

1 **DRIVING UNDER THE INFLUENCE SENTENCING AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill amends provisions related to penalties for driving under the influence and
8 related offenses.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ prohibits sentencing reductions for driving under the influence related offenses in
12 certain circumstances;
- 13 ▶ requires reinstatement of certain sentences if an individual fails to complete certain
14 requirements of an approved 24/7 sobriety program;
- 15 ▶ creates a separate offense for each person in a vehicle that is under 16 years old
16 when the driver is operating the vehicle while under the influence of drugs or
17 alcohol;
- 18 ▶ prohibits an impaired driving reduction if:
 - 19 • the person had a blood alcohol level of .16 or higher;
 - 20 • the person had a blood alcohol level of .05 or higher in addition to any
21 measurable controlled substance in the person's body; or
 - 22 • the person had a combination of two or more controlled substances in the
23 person's body that were not appropriately prescribed or recommended;
- 24 ▶ prohibits a plea in abeyance for certain offenses related to driving under the
25 influence; and
- 26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **41-6a-502.5**, as last amended by Laws of Utah 2015, Chapter 438
34 **41-6a-503**, as last amended by Laws of Utah 2020, Chapter 177
35 **41-6a-505**, as last amended by Laws of Utah 2019, Chapter 136
36 **41-6a-512**, as last amended by Laws of Utah 2015, Chapter 438
37 **77-2a-3**, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

38

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

40 Section 1. Section **41-6a-502.5** is amended to read:

41 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
42 **requirements.**

43 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of
44 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of
45 impaired driving under this section if:

46 (a) the defendant completes court ordered probation requirements; or

47 (b) (i) the prosecutor agrees as part of a negotiated plea; and

48 (ii) the court finds the plea to be in the interest of justice.

49 (2) A conviction entered under this section is a class B misdemeanor.

50 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
51 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

52 (ii) If the defendant fails to appear before the court and establish successful completion
53 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
54 amended conviction of Section 41-6a-502.

55 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
56 conviction.

57 (b) The court may enter a conviction of impaired driving immediately under
58 Subsection (1)(b).

59 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
60 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
61 degree.

62 (5) (a) The court shall notify the Driver License Division of each conviction entered
63 under this section.

64 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
65 Occupational and Professional Licensing, created in Section 58-1-103, a report containing the
66 name, case number, and, if known, the date of birth of each person convicted during the
67 preceding month of a violation of this section for whom there is evidence that the person was
68 driving while impaired, in whole or in part, by a prescribed controlled substance.

69 (6) (a) The provisions in Subsections [~~41-6a-505(1), (2), and (4)~~] 41-6a-505(1), (3),
70 (5), and (7) that require a sentencing court to order a convicted person to participate in a
71 screening, an assessment, or an educational series, or obtain substance abuse treatment or do a
72 combination of those things, apply to a conviction entered under this section.

73 (b) The court shall render the same order regarding screening, assessment, an
74 educational series, or substance abuse treatment in connection with a first, second, or
75 subsequent conviction under this section as the court would render in connection with applying
76 respectively, the first, second, or subsequent conviction requirements of Subsection
77 [~~41-6a-505(1), (2), or (4)~~] 41-6a-505(1), (3), (5), and (7).

78 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
79 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
80 reporting court notifies the Driver License Division that the defendant is participating in or has
81 successfully completed the program of a driving under the influence court.

82 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

83 (i) a CDL license holder; or

84 (ii) a violation that occurred in a commercial motor vehicle.

85 (8) The provisions of this section are not available:

86 (a) to a person who has a prior conviction as that term is defined in Subsection

87 41-6a-501(2)[:]; or

88 (b) where there is admissible evidence that the individual:

89 (i) had a blood alcohol level of .16 or higher;

90 (ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled
91 substance; or

92 (iii) had a combination of two or more controlled substances in the person's body that

93 were not:

94 (A) prescribed by a licensed physician; or

95 (B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis
96 Act.

97 Section 2. Section **41-6a-503** is amended to read:

98 **41-6a-503. Penalties for driving under the influence violations.**

99 (1) A person who violates for the first or second time Section 41-6a-502 is guilty of a:

100 (a) class B misdemeanor; or

101 (b) class A misdemeanor if the person:

102 (i) has also inflicted bodily injury upon another as a proximate result of having
103 operated the vehicle in a negligent manner;

104 (ii) had a passenger under 16 years of age in the vehicle at the time of the offense;

105 (iii) was 21 years of age or older and had a passenger under 18 years of age in the
106 vehicle at the time of the offense; or

107 (iv) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-712
108 or 41-6a-714.

109 (2) A person who violates Section 41-6a-502 is guilty of a third degree felony if:

110 (a) the person has also inflicted serious bodily injury upon another as a proximate
111 result of having operated the vehicle in a negligent manner;

112 (b) the person has two or more prior convictions as defined in Subsection
113 41-6a-501(2), each of which is within 10 years of:

114 (i) the current conviction under Section 41-6a-502; or

115 (ii) the commission of the offense upon which the current conviction is based; or

116 (c) the conviction under Section 41-6a-502 is at any time after a conviction of:

117 (i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

118 (ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state
119 that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

120 (iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of
121 conviction is reduced under Section 76-3-402.

122 (3) A person is guilty of a separate offense for each victim suffering bodily injury or
123 serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a

124 result of the person's violation of Section 76-5-207 whether or not the injuries arise from the
125 same episode of driving.

126 (4) A person is guilty of a separate offense under Subsection (1)(b)(ii) for each
127 passenger in the vehicle at the time of the offense that is under 16 years old.

128 Section 3. Section **41-6a-505** is amended to read:

129 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
130 **drugs, or a combination of both violations.**

131 (1) As part of any sentence for a first conviction of Section 41-6a-502 where there is
132 admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood
133 alcohol level of .05 or higher in addition to any measurable controlled substance, or had a
134 combination of two or more controlled substances in the individual's body that were not
135 recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or
136 prescribed:

137 (a) the court shall:

138 (i) (A) impose a jail sentence of not less than [~~48 consecutive hours~~] five days; or

139 (B) [~~require the individual to work in a compensatory-service work program for not~~
140 ~~less than 48 hours;~~] impose a jail sentence of not less than two days in addition to home
141 confinement of not fewer than 30 consecutive days through the use of electronic monitoring
142 that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

143 (ii) order the individual to participate in a screening;

144 (iii) order the individual to participate in an assessment, if it is found appropriate by a
145 screening under Subsection (1)(a)(ii);

146 (iv) order the individual to participate in an educational series if the court does not
147 order substance abuse treatment as described under Subsection (1)(b);

148 (v) impose a fine of not less than \$700;

149 (vi) order probation for the individual in accordance with Section 41-6a-507[~~; if there~~
150 ~~is admissible evidence that the individual had a blood alcohol level of .16 or higher~~];

151 (vii) (A) order the individual to pay the administrative impound fee described in
152 Section 41-6a-1406; or

153 (B) if the administrative impound fee was paid by a party described in Subsection
154 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
155 reimburse the party; or

156 (viii) (A) order the individual to pay the towing and storage fees described in Section

157 72-9-603; or

158 (B) if the towing and storage fees were paid by a party described in Subsection
159 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
160 reimburse the party; and

161 (b) the court may:

162 (i) order the individual to obtain substance abuse treatment if the substance abuse
163 treatment program determines that substance abuse treatment is appropriate;

164 (ii) order probation for the individual in accordance with Section 41-6a-507;

165 (iii) order the individual to participate in a ~~[24-7]~~ 24/7 sobriety program as defined in
166 Section 41-6a-515.5 if the individual is 21 years ~~[of age]~~ old or older; or

167 (iv) order a combination of Subsections (1)(b)(i) through (iii).

168 (2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety
169 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
170 under Subsection (1)(a).

171 (b) If an individual described in Subsection (1) fails to successfully complete all of the
172 requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence
173 described in Subsection (2)(a).

174 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described
175 in Subsection (1):

176 (a) the court shall:

177 (i) (A) impose a jail sentence of not less than 2 days; or

178 (B) require the individual to work in a compensatory-service work program for not less
179 than 48 hours;

180 (ii) order the individual to participate in a screening;

181 (iii) order the individual to participate in an assessment, if it is found appropriate by a
182 screening under Subsection (3)(a)(ii);

183 (iv) order the individual to participate in an educational series if the court does not
184 order substance abuse treatment as described under Subsection (3)(b);

185 (v) impose a fine of not less than \$700;

186 (vi) (A) order the individual to pay the administrative impound fee described in Section
187 41-6a-1406; or

188 (B) if the administrative impound fee was paid by a party described in Subsection
189 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
190 reimburse the party; or

191 (vii) (A) order the individual to pay the towing and storage fees described in Section
192 72-9-603; or

193 (B) if the towing and storage fees were paid by a party described in Subsection
194 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
195 reimburse the party; and

196 (b) the court may:

197 (i) order the individual to obtain substance abuse treatment if the substance abuse
198 treatment program determines that substance abuse treatment is appropriate;

199 (ii) order probation for the individual in accordance with Section 41-6a-507;

200 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
201 41-6a-515.5 if the individual is 21 years old or older; or

202 (iv) order a combination of Subsections (3)(b)(i) through (iii).

203 (4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety
204 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
205 under Subsection (3)(a).

206 (b) If an individual described in Subsection (4)(a) fails to successfully complete all of
207 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail
208 sentence described in Subsection (4)(a).

209 ~~(5)~~ (5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2)
210 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of
211 the offense upon which the current conviction is based and where there is admissible evidence
212 that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or
213 higher in addition to any measurable controlled substance, or had a combination of two or more
214 controlled substances in the individual's body that were not recommended in accordance with
215 Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

216 (a) the court shall:

217 (i) (A) impose a jail sentence of not less than ~~[240 hours]~~ 20 days; or

218 (B) impose a jail sentence of not less than ~~[120 hours]~~ 10 days in addition to home

219 confinement of not fewer than [~~720 consecutive hours~~] 60 consecutive days through the use of
220 electronic monitoring that includes a substance abuse testing instrument in accordance with
221 Section 41-6a-506;

222 (ii) order the individual to participate in a screening;

223 (iii) order the individual to participate in an assessment, if it is found appropriate by a
224 screening under Subsection [~~(2)~~] (5)(a)(ii);

225 (iv) order the individual to participate in an educational series if the court does not
226 order substance abuse treatment as described under Subsection [~~(2)~~] (5)(b);

227 (v) impose a fine of not less than \$800;

228 (vi) order probation for the individual in accordance with Section 41-6a-507;

229 (vii) (A) order the individual to pay the administrative impound fee described in
230 Section 41-6a-1406; or

231 (B) if the administrative impound fee was paid by a party described in Subsection
232 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
233 reimburse the party; or

234 (viii) (A) order the individual to pay the towing and storage fees described in Section
235 72-9-603; or

236 (B) if the towing and storage fees were paid by a party described in Subsection
237 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
238 reimburse the party; and

239 (b) the court may:

240 (i) order the individual to obtain substance abuse treatment if the substance abuse
241 treatment program determines that substance abuse treatment is appropriate;

242 (ii) order the individual to participate in a [~~24-7~~] 24/7 sobriety program as defined in
243 Section 41-6a-515.5 if the individual is 21 years [~~of age~~] old or older; or

244 (iii) order a combination of Subsections [~~(2)~~] (5)(b)(i) and (ii).

245 (6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety
246 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
247 under Subsection (5)(a).

248 (b) If an individual described in Subsection (6)(a) fails to successfully complete all of
249 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail

250 sentence described in Subsection (6)(a).

251 (7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
252 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
253 offense upon which the current conviction is based and that does not qualify under Subsection
254 (5):

255 (a) the court shall:

256 (i) (A) impose a jail sentence of not less than 10 days; or

257 (B) impose a jail sentence of not less than 5 days in addition to home confinement of
258 not fewer than 30 consecutive days through the use of electronic monitoring that includes a
259 substance abuse testing instrument in accordance with Section 41-6a-506;

260 (ii) order the individual to participate in a screening;

261 (iii) order the individual to participate in an assessment, if it is found appropriate by a
262 screening under Subsection (7)(a)(ii);

263 (iv) order the individual to participate in an educational series if the court does not
264 order substance abuse treatment as described under Subsection (7)(b);

265 (v) impose a fine of not less than \$800;

266 (vi) order probation for the individual in accordance with Section 41-6a-507;

267 (vii) (A) order the individual to pay the administrative impound fee described in
268 Section 41-6a-1406; or

269 (B) if the administrative impound fee was paid by a party described in Subsection
270 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
271 reimburse the party; or

272 (viii) (A) order the individual to pay the towing and storage fees described in Section
273 72-9-603; or

274 (B) if the towing and storage fees were paid by a party described in Subsection
275 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
276 reimburse the party; and

277 (b) the court may:

278 (i) order the individual to obtain substance abuse treatment if the substance abuse
279 treatment program determines that substance abuse treatment is appropriate;

280 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section

281 41-6a-515.5 if the individual is 21 years old or older; or

282 (iii) order a combination of Subsections (7)(b)(i) and (ii).

283 (8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety
284 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
285 under Subsection (7)(a).

286 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of
287 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail
288 sentence described in Subsection (8)(a).

289 ~~[(3)]~~ (9) Under Subsection 41-6a-503(2), if the court suspends the execution of a
290 prison sentence and places the defendant on probation where there is admissible evidence that
291 the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 in
292 addition to any measurable controlled substance, or had a combination of two or more
293 controlled substances in the person's body that were not recommended in accordance with Title
294 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

295 (a) a fine of not less than \$1,500;

296 (b) a jail sentence of not less than ~~[1,500 hours]~~ 120 days; ~~[and]~~

297 (c) home confinement of not fewer than 120 consecutive days through the use of
298 electronic monitoring that includes a substance abuse testing instrument in accordance with
299 Section 41-6a-506; and

300 ~~[(c)]~~ (d) supervised probation.

301 ~~[(4)]~~ (10) (a) For Subsection ~~[(3)]~~ (9) or Subsection 41-6a-503(2)(b), the court:

302 ~~[(a)]~~ (i) shall impose an order requiring the individual to obtain a screening and
303 assessment for alcohol and substance abuse, and treatment as appropriate; and

304 ~~[(b)]~~ (ii) may impose an order requiring the individual to participate in a ~~[24-7]~~ 24/7
305 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years ~~[of age]~~ old or
306 older.

307 (b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all
308 of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison
309 sentence described in Subsection (9).

310 ~~[(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.]~~

311 (11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison

312 sentence and places the defendant on probation with a sentence not described in Subsection (9),
313 the court shall impose:

314 (a) a fine of not less than \$1,500;

315 (b) a jail sentence of not less than 60 days;

316 (c) home confinement of not fewer than 60 consecutive days through the use of
317 electronic monitoring that includes a substance abuse testing instrument in accordance with
318 Section 41-6a-506; and

319 (d) supervised probation.

320 (12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the
321 requirements of this section.

322 (ii) A court may suspend requirements as described in Subsection (2), (4), (6), (8),
323 (10)(b) or (11).

324 (b) A court or jail may not convert a jail sentence required in this section to electronic
325 home confinement.

326 ~~[(6)]~~ (13) If an individual is convicted of a violation of Section 41-6a-502 and there is
327 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court
328 shall order the following, or describe on record why the order or orders are not appropriate:

329 (a) treatment as described under Subsection (1)(b), ~~[(2)(b), or (4)]~~ (3)(b), (5)(b), or
330 (7)(b); and

331 (b) one or more of the following:

332 (i) the installation of an ignition interlock system as a condition of probation for the
333 individual in accordance with Section 41-6a-518;

334 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
335 device as a condition of probation for the individual; or

336 (iii) the imposition of home confinement through the use of electronic monitoring in
337 accordance with Section 41-6a-506.

338 Section 4. Section **41-6a-512** is amended to read:

339 **41-6a-512. Factual basis for alcohol or drug-related reckless driving plea.**

340 (1) (a) The prosecution shall state for the record a factual basis for a plea, including
341 whether or not there had been consumption of alcohol, drugs, or a combination of both, by the
342 defendant in connection with the violation when the prosecution agrees to a plea of guilty or no

343 contest to a charge of a violation of the following in satisfaction of, or as a substitute for, an
344 original charge of a violation of Section 41-6a-502 for an offense committed before July 1,
345 2008:

346 (i) reckless driving under Section 41-6a-528; or

347 (ii) an ordinance enacted under Section 41-6a-510.

348 (b) The statement under Subsection (1)(a) is an offer of proof of the facts that shows
349 whether there was consumption of alcohol, drugs, or a combination of both, by the defendant,
350 in connection with the violation.

351 (2) The court shall advise the defendant before accepting the plea offered under this
352 section of the consequences of a violation of Section 41-6a-528.

353 (3) The court shall notify the Driver License Division of each conviction of Section
354 41-6a-528 entered under this section.

355 (4) (a) The provisions in Subsections [~~41-6a-505(1), (2), and (4)~~] 41-6a-505(1), (3),
356 (5), and (7) that require a sentencing court to order a convicted person to participate in a
357 screening, an assessment, or an educational series or obtain substance abuse treatment or do a
358 combination of those things, apply to a conviction for a violation of Section 41-6a-528 under
359 Subsection (1).

360 (b) The court shall render the same order regarding screening, assessment, an
361 educational series, or substance abuse treatment in connection with a first, second, or
362 subsequent conviction under Section 41-6a-528 under Subsection (1), as the court would
363 render in connection with applying respectively, the first, second, or subsequent conviction
364 requirements of Subsections [~~41-6a-505(1), (2), and (4)~~] 41-6a-505(1), (3), (5), and (7).

365 Section 5. Section **77-2a-3** is amended to read:

366 **77-2a-3. Manner of entry of plea -- Powers of court.**

367 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
368 done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.

369 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
370 agreement may be entered into without a personal appearance before a magistrate.

371 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
372 defendant has successfully completed the terms of the agreement:

373 (a) reduce the degree of the offense and enter judgment of conviction and impose

374 sentence for a lower degree of offense; or

375 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

376 (3) Upon finding that a defendant has successfully completed the terms of a plea in
377 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
378 provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a
379 defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not
380 invoke Section 76-3-402 to further reduce the degree of the offense.

381 (4) The court may require the Department of Corrections to assist in the administration
382 of the plea in abeyance agreement as if the defendant were on probation to the court under
383 Section 77-18-1.

384 (5) The terms of a plea in abeyance agreement may include:

385 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
386 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
387 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
388 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and
389 which may not exceed in amount the maximum fine and surcharge which could have been
390 imposed upon conviction and sentencing for the same offense;

391 (b) an order that the defendant pay restitution to the victims of the defendant's actions
392 as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;

393 (c) an order that the defendant pay the costs of any remedial or rehabilitative program
394 required by the terms of the agreement; and

395 (d) an order that the defendant comply with any other conditions which could have
396 been imposed as conditions of probation upon conviction and sentencing for the same offense.

397 (6) A court may not hold a plea in abeyance without the consent of both the
398 prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a
399 plea in abeyance is final.

400 (7) No plea may be held in abeyance in any case involving a sexual offense against a
401 victim who is under the age of 14.

402 (8) [~~Beginning on July 1, 2008, no~~] No plea may be held in abeyance in any case
403 involving a driving under the influence violation under Section 41-6a-502, 41-6a-502.5,
404 41-6a-517, or 41-6a-520.

