reaches a unanimous preliminary conclusion that the officer lacks the mental capacity to fulfill the essential functions of the applicable office, with or without reasonable accommodation, the county legislative body shall confidentially inform the officer of the vote and permit the officer five calendar days to either resign from office or agree to undergo a mental capacity evaluation at the expense of the county and sign a waiver to disclose the results of that evaluation to the county legislative body. If, on the other hand, the county legislative body does not reach a unanimous preliminary conclusion regarding the officer's mental capacity, the legislative body shall publicly announce that the vote failed, without disclosing the number of votes for or against and without disclosing the vote of individual members of the body and provide any necessary reasonable accommodations.

Third, if the subject officer agrees to undergo a mental capacity evaluation, the legislative body and the subject officer shall agree to a qualified medical professional to conduct the evaluation, and the officer shall undergo the evaluation within 15 calendar days. If the evaluator determines the officer has sufficient mental capacity, the legislative body shall provide any necessary reasonable accommodations and the matter will be closed. If, on the other hand, the evaluator concludes the officer lacks the mental capacity to fulfill the essential functions of the office, with or without reasonable accommodation, the officer "may resign from office," and, if the officer does not resign, the county legislative body may, in an open meeting by unanimous vote, vote to remove the officer from the office.

Fourth, if the subject officer does not agree to undergo a mental capacity evaluation, the county legislative body may file an action against the officer in a district court for an order to undergo a mental capacity evaluation if the legislative body unanimously concludes that the officer lacks the mental capacity to fulfill the essential functions of the office and the county has already complied with the foregoing requirements. In that event, the court “shall order the subject officer to undergo a mental capacity evaluation by a qualified medical professional appointed by the court, and shall provide only the results of the mental capacity evaluation to the county legislative body, if the court finds that there is reasonable cause to believe the officer may lack the mental capacity to fulfill the essential functions of the office, with or without reasonable accommodations.” If the court and evaluator conclude the officer lacks the requisite mental capacity, and the officer does not resign from office within five calendar days, the county legislative body may, in an open meeting by unanimous vote, remove the subject officer from the office. If, on the other hand, the court evaluator concludes that the subject officer has the requisite mental capacity, the county legislative body shall provide any necessary reasonable accommodations and “the court shall order the county legislative body to pay the court costs and reasonable attorney fees of the officer.”

Last, the court may order sanctions against a county legislative body “if the court finds by clear and convincing evidence that the county legislative body filed or pursued the action in bad faith.”

Effective Date: May 8, 2018

Enacts

20A-1-901 through 20A-1-904.

### **Worker’s Compensation Dependent Benefit Amendment**

**SB 40**

**Sen. Karen Mayne**

If, in the past, you were eligible to receive certain worker’s compensation benefits, it could include \$5 for a spouse and \$5 for each dependent child (under the age of 18 and up to four children). You are now eligible to receive \$20 in each of those circumstances.

Effective Date: July 1, 2018

Amends:

34A-2-410, 34A-2-411, 34A-2-412, 34A-2-413

### **Impoundment of Motor Vehicle Amendments**

**SB44**

**Sen. Lincoln  
Fillmore**

This bill modifies another bill from 2017, and clarifies situations when officers have discretion to impound vehicles that are being operated without insurance. The officer has discretion to impound the vehicle after determining whether public safety may be jeopardized by doing so.

Effective Date: May 8, 2018

Amends

41-1a-1101

### **Water Law Amendments – Diligence Claims**

#### **SB 45**

**Sen. Margaret  
Dayton**

When a diligence claim is filed, the state engineer must include in his or her report an evaluation of the asserted beneficial uses as they existed at the time of the claimed priority date, specifically identifying any portion of the claim that was not placed to beneficial use in accordance with law.

Effective Date: May 8, 2018

Amends

73-5-13

### **Motor Vehicle Registration Amendments**

#### **SB55**

**Sen. Wayne Harper**

This bill requires courts to waive the fine for violation of failing to properly display a license plate with the proper registration decals if the driver shows that the vehicle was registered at the time of the offense, and within 21 days provides evidence that the license plate and decals are now in compliance with the code.

Effective Date: May 8, 2018

Amends

41-1a-402

### **Vehicle Platooning Amendments**

#### **SB56**

**Sen. Wayne Harper**

This bill defines “connected platooning system” and adds them to the vehicles that are exempt from the following too close provisions of the code.

Effective Date: May 8, 2018

Amends

41-6a-711

### **Police Service Animal Amendments**

#### **SB 57**

**Sen. Jani Iwamoto**

This bill enhances the penalties for intentionally or knowingly causing death or injury to a police service canine. It is now a second-degree felony to intentionally or knowingly cause death to a police service canine. It is a third-degree felony to intentionally or knowingly cause injury to a police service canine.

This bill also removes a section that would make an individual culpable as a party.

Effective Date: May 8, 2018

Amends §76-9-306

### **Failure to Appear Amendments**

#### **SB 58**

**Sen. Dan Thatcher**

This bill repeals Section 77-7-22 which provided that an individual is guilty of a class B misdemeanor for failure to appear before a court after being issued a citation requiring appearance for a misdemeanor or infraction charge.

Effective Date: May 8, 2018

Amends: §§41-22-16, 73-18-20, and 73-18a-15.

Repeals §77-7-22

### **Theft Amendments**

#### **SB 59**

**Sen. Dan Thatcher**

This bill removes certain provisions relating to circumstances when theft is classified as a third-degree felony. The section that made theft a third-degree felony if the actor had been twice before convicted of theft or fraud offenses if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current convictions is based and the value of the property stolen is or exceeds \$500 but is less than \$1,500 has been removed.

Effective Date: May 8, 2018

Amends §76-6-412

### **Water Rights Adjudication Amendments**

#### **SB 61**

**Sen. Margaret  
Dayton**

In general adjudication of water rights, the state engineer may prepare and file with the district court addenda to any proposed determinations so long as he or she gives notice to each owner of record of a perfected water right, according to the state engineer's records, and holds a public meeting. It does not require notice to the claimants in the adjudication.

Effective Date: May 8, 2018

Amends

73-4-4; 73-4-9; 73-4-11; 73-5-13

### **Expungement Amendments**

#### **SB 62**

This bill addresses expungement fines and fees; addresses expungement and previous or pending infractions, traffic offenses, or minor regulatory offenses;

**Sen. Todd Weiler**

provides for a certificate of eligibility if certain conditions are met after a case is dismissed without prejudice or condition; addresses when the court shall issue an order of expungement; and provides for applying for a certificate of eligibility after a petition for expungement is denied.

A person may apply for a certificate of eligibility, subject to certain conditions. A new condition requires that the entire case be dismissed without prejudice or without condition and the prosecutor consents in writing to the issuance of a certificate of eligibility or at least 180 days have passed since the day on which the case was dismissed.

If the court denies a petition because the prosecutor intends to re-file charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not filed within 180 days of the day on which the court denies the petition.

A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to re-file the case.

The bureau may not count pending or previous infractions, traffic offenses, or minor regulatory offenses when determining expungement eligibility.

Effective Date: May 8, 2018

Amends: §§77-40-104, 77-40-105, and 77-40-107.

**Charity Registration Amendments**

**SB 63**

**Sen. Daniel  
Hemmert**

Think twice before you start a “GoFundMe” account to pay off your student loans. This bill amends Utah’s Charitable Solicitations Act. The Act already requires charitable organizations to register with the Division of Consumer Protection of the Department of Commerce. A “charitable organization” includes any person or entity who solicits or obtains contributions for a charitable purpose. Three new exemptions from the registration requirement have been added: a solicitation in an obituary (i.e. “in lieu of flowers...”), a solicitation made exclusively to a family member, and a solicitation for the relief or benefit of another if all contributions after actual costs are forwarded to the recipient and nobody is paid for fund-raising.

Also under this bill, the requirement on all exempt charitable campaigns helping a named individual to file a written notice with the Division has been increased from a \$1,000 to a \$5,000 thresh-hold. So, if your GoFundMe is successful, the Division of Consumer Protection should know about it.

Practice pointer: Any person who willfully violates any provision of the Charitable Solicitations Act is guilty of a separate class B misdemeanor for each day the violation is committed or permitted to continue. See Utah Code §13-22-4(1).

Effective Date: March 19, 2018

Amends: §§13-22-2, 13-22-5, 13-22-8, 13-22-9, and 13-22-21

### **Workers' Compensation Health Care Amendments**

**SB64**

**Sen. Mayne, Karen**

This bill modifies the composition and duties of the Workers' Compensation Advisory Council by adding one hospital representative to the non-voting members of the Council. The duties of the Council still generally charge it with finding ways to reduce hospital costs for purposes of medical benefits for workers' compensation, but the bill identifies numerous areas the Council is instructed to study to meet that charge. Perhaps in light of the additional areas of inquiry, the bill also delays the Council's required reporting of its findings from November 30, 2017, to three reports submitted by no later than September 1, 2019, September 1, 2020, and September 1, 2021. For each of the required reports, the bill allocates to the Council up to \$50,000 to hire consultants to assist with the reports.

The bill also lowers the reimbursement rate for hospitals in counties of the first, second, and third classes from 85% to 75% of the billed hospital fees if there is no reimbursement contract in place with the hospital under 34 A-2-407.

Effective Date: May 8, 2018

Amends

34A-2-107; 34A-2-407; 34A-2-705.

### **Child Neglect Amendments**

**SB 65**

**Sen. Lincoln  
Fillmore**

This is the so-called free-range parenting bill which legalized behavior that was already legal. Now, for the purposes of the Juvenile Court Act, neglect does not include "permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including..." going to school, businesses, and rec centers; playing outside; remaining in a vehicle when allowed by the criminal code; and staying home unattended.

Practice Pointer: The definition of neglect is not the same in the Criminal Code as it is in the Juvenile Court Act. For criminal prosecutions of child abuse and neglect, look to §§76-6-109 and 110. For child welfare cases involving neglect, DCFS should look at §78A-6-105(35). Don't allow a criminal defense attorney to get away with mix and matching definitions from different titles. This new "free-range" exception to neglect is statutorily limited to the Juvenile Court Act.



Effective Date: May 9, 2018

Amends: §§62A-4a-403, 62A-4a-409, 78A-6-105, 78A-6-302, 78A-6-306, and 78A-6-312.

### **Emergency Vehicle Operator Duty of Care Amendments**

**SB66**

**Sen. Anderegg**

This bill revolves around emergency vehicle pursuits, policies governing those pursuits, and the liability created by such pursuits. Each agency must have a written policy that describes the manner and circumstances in which an operator of an emergency vehicle shall engage, conduct, and terminate a vehicle pursuit. This written policy must conform to the minimum standards established by the Department of Public Safety. This bill also puts the burden on the head of any law enforcement agency to evaluate any vehicle pursuit which results in injury or property damage and to determine if the operator was in compliance with the agency's policies. Additionally, the head of the law enforcement agency must document and "appropriately remedy" through agency administrative action any violations of the written policy. These documents will also be subject to the provisions of GRAMA. In short, agencies must have vehicle pursuit policies and those policies, at a minimum, must conform to that of the standards set out by DPS. If you are an officer, follow that written policy or bad things will happen to your employment status, not to mention you may be personally liable for the injury or damage caused.

Effective Date: May 8, 2018

Amends

41-6a-212

### **Voter Privacy Amendments**

**SB 74**

**Sen. Karen Mayne**

This bill amends a clause in the voter registration form and now allows a voter to request that their voting registration be classified as a private record. This request for a private voting record will also be added to the driver license registration/renewal form. Additionally, this bill allows certain qualified officials to obtain only a voter's month and year of birth from the list of registered voters instead of a voter's entire date of birth. This information may only be used for a political purpose, and the qualified person using the information must sign a document indicating the purpose for obtaining a voter's month or year of birth while also verifying that it will be used pursuant to additional requirements. While a record may be made private, government entities may disclose private records to another government entity for voter registration or the administration of an election.

Effective Date: May 8, 2018

Amends: §§ 20A-2-104, 20A-2-108, 20A-2-306, 20A-6-105, 63G-2-202, and 20A-2-104 (Affected by Coordination Clause)

### **Judiciary Amendments**

**SB 79**

**Sen. Lyle Hillyard**

This bill amends several provisions related to the judiciary. Judgments under \$10,000 in actions for goods and services will bear 10% interest from the time the court enters judgment plus the federal post judgment interest rate that is in effect on January 1 of the year that the judgment is entered.

A driver cited for lack of security (insurance) may, as an affirmative defense, mail or electronically submit to the clerk of the court evidence or a written statement from an insurance company verifying the existence of insurance.

A plea in abeyance for misdemeanors may not be held for a period longer than 18 months or longer than three years for any felony or combination of misdemeanors and felonies. Despite this, a plea in abeyance may be held for up to two years if the plea is for a misdemeanor and includes a condition that the defendant must participate in a problem-solving court approved by the Judicial Council.

This bill removes the requirement that the prosecutor or attorney for the state must sign the indictment. Instead, the indictment need only be signed by the foreman of the grand jury and returned to the managing judge in open court. The clerk will then file the indictment.

Courts are closed on Sundays, any day a regular general election is held, and on legal holidays. Business on those days are restricted to giving instructions to a jury when deliberating on the jury's verdict, to receive a verdict or discharge a jury, criminal proceedings, and non-trial proceedings unless the judge finds it necessary in the interest of justice.

When an interlocal agreement that caused a justice court to become part of an expanded court terminates, a justice court that desires to continue operating must give the Judicial Council at least 90 days notification of intent to operate and demonstrate compliance with operating standards. If the Judicial Council determines that a justice court will not be compliance with operating standards, then the justice court will continue operations until the Judicial Council is satisfied it is complying or until the justice court is dissolved. When the interlocal agreement included a municipality or county that did not have a justice court at the time the interlocal agreement was created, the municipality or county must notify the Judicial Council at least 180 days before termination of the agreement that it plans to resume adjudicating offenses. In such cases, the Judicial Council may require the expanded justice court to continue operating until it is satisfied that the municipality's or county's caseload will be subsumed by another justice court.

Unsworn written declarations are now made pursuant to the Utah Supreme Court rules of procedure or evidence.

A party to the adoption petition can request that the court close the hearing to the public. If it is granted, only certain individuals will be allowed to attend, and the adoption document and any other documents filed relating to the petition for adoption will be sealed. Sealed documents may be inspected and copied by certain individuals or in specified timeframes.

Finally, this bill permits courts to authorize service of summons by publication or mail in accordance with the Utah Rules of Civil Procedure and no longer has a “for cause” provision. Service by publication is complete one week after publication and service by mail is complete three days after mailing.

Effective Date: May 8, 2018

Amends: §§15-1-4, 41-2A-303.2, 77-2a-2, 77-10a-14, 78A-2-212, 78A-7-102, 78B-5-705, 78B-6-141, and 78B-6-807.

### **Children’s Justice Center Program**

#### **SB 81**

**Sen. Ralph  
Okerlund**

The Children’s Justice Center Program provides comprehensive intergovernmental response to child abuse victims. This bill requires the attorney general to establish a Children’s Justice Center in Juab County.

Effective Date: May 8, 2018

Amends §67-5b-102

### **Financial Exploitation of Vulnerable Adults**

#### **SB 88**

**Sen. Ralph  
Okerlund**

This bill is designed to protect both adults who have mental or physical impairments which affect their day-to-day abilities and individuals over 65 from financial exploitation. If a financial manager believes that a person has or has attempted to financially exploit a vulnerable adult, the financial manager must immediately notify the division and Adult Protective Services, and they may notify a person allowed to receive notifications for the vulnerable adult unless that person is suspected of engaging in the financial exploitation. A financial manager who notifies, in good faith, a third party, the division, or Adult Protective Services, is immune from liability.

Moreover, a broker dealer or an investment adviser may delay a transaction if they suspect the transaction will financially exploit a vulnerable adult. Any delay must be accompanied by an internal review of the transaction and a written notice of the delay must be provided to authorized parties within two business days. Any delay will expire if it is determined that the transaction would not be financially exploitive or 15 days after the initial delay. However, the delay may be extended if an internal review supports a reasonable belief that a vulnerable adult has been exploited or if a court so determines.

Finally, adult Protective Services and law enforcement must be provided access to any records that are relevant to the suspected financial exploitation. However, any record provided is a protected record.

Effective Date: May 8, 2018

Amends §63G-2-305

Enacts: §§61-1-201 through 61-1-206

### **Board of Pardons Authority**

**SB89**

**Sen. Thatcher**

Clarifies that the Board of Pardons and Parole have the authority to determine by majority decision which conviction may be pardoned or commuted, excluding treason or impeachment.

Effective Date: 2/20/18

Amends

77-27-5; 77-27-9

### **Hit and Run Penalties Amendments**

**SB90**

**Sen. Daniel Thatcher**

This bill first creates a definition of “knowledge” or “with knowledge” when it comes to hit and run offenses. It then differentiates the penalties in cases where someone acts with knowledge from those where the driver simply has reason to believe they were in an accident and does not comply with the law for reporting. If a driver only has reason to believe they were in an accident, the penalty will be a class C misdemeanor. If a driver violates this provision having knowledge they were in an accident, the penalty will be a class B misdemeanor.

Effective Date: May 8, 2018

Amends

41-6a-401

### **Voting Amendments**

**SB94**

**Sen. Margaret  
Dayton**

Consolidates definitions by removing the definition of “counting poll watcher”, “inspecting poll watcher”, and “voting poll watcher”, and modifying the definition of “watcher”;

Creates a process for an individual to register as a watcher;

Designates activities in which a watcher may engage;

Prohibits a watcher from taking certain actions;

Permits an election officer to take certain actions with regard to a watcher;

Establishes criminal penalties;

Modifies deadlines related to the challenge of an individual’s eligibility to vote;

Removes obsolete ballot perforation and ballot stub provisions;

Modifies requirements for using a voting center ballot;  
Modifies provisions relating to curing an invalid absentee ballot.

Effective Date: May 8, 2018

Amends

20A-1-102, 20A-1-607, 20A-3-202, 20A-3-202.3, 20A-3-202.5, 20A-3-203, 20A-3-308, 20A-3-702, 20A-4-101, 20A-4-102, 20A-4-104, 20A-4-202, 20A-5-302, 20A-5-406, 20A-6-102, 20A-6-301, 20A-6-401, 20A-6-401.1, 20A-6-402, 20A-9-404, 201-9-406

Repeals and reenacts

20A-3-201

Repeals

20A-15-105, 20A-3-202, 20A-3-202.3

### **Driving Without Insurance Amendments**

**SB97**

**Sen. Daniel Thatcher**

This bill amends the penalties for driving without insurance or driving without evidence of security. Previous legislation had made each of these offenses an infraction. This bill allows for a first offense to remain an infraction, but any subsequent offense within three years to be a class C misdemeanor. The financial penalties remain the same, however this bill reinstates the discretion of the court to waive up to \$300 of the fine if the defendant provides proof that the vehicle has been properly insured after the offense, and before sentencing.

Effective Date: May 8, 2018

Amends

41-12a-303.2

### **Tax Amendments**

**SB101**

**Sen. Fillmore, L.**

This bill is seemingly in response to media reporting that Real Salt Lake's Rio Tinto Stadium received a significant downward property tax valuation adjustment. The bill requires that a proposed valuation adjustment by a county board of equalization that would result in a valuation that is different from the original assessed valuation by at least 20% and \$1,000,000 needs to be listed as a separate item on the public hearing agenda along with a description of the property.

Effective Date: May 8, 2018

Amends

59-2-1004

### **Crime Statistics Reporting Amendments**

#### **SB 105**

**Sen. Don L. Ipson**

This bill makes information of victims and law enforcement officers withheld and undisclosed to statewide uniform crime reporting system. Additionally, law enforcement agencies must submit information in the statewide uniform crime reporting system to the Bureau of Criminal Identification before the 16th day of the month after the month the reported crime occurred. Submitted information must comply with FBI and BCI requirements. BCI may request that law enforcement agencies review and verify crime reporting data. In such an instance, law enforcement agencies have 10 business days to comply.

Effective Date: May 8, 2018

Amends §53-10-205

### **Court Records Amendments**

#### **SB 106**

**Sen. Dan Thatcher**

This bill provides for delinking personal information from court records under certain circumstances. A person whose criminal case is dismissed may move the court for an order to remove the link between the person's personal identifying information from the dismissed case from any publicly searchable database if 30 days have passed since the dismissal, an appeal has not been filed within 30 days, and no charge in the case was a domestic violence offense.

This bill only affects court records, not a prosecuting agency's or a law enforcement agency's records. A case history, unless expunged, will still be accessible.

Effective Date: July 1, 2018

Enacts §77-40-104.1

### **Third District Court Judge**

#### **SB 107**

**Sen. Lyle Hillyard**

This bill adds one judge to the Third District Court (now 29 instead of 28).

Effective Date: May 8, 2018

Amends §78A-1-103

### **Disposal of County Property Amendments**

#### **SB114**

**Sen. Harper, W.**

The bill significantly amends the current statute regulating the disposal of real or personal property owned by a county to include additional provisions relating to the disposal of real property. Specifically, it permits a county to sell or lease a significant parcel of real property for less than present fair market value if the "adjusted present value" is equal to or greater than the present fair market value.

“Adjusted present value” is defined as the offered price plus the “anticipated future value” which is the value of “reasonably anticipated future benefits to a county” stemming from the disposal of the real property including increased tax revenue and job creation. “Anticipated present value” does not include the present fair market value of the real property.

The bill also permits counties to refuse to consider unsolicited offers to purchase or lease property, to require that potential purchasers prove intent and ability to purchase, and to require potential purchasers to provide evidence that the anticipated benefits to the county resulting from the sale or lease are reasonably anticipated.

Finally, the bill permits a county to presume that the present fair market value of real property is equal to the average of two independent appraisals.

Effective Date: May 8, 2018

Amends

17-50-312

### **Abortion Law Amendments**

## **SB 118**

**Sen. Todd Weiler**

This bill prohibits certain abortions outside of an abortion clinic or a hospital. Specifically, an abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

This bill also amends provisions relating to informed consent. Consent to an abortion is voluntary and informed only if: the pregnant woman is presented with an information module by a member of an abortion clinic or hospital; the pregnant woman viewed the entire information module and presented evidence that she viewed the entire module; and the hospital or clinic staff documented that the pregnant woman viewed the entire information module.

This bill requires the Department of Health to maintain a website with specified information; develop an information module with specified information; make rules and pursue administrative and legal remedies to ensure compliance with provisions of abortion law; and present the information module, or an update to the information module, to the Health and Human Services Interim Committee.

This bill removes the requirement for the Department of Health to create a brochure and an informational video and removes certain requirements regarding information that the physician or nurse must supply to the pregnant woman. Rather, this information will be included in the information module and website developed by the Department of Health.

This bill also creates a provision that allows the department to create a version of the information module and website that omits certain information (i.e., the legal

responsibility of the father of the child to assist in child support) for a viewer who is pregnant as the result of rape.

Finally, this bill establishes additional penalties for abortion clinics or physicians who violate an abortion law provision. These penalties range from class A misdemeanors to second degree felonies to administrative penalties.

Effective Date: May 8, 2018, except Section 58-67-304 is effective 7/1/18 and Sections 76-7-305, 76-7-313, and 76-7-314 are effective 1/1/19.

Amends: §§26-21-6.5, 58-67-304, 76-7-301, 76-7-302, 76-7-304, 76-7-304.5, 76-7-305, 76-7-305.5, 76-7-305.7, 76-7-313, and 76-7-314.

Repeals §76-7-305.6

### **Local Government Fees and Taxes Amendment**

#### **SB 120**

**Sen. Deidre M.  
Henderson**

This bill amends existing fee and tax law to add the following restriction: municipalities cannot impose a transportation utility fee on counties or charter cities. Thus, if your municipality normally charges utility customers a fee or tax that is used to maintain public roads, that fee or tax may no longer be assessed on properties owned by counties or charter cities (i.e., Tooele).

The primary changes are contained in § 11-26-301. The rest of the changes are to improve clarity, update internal references, and renumber existing sections.

Effective Date: May 8, 2018

Amends

72-7-102, 72-7-108, 11-26-201 (renumbered from 11-26-1), 11-26-202 (renumbered from 11-26-2)

Enacts

11-26-101, 11-26-301

### **Bond Elections Amendments**

#### **SB 122**

**Sen. Howard  
Stephenson**

Where a local political subdivision issues bonds approved by voters at an election, that political subdivision cannot receive from the issuance of those bonds an aggregate amount exceeding 2% of the maximum principal amount stated in the bond proposition.

Effective Date: January 1, 2019

Amends



## Child Welfare Amendments

### SB 125

SB 125 is a lengthy bill that addresses several areas of concern relating to children.

#### **Sen. Wayne Harper**

First—If school personnel have reason to believe that compulsory education requirements are not being met or that a child may be subject to educational neglect, along with other remedies, the matter should be reported to the Division of Child and Family Services using the legislatively prescribed format.

Second--When the State Department of Human Services or a division within the department obtains child pornography as a result of a report or an investigation, the department or division shall document by written description the child pornography in the appropriate case file and securely transfer the child pornography to the law enforcement office that has jurisdiction over the area where the case is located. The law enforcement office shall take custody and retain the child pornography as evidence, in accordance with UCA Section 24-2-103, and prohibit the distribution, release, or display of the child pornography, except to the following:

- (i) an individual to whom a court has granted access by court order,
- (ii) an investigator or supervisor if necessary for the investigation;
- (iii) an administrative law judge employed by the Department of Human Services, if necessary for an adjudication;
- (iv) an office of the city attorney, county attorney, district attorney, or attorney general, if necessary for prosecution
- (v) the guardian ad litem for the child who is the subject of the child pornography.

Third--When DCFS receives information that a child in the custody of the division is missing, has been abducted, or has run away; the procedures to be taken by the division are outlined.

Fourth---The bill outlines the process for obtaining a warrant to search for a child who is missing, has been abducted, or has run away from DCFS custody and the process that should be followed once such a warrant is issued including the custody, detention and disposition of the child once located.

Effective Date:

This bill takes effect on May 8, 2018, except that the amendments to Sections 78A-6-113 and 78A-6-117 take effect on July 1, 2018.

Amends

Many

Enacts

## **Cannabidiol Product Act**

### **SB130**

#### **Sen. Evan Vickers**

This is an expansive bill dealing with cannabidiol products intended for medical use. It amends only six current sections of the code but enacts 41 new sections of code. The implementation date for the amended statutes is May 8, 2018. However, nearly all of the newly enacted statutes go into effect on July 1, 2019 or on the date when the Department of Agriculture and Food receives a waiver from the federal government, whichever comes first. So, there is some ambiguity when these provisions could go into effect in the law, but no later than July 1, 2018.

This is an expansive law that cannot be summarized succinctly, and there are many intricacies and sections cross-referencing each other throughout. However, we will try to give a summary to help assist the commencement in learning about this bill.

The bill begins by defining certain terms. Importantly, a cannabidiol product is defined as a chemical compound extracted from a hemp product that meets the following: is processed into a medicinal dosage; and contains less than 0.3% THC by weight before processing and no more than a 10:1 cannabidiol to THC after processing.

The bill then directs the Department of Agriculture and Food to create and maintain a list of registered cannabidiol products and restricts the use and sale of cannabidiol products only to that list. The Department, along with DOPL and the Department of Financial Institutions, will create rules, pursuant to guidance in the legislation, for the cultivation, production, possession, and sale of cannabidiol products. They also will use that rule-making authority to govern the sales tax on the sale of these cannabidiol products. Most of this extensive bill involves the licensure, regulations, inspection, compliance, taxation, etc. for entities working in this business of cannabidiol products.

One thing to keep in mind, when the rubber hits the road on this legislation and these products begin to see the light of day, is that only cannabidiol products that are in “medicinal dosage form” qualify for the exemptions afforded by these new laws. Medicinal dosage form includes tablets, capsules, concentrated oil, liquid suspension, transdermal preparation, and sublingual preparation. No other form of cannabidiol product may be possessed. This bill also provides that a doctor may recommend the use by a patient of cannabidiol products but puts requirements in place if they do so. It exempts them from criminal liability based solely on the recommendation alone.

Finally, it is important to point out that this bill makes an amendment to the affirmative defenses in 41-6a-517, Driving with a Measurable Controlled Substance. Previously, the affirmative defenses were if the defendant involuntarily consumed the controlled substance, if the controlled substance was prescribed by a practitioner, or otherwise lawfully ingested. Defense attorneys would argue that their clients could utilize the affirmative defenses if it was either “lawfully” ingested in another state

where the consumption of marijuana was “legal,” or if they had been using it under the direction of a doctor in another state for medical purposes. These arguments failed legally, because nobody actually consumes marijuana legally in the United States. Federal law still prohibits marijuana as a Schedule I controlled substance, and even if Colorado or another state “legalizes” the drug recreationally in the state, it is still federally illegal to possess or use marijuana. Additionally, since marijuana has not been approved by the FDA to be prescribed, no person can utilize the affirmative defense of prescription. People obtain medical use cards, not prescriptions, for marijuana products. The amendment to this section of the code in this legislation extends the affirmative defense beyond simply prescriptions, but includes the language, “prescribed by a practitioner for use by the accused or recommended by a physician for use by the accused.” This change allows anyone with a recommendation from a physician to utilize a controlled substance to claim the affirmative defense, and really guts 41-6a-517 for purposes of marijuana. As described above, these cannabidiol products may contain small amounts of THC, so it is likely that we will not be able to utilize 41-6a-517 for marijuana cases involving people with a recommendation under this code, or any other medical use card for marijuana. This becomes a large shift in how cases need to be investigated and prosecuted. We need actual DUI investigations on these cases to prove impairment instead of simply going after what has historically been easier low hanging fruit with the 41-6a-517 conviction.

Effective Date: Generally, May 8, 2018; Many sections take effect on July 1, 2019, or whenever the Department of Agriculture and Food receives a federal waiver, whichever comes first.

#### Amends

4-41-101; 4-41-102; 41-6a-517; 58-37-3.6; 58-37f-203; 78A-6-508

#### Enacts

4-41-201; 4-41-202; 4-41-203; 4-41-204; 4-43-101; 4-43-102; 4-43-201; 4-43-202; 4-43-203; 4-43-301; 4-43-401; 4-43-402; 4-43-501; 4-43-502; 4-43-503; 4-43-601; 4-43-602; 4-43-701; 4-43-702; 4-43-703; 4-43-801; 26-62-101; 26-62-102; 26-62-103; 26-62-201; 26-62-202; 58-67-808; 58-68-808; 58-88-101; 58-88-102; 58-88-103; 58-88-104; 59-12-104.8; 59-29-101; 59-29-102; 59-29-103; 59-29-104; 59-29-105; 59-29-106; 59-29-107; 59-29-108

#### Code Sections Affected by Coordination Clause

58-37f-203

### **Amendments Relating to Government Records**

#### **SB137**

Clarifies that records of closed meetings are protected, but that the public body may reclassify the records under GRAMA. The State Records Committee may notify the

**Sen. Bramble**

Governor if any state agency fails to file a Notice of Compliance or Notice of Appeal, or they may fine the agency, or both.

Effective Date: 5/7/18

Amends

52-4-203; 52-4-206; 52-4-304; 63G-2-305; 63G-2-403

**Public-Private Partnership Amendments**

**SB 139**

**Sen. Wayne A.  
Harper**

This bill amends existing procurement rules such that private parties may approach public entities on an unsolicited basis to propose public-private partnerships related to infrastructure and certain health care issues. Public entities may impose fees and create rules for doing so. Public entities are not required to consider unsolicited proposals. Private parties may not use unsolicited proposals to affect or circumvent the traditional procurement process.

The primary changes are contained in § 63G-6a-712. The rest of the changes are to improve clarity, define terms, update internal references, and update GRAMA law to include unsolicited proposals.

Effective Date: May 8, 2018

Amends

63G-2-305

63G-6a-103

Enacts

63G-6a-712

**Security Funding Amendments**

**SB 151**

**Sen. Stuart Adams**

Currently the cost of providing security (bailiff and perimeter security) in our state courts is paid for by Counties and by surcharge revenue. Surcharge funds tend to be rather unstable and have varied greatly over the years. SB 151 allows legislative general fund money to be used to supplement existing funding in order to pay the cost of providing security in our courts. This year \$500,000 of general fund revenue was appropriated to supplement other court security funding. Further requests will be made in future years.

Effective Date:

May 8, 2018

Amends

78A-2-602

### **Prohibition of Law Enforcement Quotas**

**SB 154**

**Sen. Howard  
Stephenson**

This bill prohibits a political subdivision or law enforcement agency from requiring or directing a peace officer to meet an arrest or citation quota.

Effective Date: May 8, 2018

Enacts §77-7-27

### **Unclaimed Property Act Amendments**

**SB156**

**Sen. Hillyard**

Defines numerous terms, including payroll cards and stored-value cards as property, exempts a qualified tuition program (529 savings account) from being presumed abandoned within the set time allotted, and sets forth responsibilities and duties for the State Tax Commission regarding presumed abandoned property.

Effective Date: 5/7/18

Amends

31A-22-1903; 67-4a-102; 67-4a-201; 67-4a-204; 67-4a-503

### **Municipal Business Licensing**

**SB 158**

**Sen. Jacob L.  
Anderegg**

This bill is amended to prohibit municipalities from charging any fee for a resident of the municipality to operate a home-based business except under a previously listed exception. However, a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt but who requests a license from the municipality nonetheless. The municipality is required to give notice to the owner requesting such a license, however, of the home-based business exemption in any communication with the owner.

Effective Date: May 8, 2018

Amends

10-1-203

### **Cold Case Database**

**SB 160**

This bill provides that the Criminal Investigations and Technical Services Division of the Department of Public Safety will develop a secure database within the Utah Criminal Justice Information System that contains information related to each cold

**Sen. Todd Weiler**

case that is open in any jurisdiction in the state. A cold case is defined as an investigation into any crime listed in Subsections 76-1-301(2)(a) through (g) (offenses for which there are no statute of limitations) or regarding a missing person, that remains unsolved at least three years after the crime occurred or the individual went missing. The division shall adopt rules to specify the information to be collected and maintained in the database and what information may be accessed by the public.

Each law enforcement agency in the state shall provide the information required by the division for inclusion in the database for each open investigation. The law enforcement

agency shall maintain the physical evidence and investigation file for each case unless

otherwise agreed to by the law enforcement agency and the division.

Effective Date:

July 1, 2018

Amends

53-10-104

Enacts

53-10-115

**Food Truck Regulation Amendments**

**SB 167**

**Sen. Deidre  
Henderson**

Prohibits political subdivisions from requiring food truck operators to: pay a fee for each employee; demonstrate how the food truck operation complies with land use or zoning ordinances at the time of business license application; provide site plans for each location they intend to operate in the public right of way; or obtain and pay for land use permit for each location. Political subdivisions also cannot restrict the number of days a food truck may operate in a calendar year. Political subdivisions CAN require food truck operators to comply with local zoning and land use regulations.

Effective Date: May 8, 2018

Amends

11-56-103; 11-56-106

**Bicycle and Electric Assisted Bicycle Amendments**

**SB177**

**Sen. Todd Weiler**

Utah code prohibits the operation of a bicycle, a vehicle, or device propelled by human power on a sidewalk, path, trail, or across a roadway in a crosswalk, where prohibited by a traffic-control device or ordinance. This bill amends that provision

to make it only applicable to people 18 years of age or older. This bill also includes class 2 assisted bicycles in the open container laws. You may no longer consume alcohol or have an open container of alcohol while operating a class 2 electric assisted bicycle. For your reference, a class 2 electric assisted is an electric assisted bicycle equipped with a motor or electronics that may be used exclusively to propel the bicycle, and is not capable of providing assistance when the bicycle reaches speeds of 20 miles per hour.

Effective Date: May 8, 2018

Amends

41-6a-526; 41-6a-1106; 41-6a-1115.5

### **Interlocal Entities Amendments**

#### **SB178**

**Sen. Henderson, D.**

This bill amends the definition of a public body under the Open and Public Meetings Act to exclude a taxed interlocal entity which is an interlocal entity created before 1981 to provide wholesale electricity that is not exempt from paying taxes, does not receive state or federal grants, and has no taxing authority.

Effective Date: May 8, 2018

Amends

52-4-103

### **Offense Reduction Modifications**

#### **SB 180**

**Sen. Dan Thatcher**

This bill makes holding a coyote or raccoon in captivity, which was previously a class B misdemeanor, an infraction.

Effective Date: May 8, 2018

Amends §§4-23-111, 13-13-7, and 13-19-3.

### **Indigent Defense Amendments**

#### **SB 186**

**Sen. Todd Weiler**

This bill defines terms relating to the Utah Indigent Defense Commission. The Commission, rather than the governor, now has the duty to appoint one of the initial members to serve as the chair of the commission. The bill changes some of the duties of the commission's director, and it sets out the powers and duties of the commission: adopt, review, and audit compliance of minimum guidelines for an indigent defense system (conflict-free defense services, separate contract for each type of indigent defense service and conflict cases, and counsel with ability to make independent judgments at all critical stages and who has access to resources). The bill also creates an account consisting of money appropriated by the Legislature to carry out the Commission's purpose.

Effective Date: May 8, 2018.

Amends §§77-32-801 through 77-32-803

Enacts §77-32-801.5

Repeals §§77-32-808 through 77-32-810

### **Small Wireless Facilities Deployment Act**

#### **SB 189**

**Sen. Curtis S.  
Bramble**

This bill creates many new regulations governing small and micro wireless facility placements in Utah. It applies to all political subdivisions, which include the State, state agencies, counties, municipalities, towns, metrotownships, and divisions of the foregoing, as well as special service districts (public utility, irrigation, etc.). Given the scope, nuances, and exceptions in this legislation, you should read the full bill carefully to determine whether and how the regulations apply to your jurisdiction.

In sum, this new legislation allows wireless providers to deploy small and micro wireless facilities on utility poles in public right-of-ways. This will allow wireless companies to improve coverage for current and future wireless networks in areas that are not covered by macro towers. As a consequence, your jurisdiction may need to dedicate additional resources to reviewing applications, issuing permits, administering logistics, calculating and collecting fees, and creating and enforcing ordinances governing the permitting and installation process. Moreover, your jurisdiction cannot have exclusive collocation rules or agreements for small or micro wireless facilities.

Small wireless facilities are defined as fixed equipment that fits within 28 cubic feet. Micro wireless facilities are fixed equipment no larger than 1 x 1.25 x 2 feet. These facilities may be collocated on certain utility poles in right-of-ways. Utility poles include structures used for wireline communications, lighting, signage, traffic signals, and may also include poles use for electric distribution.

The bill allows political subdivisions to collect modest application and collocation fees. But the legislation also imposes a number of requirements and removes some discretion during the permitting process. Strict time frames are imposed; and failure to provide an adequate response results in automatic approval of the application.

You should consider creating an application process and perhaps drafting or amending any existing agreements, rules, or ordinances that govern small and micro wireless facilities. Be sure any such rules or agreements do not violate any provisions of this bill, because non-compliant ordinances and agreements will eventually be rendered unenforceable (even if they pre-dated this legislation).

Effective Date: September 1, 2018



Amends

72-6-116

Enacts

54-21-101 through 54-21-603

### **Oil and Gas Amendments**

#### **SB191**

**Sen. Okerlund, R.**

The State Board of Oil, Gas, and Mining is authorized to order the establishment of drilling units where owners pool their interests for the development and operation of the drilling unit. This bill authorizes the Board to make a pooling order retroactive and binding if no party to the board's proceeding objects and proper notice has been given. The order may be made effective retroactively to the date of first production of a well, even if the retroactive date predates the establishment of the drilling unit.

Effective Date: May 8, 2018

Amends

40-6-6.5

### **Persons with Disabilities Amendments**

#### **SB 193**

**Sen. Margaret  
Dayton**

This bill adds provisions that, if shown, establishes a sexual act was done without the consent of the victim: the actor knows or reasonably should know that the victim has a mental disease or defect which renders the victim unable to: resist the act, understand the possible consequences of the victim's health or safety, or appraise the nature of the relationship between the actor and the victim.

Effective Date: May 8, 2018.

Amends §76-5-406

### **Homeless Identification Documents**

#### **SB196**

**Sen. Christensen,  
A.**

This bill waives fees to obtain certain documents for an individual who is homeless. It requires the Utah Department of Health & Human Services to waive a fee that is normally charged for birth certificate for persons who are homeless. The Department shall verify the requestor's status by written verification from a shelter, housing authority, DWS, or a facility that serves someone with data maintained on the Homeless Management Information System.

This bill also prohibits charging an individual a fee for an identification card and an extension of an ID card if the individual has submitted written verification that she is homeless.

Effective Date:

May 8, 2018

Amends

53-3-105

Enacts

26-2-12.6

### **Public School Disciplinary Action Amendments**

**SB198**

**Sen. Anderegg**

Enacts 53E-3-516, providing definitions and requiring the State Board of Education to create an annual report regarding specific incidents that occur at school or during school related activities with a list of information to disclose in the report. This annual reporting is set to begin July 1, 2020.

Effective Date: 5/7/18

### **Utah Protecting of Public Employees Act**

**SB199**

**Sen. Iwamoto**

This bill provides an exemption under the Utah Protection of Public Employees Act from certain requirements of the Governmental Immunity Act of Utah and includes the Office of Legislative Auditor General as an entity an employee may contact regarding wrongful governmental conduct. "Independent personnel board" is defined for state institution of higher education, and requirements and timing deadlines for hearing complaints are established. An exemption to the 180-day time limit for bringing an action is provided and when an employer has to provide an employee with a copy of this chapter is broadened to include when the employee is hired, upon request by the employee and when the employee files a grievance under Chapter 67.

Effective Date: 5/7/18

Amends

63G-7-203; 67-21-3; 67-21-3.7; 67-21-4; 67-21-9

### **Termination of Parental Rights Amendments**

**SB203**

**Sen. Todd Weiler**

Clarifies the roles of the attorney general and the guardian ad litem regarding the termination of parental rights when a child is in the custody of the Division of Child and Family Services;  
Clarifies the right to appointed counsel when an indigent parent's parental rights

may be terminated in a private action;

Requires the state to pay the cost for appointed counsel when an indigent parent's parental rights may be terminated in a private action;

Requires that a parent whose parental rights may be terminated in a private action be given notice of the right to appointed counsel if the court determines that the parent is indigent.

Effective Date: May 8, 2018

Amends

62A-4a-113, 78A-6-115, 78A-6-314, 78A-6-506, 78A-6-902, 78A-6-1111, 78B-6-110, 78B-6-112

### **Incarceration Reports**

## **SB205**

**Sen. Weiler, Todd**

This bill requires the Department of Corrections and all county jails throughout the state to report to the Commission on Criminal and the Juvenile Justice (CCJJ) regarding in-custody inmate deaths, treatment policies for inmates with substance or alcohol addiction, and medications (if any) dispensed to an inmate during incarceration. "Inmate" is defined to include "an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail," and "in-custody death" means any "inmate death that occurs while the inmate is in custody of the department," including a death that occurs while the inmate is being transported for medical care or receiving medical care outside a correctional facility other than a county jail.

Of relevance here, each year, on or before August 1, a county jail must submit a report to CCJJ showing: the number of in-custody deaths that occurred during the preceding calendar year; the known, or discoverable on reasonable inquiry, causes and contributing factors for each of the in-custody deaths; the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death; and the jail's policies, procedures, and protocols for treatment of an inmate experiencing withdrawal from alcohol or substance use, including opiates, or relating to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone. Each jail must also provide a copy of any report the jail provides or is required to provide under federal law or regulation relating to inmate deaths.

CCJJ will compile the information from all reports, omitting or rejecting any identifying information of an inmate in compliance with state or federal law, and will submit that compilation to the Law Enforcement and criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council on or before November 1 of each year.

In addition, the Utah Substance Use and Mental Health Advisory Council is instructed to convene a work group to study substance use treatment in county jails, which workgroup will include diverse individuals including representatives from, inter alia, the Utah Sheriffs' Association, UAC, UACDL, SWAP, and "a district attorney or county attorney actively engaged in the practice of civil or constitutional law from" a county of the first class (1 member) and a county of the second, third, fourth, fifth, or sixth class (1 member).

Practice tip: The intention here was not to require the production of information that would qualify as Protected Health Information (PHI) under HIPAA. Due to the small number of inmate deaths annually in each of the county jails, however, CCJJ may be required to carefully parse through the data provided by each of the counties to ensure that PHI is not inadvertently released to the Committee.

Effective Date: May 8, 2018

Enacts

17-22-32; 64-13-45.

### **Local Public Safety and Firefighter Surviving Spouse Trust Fund Amendments**

#### **SB 206**

**Sen. Todd Weiler**

As you may recall, the legislature created this fund as an optional way to cover the costs of benefits to the surviving spouse and designated children. This is an additional amendment to that fund's regulation.

This expands the coverage to those that are not participating in URS, yet ensures that there is not a double coverage of benefits.

You will want to explore your entity's potential exposure and then make the election as to whether to participate in this fund. This election should be made by July 1, 2018.

Effective Date: July 1, 2018

Amends

53-17-102, 53-17-301

### **Student Data Protection Amendments**

#### **SB207**

**Sen. Jacob  
Anderegg**

Many changes to multiple sections. The highlights include:

An education entity shall allow the following individuals to access a student's student data: (1) student's parent, (2) the student, and (3) individual acting as a parent to the student.

An education entity, including a student data manager, may not share personally identifiable student data without written consent. Changes go on to list when a student data manager can and cannot share data and with whom.

Effective Date: May 8, 2018

Amends

Multiple sections

### **Solicitation Amendments**

#### **SB 214**

**Sen. Todd Weiler**

Can you imagine that making the statement “I am a prostitute” is an affirmative defense? It is! In an effort to dissuade the demand side of the sex trade economy, the 2017 legislature made patronizing a prostitute a Class A misdemeanor, while leaving the crime of prostitution as a Class B. But they missed the nearly congruent crime of sexual solicitation, leaving the penalty for both sides of that exchange as a Class B. In order to ensure the philosophy of being more punitive on the patron, and protective of the prostitutes (envisioning human trafficking), the legislature took the prophylactic measure of increasing sexual solicitation to a Class A misdemeanor.

Where we are now: patronizing a prostitute and sexual solicitation are Class A misdemeanors, and third and subsequent offenses are 3rd degree felonies; aiding and exploiting prostitution are Class A misdemeanors, with the second and subsequent offenses being 3rd degree felonies; and prostitution remains a Class B misdemeanor, with second and subsequent offenses being Class A misdemeanors.

Effective Date: May 8, 2018

Amends:

76-10-1301, 76-10-1303, 76-10-1304, 76-10-1305, 76-10-1313

### **Ethics Amendments**

#### **SB216**

**Sen. Bramble, C.**

This bill clarifies some provisions of the Political Subdivisions Ethics Commission (Commission) by permitting the Commission to retain private counsel and other staff and addressing conflicts of interest for Commission members. It describes the circumstances under which an official might be responsible for an ethics violation based on the actions of a subordinate and adds “malfeasance” to matters within the Commission’s jurisdiction. The bill requires a complainant have personal knowledge of matters alleged in complaint. It provides that the state or a

political subdivision can be liable for an accused official's costs and attorney fees even if none of the allegations in a complaint before the Commission are proven. The Commission is organizationally moved to the Department of Administrative Services. The amendments address the appointment of alternate or temporary replacement members and change the selection of the chair. Other changes address and reinforce the confidentiality of the Commission's processes.

Effective Date: May 8, 2018

Practice Pointers: The bill did not address many of the concerns counties have discussed in connection with the original bill of 2012, including the potential ethical conflicts imposed on local government legal counsel.

Amends

10-3-1311; 17-16a-11; 52-4-204; 63A-14-102; 63A-14-202; 63A-14-203; 63A-14-302; 63A-14-402; 63A-14-403; 63A-14-502; 63A-14-504; 63A-14-604; 63G-2-103; 63G-2-302; 67-16-15.

Renumbers and Amends

63A-15-101, 63A-15-102, 63A-15-103, 63A-15-201, 63A-15-202, 63A-15-301, 63A-15-302, 63A-15-401, 63A-15-402, 63A-15-403, 63A-15-404, 63A-15-405, 63A-15-406, 63A-15-407, 63A-15-408, 63A-15-501, 63A-15-502, 63A-15-601, 63A-15-602, 63A-15-603, 63A-15-604, 63A-15-701, 63A-15-702, 63A-15-703, 63A-15-704, 63A-15-705, 63A-15-706,

Enacts

63A-14-405, 63A-15-303

### **Court Citation Amendments**

## **SB 219**

**Sen. Dan Thatcher**

This bill provides that a court may accept an electronic filing of a citation issued for a misdemeanor or infraction after 5 business days if the defendant consents and if it's in the interests of justice.

Effective Date: May 8, 2018.

Amends §77-7-20

### **Property Tax Abatement for Indigents**

## **SB221**

**Sen. Henderson, D.**

The bill responds to a recent Tax Commission appeal, in which the Commission agreed with Salt Lake County's argument that the Commission has jurisdiction to hear indigent property tax relief appeals only when the relief has been decided by a county board of equalization, but not by a county legislative body. In response, SB221 gives a property owner appeal rights to the Commission for any county

decision on an indigent relief decision regardless of whether the decision is from the county legislative body or the county board of equalization.

Practice tips:

First, because a county may not want (or may need additional information) to make a final decision on a deferral request until right before the tax sale of the property to see if the taxpayer or a lienholder will pay the taxes to avoid tax sale, this statute providing an appeal to the Commission makes denying a deferral right before the tax sale problematic. At a minimum, counties need to act quickly on deferral requests, particularly where it is likely to be denied. Where there is not enough information to act on the request, another option would be to immediately deny the deferral under the indigent relief statute to allow time for appeal, but continue to consider the request alternatively under Utah Code § 59-2-1347, which also allows counties to defer property taxes.

Second, now that the Commission has jurisdiction to hear all indigent relief requests, note that the language in Utah Code § 59-2-1108 is the county “may” defer property taxes. Given the discretionary “may” language, the standard on appeal to the Commission should be argued as an abuse of discretion standard.

Effective Date: May 8, 2018

Amends: 59-2-1109

### **Toxicology Amendments**

#### **SB 222**

**Sen. Gene Davis**

This bill makes remuneration for the referral of an individual or that individual’s clinical sample for substance use disorder treatment a class A misdemeanor.

Practice pointers: Subsection 6 includes actions that are not prohibited by the bill.

Effective Date: May 8, 2018.

Amends §62A-2-116

### **Law Enforcement Protection Amendments**

#### **SB230**

**Sen. Ipson, Don**

This bill is intended to fix issues inadvertently created by last year’s SB31, “Protection of Law Enforcement Officers’ Personal Information.” The bill relies heavily on GRAMA to redefine meaningfully the term “immediate family member” and to establish procedures by which a law enforcement officer may seek protection of the officer’s personal information from various county officials.

Practice tip: Your county sheriffs may seek assistance in developing the form by which the sheriff's officers may request protection of their personal information.

Effective Date: May 8, 2018

Amends

53-18-102; 53-18-103

### **Sales and Use Tax Amendments**

#### **SB233**

**Sen. Stephenson,  
H.**

This bill expands the mining and manufacturing sales and use tax exemption to include medical laboratories, plus it expands the amount of property that qualifies under such establishments. The fiscal note shows no impact. However, it appears to reach this conclusion by assuming that the additional cost of the expanded exemptions, \$83 million, would reduce the "estimated \$285 million" to be collected from remote sellers if Congress or the United States Supreme Court authorizes the collection from remote sellers. As such, the costs of this expanded sales tax exemption will hopefully be offset by the anticipated amount of additional sales tax revenue from remote sellers that previously had not been collected.

Practice tip: An accurate statement of the fiscal cost is \$83 million, \$58 million in lost revenue to the state and \$25 million in lost revenue to local governments, but not triggered until Congress or the United States Supreme Court authorizes sales and use tax collection from remote sellers.

Effective Date: 90 days after Congress or the United States Supreme Court authorizes the collection of sales and use tax from remote sellers.

Amends

59-12-102

Enacts

59-12-14.8

### **Utah Inland Port Authority**

#### **SB234**

**Sen. Stevenson, J.**

This bill has effect only in Salt Lake County. In brief summary, the Utah Inland Port Authority (Authority) creates a government entity to establish an inland port facility and foreign trade zone, to provide transportation and distribution facilities for global trade, and to establish a local terminal for the U.S. Customs Service. The Authority will be a government entity, an independent body corporate and politic, and a political subdivision of the State of Utah. The Authority is governed by a board, with membership, qualifications, terms, and responsibilities set out.



The bill defines land that is under the jurisdiction of the authority; authorizes the port authority to adopt project area plans and budgets and to issue bonds. The bill authorizes the Authority to receive tax differential funds, similar to the tax increment that funds RDAs. The Authority is required to prepare and adopt a budget and to comply with certain audit and reporting requirements.

Effective Date: March 16, 2018

Enacts

11-58-101, 11-58-102, 11-58-201, 11-58-202, 11-58-203, 11-58-204, 11-58-205, 11-58-206, 11-58-207, 11-58-301, 11-58-302, 11-58-303, 11-58-304, 11-58-305, 11-58-401, 11-58-402, 11-58-403, 11-58-404, 11-58-501, 11-58-502, 11-58-503, 11-58-504, 11-58-505, 11-58-601, 11-58-602, 11-58-701, 11-58-702, 11-58-703, 11-58-704, 11-58-705, 11-58-706, 11-58-801, 11-58-802, 11-58-803, 11-58-804, 11-58-805, 11-58-806, 11-58-901

### **Homeless Shelter Funding Amendments**

**SB235**

**Sen. Davis, G.**

This bill creates a new state restricted account, the Homeless Shelter Cities Mitigation Restricted Account, with an initial allocation of \$2,500,000. The Account is managed by the Department of Workforce Services (DWS) to assist cities, towns and metro townships with a homeless shelter within their borders. DWS will annually certify which cities, towns, and metro townships are eligible to apply for grants funded from the account. Counties and ineligible municipalities are required to annually contribute the lesser of \$200,000 or 1.8% of their local option sales and use tax revenue distribution required to be deposited by the State Tax Commission. A county's or city's RDA may assist in making this contribution.

60% of the grant funds are reserved for eligible metro townships, towns or cities of the third, fourth, or fifth class with a year-round 200+ capacity homeless shelter who have increased public safety needs (law enforcement, emergency medical, or fire) due to the shelter. The remaining 40% is reserved for grants to the Department of Public Safety or eligible municipalities with a year-round 60 + capacity homeless shelter who have increased community, social service or public safety needs due to the shelter.

The bill outlines the grant application process and criteria to be used by the Homeless Coordinating Committee in deciding grant awards. The bill also adds, as members on the Committee, the cities of Ogden, Midvale, St. George and South Salt Lake. Finally, it outlines reporting requirements and how DWS is to disburse funds from the Account.

Practice tip: Attorneys for potentially eligible municipalities may wish to review the application process to ensure their cities are tracking the necessary data requirements.

Effective Date: July 1, 2018

Amends

17C-1-409; 17C-1-411; 17C-1-412; 35A-8-601; 59-12-205; 59-12-302; 59-12-354; 59-12-403; 59-12-603; 59-12-703; 59-12-802; 59-12-804; 59-12-1102; 59-12-1302; 59-12-1402; 59-12-2103; and 59-12-2206.

Enacts

35A-8-606; 35A-8-607; 35A-608; 35A-8-609; 63J-1-801 and 63J-1-802.

### **Cybercrime Amendments**

UCA 76-9-201 currently makes it illegal to use electronic communications, in a variety of forms, with the intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another person. SB 242 eliminates “harass and frighten” as elements of the offense. This bill passed in the last few minutes of the session without much input from practitioners. It clearly seems odd to take “harass” out of the electronic communication harassment statute. Why the change was made is a little unclear, however the sponsor has agreed to rewrite the language next year.

Effective Date:

May 8, 2018

Amends

76-9-201

### **SB 242**

**Sen. Daniel  
Thatcher**

### **Tax Reform Provisions**

This bill makes three changes.

First, SB244 disqualifies individuals from receiving the Circuit Breaker property tax credit (a credit for indigent individuals) who are either claimed as a personal exemption or claimed for the child tax credit on another individual’s federal income tax returns. Note that starting in 2018, personal exemptions can no longer be claimed on federal income tax returns. Therefore, because the bill is effective January 1, 2018, only the portion regarding the claiming of the child tax credit will have any effect since no one can claim a personal exemption starting in 2018.

### **SB244**

**Sen. Stephenson,  
H.**

Second, the bill allows a corporation to pay taxes in installments on deferred foreign income that has been apportioned to Utah.

Third, the bill adds examining how an individual claims the child tax credit for purposes of determining an individual's domicile. Previously, the claiming of personal exemptions was examined for purposes of domicile, but since personal exemptions can no longer be claimed, the addition of the child tax credit as a consideration was needed.

Effective Date: Retrospective to January 1, 2018

Amends

59-2-1208; 59-2-1209; 59-10-136.

Enacts

59-7-118

### **Concurrent Resolution on Reducing Gang Activity**

#### **SCR 12**

**Sen. Karen Mayne**

This resolution urges state and local government agencies, through a comprehensive, collaborative, and community-wide approach, to work together to reduce gang activity. The bill proposes this would be done by incorporating research-based interventions to address the range of factors (persona, family, cultural, community, etc.) that contribute to juvenile delinquency and gang activity.

Effective Date: May 8, 2018.

### **Joint Resolution Dissolving Newton, Amalga, and Lewiston Justice Courts**

#### **SJR 10**

**Sen. Lyle Hillyard**

To those unsure of what this resolution did, read the title.

Effective Date: April 1, 2018

### **Joint Rules Resolution Regarding Legislative Ethics**

#### **SJR15**

**Sen. Bramble, C.**

This resolution is similar to the sponsor's companion bill, SB 216, regarding ethics complaints filed against a legislator. This joint legislative rules provision establishes a procedure to disqualify a member of the Legislative Ethics Commission for conflicts of interest; requires a complainant to have personal knowledge of matters alleged in an ethics complaint; and amends provisions

relating to when a person may disclose the existence of an ethics complaint or other information concerning any alleged ethics violation.

Effective Date: May 8, 2018

Amends: JR6-2-103; JR6-3-101; JR6-3-102; JR6-4-103

Enacts: JR6-2-103.5