

Superseded 5/12/2015

41-6a-505 Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

- (1) As part of any sentence for a first conviction of Section 41-6a-502:
 - (a) the court shall:
 - (i)
 - (A) impose a jail sentence of not less than 48 consecutive hours;
 - (B) require the person to work in a compensatory-service work program for not less than 48 hours; or
 - (C) require the person to participate in home confinement of not fewer than 48 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;
 - (ii) order the person to participate in a screening;
 - (iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);
 - (iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);
 - (v) impose a fine of not less than \$700; and
 - (vi) order probation for the person in accordance with Section 41-6a-507, if there is admissible evidence that the person had a blood alcohol level of .16 or higher; and
 - (b) the court may:
 - (i) order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate; or
 - (ii) order probation for the person in accordance with Section 41-6a-507.
- (2) If a person is convicted under Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2):
 - (a) the court shall:
 - (i)
 - (A) impose a jail sentence of not less than 240 consecutive hours;
 - (B) require the person to work in a compensatory-service work program for not less than 240 hours; or
 - (C) require the person to participate in home confinement of not fewer than 240 consecutive hours through the use of electronic monitoring in accordance with Section 41-6a-506;
 - (ii) order the person to participate in a screening;
 - (iii) order the person to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);
 - (iv) order the person to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);
 - (v) impose a fine of not less than \$800; and
 - (vi) order probation for the person in accordance with Section 41-6a-507; and
 - (b) the court may order the person to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate.
- (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation:
 - (a) the court shall impose:
 - (i) a fine of not less than \$1,500;
 - (ii) a jail sentence of not less than 1,500 hours;
 - (iii) supervised probation; and

- (iv) an order requiring the person to obtain a screening and assessment and substance abuse treatment at a substance abuse treatment program providing intensive care or inpatient treatment and long-term closely supervised follow-through after treatment for not less than 240 hours; and
 - (b) in lieu of Subsection (3)(a)(ii), the court may require the person to participate in home confinement of not fewer than 1,500 hours through the use of electronic monitoring in accordance with Section 41-6a-506.
- (4)
- (a) The requirements of Subsections (1)(a), (2)(a), and (3)(a) may not be suspended.
 - (b) Probation or parole resulting from a conviction for a violation under this section may not be terminated.
- (5) If a person is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the person had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:
- (a) treatment as described under Subsection (1)(b), (2)(b), or (3)(a)(iv); and
 - (b) one or more of the following:
 - (i) the installation of an ignition interlock system as a condition of probation for the person in accordance with Section 41-6a-518;
 - (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the person; or
 - (iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.