

1 **ASSESSMENT AND TREATMENT DECISIONS AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lawanna Shurtliff**

5 Senate Sponsor: _____

6
7 **LONG TITLE**

8 **General Description:**

9 This bill relates to screening, assessment, and treatment of a substance use disorder.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ provides that an entity that conducts only assessments to determine whether
13 substance use disorder treatment is necessary is not required to be licensed by the
14 Department of Human Services if the entity is licensed by the Division of
15 Occupational and Professional Licensing;

16 ▶ provides that, under certain circumstances, a private entity that conducts an
17 assessment of an individual to determine if substance use disorder treatment is
18 necessary may not also provide substance use disorder treatment to the individual;
19 and

20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **32B-4-409**, as last amended by Laws of Utah 2017, Chapter 330



- 28 [32B-4-410](#), as last amended by Laws of Utah 2017, Chapters 330 and 455
- 29 [32B-4-411](#), as last amended by Laws of Utah 2017, Chapter 330
- 30 [41-6a-505](#), as last amended by Laws of Utah 2018, Chapter 334
- 31 [41-6a-509](#), as last amended by Laws of Utah 2017, Chapter 446
- 32 [41-6a-517 \(Superseded 07/01/19\)](#), as last amended by Laws of Utah 2018, Third
- 33 Special Session, Chapter 1
- 34 [41-6a-517 \(Effective 07/01/19\)](#), as last amended by Laws of Utah 2018, Third Special
- 35 Session, Chapter 1
- 36 [53-3-231](#), as last amended by Laws of Utah 2018, Chapter 417
- 37 [58-37-8](#), as last amended by Laws of Utah 2017, Chapter 330
- 38 [58-37a-7](#), as last amended by Laws of Utah 2017, Chapter 330
- 39 [62A-15-103](#), as last amended by Laws of Utah 2018, Chapter 322
- 40 [76-9-701](#), as last amended by Laws of Utah 2017, Chapter 330
- 41 [77-18-1.1](#), as last amended by Laws of Utah 2016, Chapter 158
- 42 [78A-6-103](#), as last amended by Laws of Utah 2018, Chapter 415

43 ENACTS:

44 [62A-15-103.5](#), Utah Code Annotated 1953



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

47 Section 1. Section **32B-4-409** is amended to read:

48 **32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable**
49 **amounts in body.**

- 50 (1) Unless specifically authorized by this title, it is unlawful for a minor to:
- 51 (a) purchase an alcoholic product;
- 52 (b) attempt to purchase an alcoholic product;
- 53 (c) solicit another person to purchase an alcoholic product;
- 54 (d) possess an alcoholic product;
- 55 (e) consume an alcoholic product; or
- 56 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.
- 57 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
- 58 product for a minor for:

- 59 (a) a minor to misrepresent the minor's age; or
60 (b) any other person to misrepresent the age of a minor.
- 61 (3) It is unlawful for a minor to possess or consume an alcoholic product while riding
62 in a limousine or chartered bus.
- 63 (4) (a) If a minor is found by a court to have violated this section and the violation is
64 the minor's first violation of this section, the court may:
- 65 (i) order the minor to complete a screening as defined in Section 41-6a-501;
66 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
67 screening indicates an assessment to be appropriate; and
68 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
69 or substance use disorder treatment as indicated by an assessment.
- 70 (b) If a minor is found by a court to have violated this section and the violation is the
71 minor's second or subsequent violation of this section, the court shall:
- 72 (i) order the minor to complete a screening as defined in Section 41-6a-501;
73 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
74 screening indicates an assessment to be appropriate; and
75 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
76 or substance use disorder treatment as indicated by an assessment.
- 77 (c) In a county of the first or second class, as classified in Section 17-50-501, a private
78 entity that conducts an assessment of a minor under this Subsection (4) may not also provide
79 substance use disorder treatment to the minor under this Subsection (4).
- 80 (5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
81 found by a court to have violated this section, except as provided in Section 32B-4-411, the
82 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.
- 83 (b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the
84 suspension period required under Section 53-3-219 if:
- 85 (i) the violation is the minor's first violation of this section; and
86 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or
87 (B) the minor demonstrates substantial progress in substance use disorder treatment.
- 88 (c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the
89 requirements of Section 53-3-219, the court may reduce the suspension period required under

90 Section 53-3-219 if:

91 (i) the violation is the minor's second or subsequent violation of this section;
92 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
93 demonstrated substantial progress in substance use disorder treatment; and

94 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
95 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
96 consecutive period during the suspension period imposed under Subsection (5)(a); or

97 (B) the person is under 18 years of age and has the person's parent or legal guardian
98 provide an affidavit or sworn statement to the court certifying that to the parent or legal
99 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
100 one-year consecutive period during the suspension period imposed under Subsection (5)(a).

101 (6) When a minor who is younger than 18 years old is found by the court to have
102 violated this section, Section 78A-6-606 applies to the violation.

103 (7) (a) Notwithstanding Subsections (5)(a) and (b), if a minor is adjudicated under
104 Section 78A-6-117, the court may only order substance use disorder treatment or an
105 educational series if the minor has an assessed need for the intervention on the basis of the
106 results of a validated assessment.

107 (b) In a county of the first or second class, as classified in Section 17-50-501, a private
108 entity that conducts an assessment of a minor under this Subsection (7) may not also provide
109 substance use disorder treatment to the minor under this Subsection (7).

110 (8) When a court issues an order suspending a person's driving privileges for a
111 violation of this section, the Driver License Division shall suspend the person's license under
112 Section 53-3-219.

113 (9) When the Department of Public Safety receives the arrest or conviction record of a
114 person for a driving offense committed while the person's license is suspended pursuant to this
115 section, the Department of Public Safety shall extend the suspension for an additional like
116 period of time.

117 (10) This section does not apply to a minor's consumption of an alcoholic product in
118 accordance with this title:

119 (a) for medicinal purposes if:

120 (i) the minor is at least 18 years old; or

- 121 (ii) the alcoholic product is furnished by:
- 122 (A) the parent or guardian of the minor; or
- 123 (B) the minor's health care practitioner, if the health care practitioner is authorized by
- 124 law to write a prescription; or
- 125 (b) as part of a religious organization's religious services.

126 Section 2. Section **32B-4-410** is amended to read:

127 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

128 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the

129 premises of:

- 130 (a) a tavern; or
- 131 (b) a bar licensee, except to the extent authorized by Section [32B-6-406.1](#).
- 132 (2) A minor who violates this section is guilty of a class C misdemeanor.
- 133 (3) (a) If a minor is found by a court to have violated this section and the violation is
- 134 the minor's first violation of this section, the court may:
 - 135 (i) order the minor to complete a screening as defined in Section [41-6a-501](#);
 - 136 (ii) order the minor to complete an assessment as defined in Section [41-6a-501](#) if the
 - 137 screening indicates an assessment to be appropriate; and
 - 138 (iii) order the minor to complete an educational series as defined in Section [41-6a-501](#)
 - 139 or substance use disorder treatment as indicated by an assessment.
- 140 (b) If a minor is found by a court to have violated this section and the violation is the
- 141 minor's second or subsequent violation of this section, the court shall:
 - 142 (i) order the minor to complete a screening as defined in Section [41-6a-501](#);
 - 143 (ii) order the minor to complete an assessment as defined in Section [41-6a-501](#) if the
 - 144 screening indicates an assessment to be appropriate; and
 - 145 (iii) order the minor to complete an educational series as defined in Section [41-6a-501](#)
 - 146 or substance use disorder treatment as indicated by an assessment.
- 147 (c) In a county of the first or second class, as classified in Section [17-50-501](#), a private
- 148 entity that conducts an assessment of a minor under this Subsection (3) may not also provide
- 149 substance use disorder treatment to the minor under this Subsection (3).
- 150 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
- 151 found by a court to have violated this section, except as provided in Section [32B-4-411](#), the

152 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

153 (b) Notwithstanding Subsection (4)(a), the court may reduce the suspension period
154 required under Section 53-3-219 if:

155 (i) the violation is the minor's first violation of this section; and

156 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

157 (B) the minor demonstrates substantial progress in substance use disorder treatment.

158 (c) Notwithstanding Subsection (4)(a) and in accordance with Section 53-3-219, the
159 court may reduce the suspension period required under Section 53-3-219 if:

160 (i) the violation is the minor's second or subsequent violation of this section;

161 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
162 demonstrated substantial progress in substance use disorder treatment; and

163 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
164 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
165 consecutive period during the suspension period imposed under Subsection (4)(a); or

166 (B) the person is under 18 years of age and has the person's parent or legal guardian
167 provide an affidavit or sworn statement to the court certifying that to the parent or legal
168 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
169 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

170 (5) When a minor who is younger than 18 years old is found by a court to have violated
171 this section, Section 78A-6-606 applies to the violation.

172 (6) (a) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under
173 Section 78A-6-117, the court may only order substance use disorder treatment or an
174 educational series if the minor has an assessed need for the intervention on the basis of the
175 results of a validated assessment.

176 (b) In a county of the first or second class, as classified in Section 17-50-501, a private
177 entity that conducts an assessment of a minor under this Subsection (6) may not also provide
178 substance use disorder treatment to the minor under this Subsection (6).

179 (7) When a court issues an order suspending a person's driving privileges for a
180 violation of this section, the Driver License Division shall suspend the person's license under
181 Section 53-3-219.

182 (8) When the Department of Public Safety receives the arrest or conviction record of a

183 person for a driving offense committed while the person's license is suspended pursuant to this
184 section, the Department of Public Safety shall extend the suspension for an additional like
185 period of time.

186 Section 3. Section **32B-4-411** is amended to read:

187 **32B-4-411. Minor's unlawful use of proof of age.**

188 (1) As used in this section, "proof of age violation" means a violation by a minor of:

189 (a) Chapter 1, Part 4, Proof of Age Act; or

190 (b) if as part of the violation the minor uses a proof of age in violation of Chapter 1,

191 Part 4, Proof of Age Act:

192 (i) Section [32B-4-409](#); or

193 (ii) Section [32B-4-410](#).

194 (2) If a court finds a minor engaged in a proof of age violation, notwithstanding the

195 penalties provided for in Subsection (1):

196 (a) (i) for a first violation, the minor is guilty of a class B misdemeanor;

197 (ii) for a second violation, the minor is guilty of a class A misdemeanor; and

198 (iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor,

199 except that the court may impose:

200 (A) a fine of up to \$5,000;

201 (B) screening, assessment, or substance use disorder treatment, as defined in Section

202 [41-6a-501](#);

203 (C) an educational series, as defined in Section [41-6a-501](#);

204 (D) alcoholic product related community service or compensatory service work

205 program hours;

206 (E) fees for restitution and treatment costs;

207 (F) defensive driver education courses; or

208 (G) a combination of these penalties; and

209 (b) (i) for a minor who is younger than 18 years old:

210 (A) the court may forward to the Driver License Division a record of an adjudication

211 under Title 78A, Chapter 6, Juvenile Court Act, for a violation under this section; and

212 (B) the provisions regarding suspension of a driver license under Section [78A-6-606](#)

213 apply; and

214 (ii) for a minor who is at least 18 years old, but younger than 21 years old:
215 (A) the court shall forward to the Driver License Division a record of conviction for a
216 violation under this section; and
217 (B) the Driver License Division shall suspend the person's license under Section
218 53-3-220.
219 (c) Notwithstanding Subsection (2)(a), if a minor is adjudicated under Section
220 78A-6-117, the court may order:
221 (i) substance use disorder treatment or an educational series only if the minor has an
222 assessed need for the intervention based on the results of a validated assessment; and
223 (ii) a fine, fee, service hours, or costs in accordance with Section 78A-6-117.
224 (d) In a county of the first or second class, as classified in Section 17-50-501, a private
225 entity that conducts an assessment of a minor under this Subsection (2) may not also provide
226 substance use disorder treatment to the minor under this Subsection (2).
227 (3) (a) Notwithstanding Subsection (2)(b), the court may reduce the suspension period
228 under Subsection 53-3-220(1)(e) or 78A-6-606~~(3)~~(4)(d) if:
229 (i) the violation is the minor's first violation of this section; and
230 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or
231 (B) the minor demonstrates substantial progress in substance use disorder treatment.
232 (b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the
233 suspension period under Subsection 53-3-220(1)(e) or 78A-6-606~~(3)~~(4)(d) if:
234 (i) the violation is the minor's second or subsequent violation of this section;
235 (ii) the person has completed an educational series as defined in Section 41-6a-501 or
236 demonstrated substantial progress in substance use disorder treatment; and
237 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
238 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
239 consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or
240 78A-6-606~~(3)~~(4)(d); or
241 (B) the minor is under 18 years of age and has the minor's parent or legal guardian
242 provide an affidavit or sworn statement to the court certifying that to the parent or legal
243 guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a
244 one-year consecutive period during the suspension period imposed under Subsection

245 53-3-220(1)(e) or 78A-6-606[(3)](4)(d).

246 (4) When the Department of Public Safety receives the arrest or conviction record of an
247 individual for a driving offense committed while the individual's license is suspended pursuant
248 to this section, the Department of Public Safety shall extend the suspension for an additional
249 like period of time.

250 (5) A court may not fail to enter a judgment of conviction under this section under a
251 plea in abeyance agreement.

252 Section 4. Section 41-6a-505 is amended to read:

253 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
254 **drugs, or a combination of both violations.**

255 (1) As part of any sentence for a first conviction of Section 41-6a-502:

256 (a) the court shall:

257 (i) (A) impose a jail sentence of not less than 48 consecutive hours; or

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

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 (1)(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 (1)(b);

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

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

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

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

273 (viii) (A) order the individual to pay the towing and storage fees described in Section
274 72-9-603; or

275 (B) if the towing and storage fees were paid by a party described in Subsection

276 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
277 reimburse the party; and
278 (b) the court may:
279 (i) order the individual to obtain substance abuse treatment if the substance abuse
280 treatment program determines that substance abuse treatment is appropriate;
281 (ii) order probation for the individual in accordance with Section 41-6a-507;
282 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
283 41-6a-515.5 if the individual is 21 years of age or older; or
284 (iv) order a combination of Subsections (1)(b)(i) through (iii).
285 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
286 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
287 offense upon which the current conviction is based:
288 (a) the court shall:
289 (i) (A) impose a jail sentence of not less than 240 hours; or
290 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
291 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
292 a substance abuse testing instrument in accordance with Section 41-6a-506;
293 (ii) order the individual to participate in a screening;
294 (iii) order the individual to participate in an assessment, if it is found appropriate by a
295 screening under Subsection (2)(a)(ii);
296 (iv) order the individual to participate in an educational series if the court does not
297 order substance abuse treatment as described under Subsection (2)(b);
298 (v) impose a fine of not less than \$800;
299 (vi) order probation for the individual in accordance with Section 41-6a-507;
300 (vii) (A) order the individual to pay the administrative impound fee described in
301 Section 41-6a-1406; or
302 (B) if the administrative impound fee was paid by a party described in Subsection
303 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
304 reimburse the party; or
305 (viii) (A) order the individual to pay the towing and storage fees described in Section
306 72-9-603; or

307 (B) if the towing and storage fees were paid by a party described in Subsection
308 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
309 reimburse the party; and

310 (b) the court may:

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

313 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section
314 41-6a-515.5 if the individual is 21 years of age or older; or

315 (iii) order a combination of Subsections (2)(b)(i) and (ii).

316 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
317 sentence and places the defendant on probation, the court shall impose:

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

319 (b) a jail sentence of not less than 1,500 hours; and

320 (c) supervised probation.

321 (4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court:

322 (a) shall impose an order requiring the individual to obtain a screening and assessment
323 for alcohol and substance abuse, and treatment as appropriate; and

324 (b) may impose an order requiring the individual to participate in a 24-7 sobriety
325 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

326 (5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

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

330 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); 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 (7) In a county of the first or second class, as classified in Section 17-50-501, a private
339 entity that conducts an assessment of an individual under this section may not also provide
340 substance abuse treatment to the individual under this section.

341 Section 5. Section **41-6a-509** is amended to read:

342 **41-6a-509. Driver license suspension or revocation for a driving under the**
343 **influence violation.**

344 (1) The Driver License Division shall, if the person is 21 years of age or older at the
345 time of arrest:

346 (a) suspend for a period of 120 days the operator's license of a person convicted for the
347 first time under Section 41-6a-502 of an offense committed on or after July 1, 2009; or

348 (b) revoke for a period of two years the license of a person if:

349 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

350 (ii) the current driving under the influence violation under Section 41-6a-502 is
351 committed:

352 (A) within a period of 10 years from the date of the prior violation; and

353 (B) on or after July 1, 2009.

354 (2) The Driver License Division shall, if the person is 19 years of age or older but
355 under 21 years of age at the time of arrest:

356 (a) suspend the person's driver license until the person is 21 years of age or for a period
357 of one year, whichever is longer, if the person is convicted for the first time of a driving under
358 the influence violation under Section 41-6a-502 of an offense that was committed on or after
359 July 1, 2011;

360 (b) deny the person's application for a license or learner's permit until the person is 21
361 years of age or for a period of one year, whichever is longer, if the person:

362 (i) is convicted for the first time of a driving under the influence violation under
363 Section 41-6a-502 of an offense committed on or after July 1, 2011; and

364 (ii) has not been issued an operator license;

365 (c) revoke the person's driver license until the person is 21 years of age or for a period
366 of two years, whichever is longer, if:

367 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

368 (ii) the current driving under the influence violation under Section 41-6a-502 is

369 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
370 violation; or

371 (d) deny the person's application for a license or learner's permit until the person is 21
372 years of age or for a period of two years, whichever is longer, if:

373 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

374 (ii) the current driving under the influence violation under Section 41-6a-502 is
375 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
376 violation; and

377 (iii) the person has not been issued an operator license.

378 (3) The Driver License Division shall, if the person is under 19 years of age at the time
379 of arrest:

380 (a) suspend the person's driver license until the person is 21 years of age if the person
381 is convicted for the first time of a driving under the influence violation under Section
382 41-6a-502 of an offense that was committed on or after July 1, 2009;

383 (b) deny the person's application for a license or learner's permit until the person is 21
384 years of age if the person:

385 (i) is convicted for the first time of a driving under the influence violation under
386 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

387 (ii) has not been issued an operator license;

388 (c) revoke the person's driver license until the person is 21 years of age if:

389 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

390 (ii) the current driving under the influence violation under Section 41-6a-502 is
391 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
392 violation; or

393 (d) deny the person's application for a license or learner's permit until the person is 21
394 years of age if:

395 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

396 (ii) the current driving under the influence violation under Section 41-6a-502 is
397 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
398 violation; and

399 (iii) the person has not been issued an operator license.

400 (4) The Driver License Division shall suspend or revoke the license of a person as
401 ordered by the court under Subsection (10).

402 (5) The Driver License Division shall:

403 (a) deny, suspend, or revoke the operator's license of a person convicted under Section
404 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or
405 revocation periods in effect prior to July 1, 2009; or

406 (b) deny, suspend, or revoke the operator's license of a person for the denial,
407 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

408 (i) the person was 20 years of age or older but under 21 years of age at the time of
409 arrest; and

410 (ii) the conviction under Section 41-6a-502 is for an offense that was committed on or
411 after July 1, 2009, and prior to July 1, 2011.

412 (6) The Driver License Division shall subtract from any suspension or revocation
413 period the number of days for which a license was previously suspended under Section
414 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
415 which the record of conviction is based.

416 (7) If a conviction recorded as impaired driving is amended to a driving under the
417 influence conviction under Section 41-6a-502 in accordance with Subsection
418 41-6a-502.5(3)(a)(ii), the Driver License Division:

419 (a) may not subtract from any suspension or revocation any time for which a license
420 was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

421 (b) shall start the suspension or revocation time under Subsection (1) on the date of the
422 amended conviction.

423 (8) A court that reported a conviction of a violation of Section 41-6a-502 for a
424 violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the
425 suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to
426 completion of the suspension period if the person:

427 (a) completes at least six months of the license suspension;

428 (b) completes a screening;

429 (c) completes an assessment, if it is found appropriate by a screening under Subsection

430 (8)(b);

431 (d) completes substance abuse treatment if it is found appropriate by the assessment
432 under Subsection (8)(c);

433 (e) completes an educational series if substance abuse treatment is not required by an
434 assessment under Subsection (8)(c) or the court does not order substance abuse treatment;

435 (f) has not been convicted of a violation of any motor vehicle law in which the person
436 was involved as the operator of the vehicle during the suspension period imposed under
437 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

438 (g) has complied with all the terms of the person's probation or all orders of the court if
439 not ordered to probation; and

440 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
441 person has not unlawfully consumed alcohol during the suspension period imposed under
442 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

443 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
444 affidavit or sworn statement to the court certifying that to the parent or legal guardian's
445 knowledge the person has not unlawfully consumed alcohol during the suspension period
446 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

447 (9) If the court shortens a person's license suspension period in accordance with the
448 requirements of Subsection (8), the court shall forward the order shortening the person's
449 suspension period prior to the completion of the suspension period imposed under Subsection
450 (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

451 (10) (a) (i) In addition to any other penalties provided in this section, a court may order
452 the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be
453 suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two
454 years to remove from the highways those persons who have shown they are safety hazards.

455 (ii) The additional suspension or revocation period provided in this Subsection (10)
456 shall begin the date on which the individual would be eligible to reinstate the individual's
457 driving privilege for a violation of Section 41-6a-502.

458 (b) If the court suspends or revokes the person's license under this Subsection (10), the
459 court shall prepare and send to the Driver License Division an order to suspend or revoke that
460 person's driving privileges for a specified period of time.

461 (11) (a) The court shall notify the Driver License Division if a person fails to:

462 (i) complete all court ordered:

463 (A) screening;

464 (B) assessment;

465 (C) educational series;

466 (D) substance abuse treatment; and

467 (E) hours of work in a compensatory-service work program; or

468 (ii) pay all fines and fees, including fees for restitution and treatment costs.

469 (b) Upon receiving the notification described in Subsection (11)(a), the division shall

470 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

471 (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the

472 Driver License Division may shorten the suspension period imposed under Subsection (1)

473 before completion of the suspension period if the person is participating in or has successfully

474 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

475 (b) If the court shortens a person's license suspension period in accordance with the

476 requirements of this Subsection (12), the court shall forward to the Driver License Division the

477 order shortening the person's suspension period.

478 (c) The court shall notify the Driver License Division if a person fails to complete all

479 requirements of a 24-7 sobriety program.

480 (d) Upon receiving the notification described in Subsection (12)(c), the division shall

481 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

482 (13) In a county of the first or second class, as classified in Section 17-50-501, a

483 private entity that conducts an assessment of a person under this section may not also provide

484 substance abuse treatment to the person under this section.

485 Section 6. Section 41-6a-517 (Superseded 07/01/19) is amended to read:

486 **41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable**

487 **controlled substance in the body -- Penalties -- Arrest without warrant.**

488 (1) As used in this section:

489 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

490 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

491 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

492 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

493 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
494 operate or be in actual physical control of a motor vehicle within this state if the person has any
495 measurable controlled substance or metabolite of a controlled substance in the person's body.

496 (3) It is an affirmative defense to prosecution under this section that the controlled
497 substance was:

498 (a) involuntarily ingested by the accused;

499 (b) prescribed by a practitioner for use by the accused;

500 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
501 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
502 Cannabis Act; or

503 (d) otherwise legally ingested.

504 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
505 misdemeanor.

506 (b) A person who violates this section is subject to conviction and sentencing under
507 both this section and any applicable offense under Section 58-37-8.

508 (5) A peace officer may, without a warrant, arrest a person for a violation of this
509 section when the officer has probable cause to believe the violation has occurred, although not
510 in the officer's presence, and if the officer has probable cause to believe that the violation was
511 committed by the person.

512 (6) The Driver License Division shall, if the person is 21 years of age or older on the
513 date of arrest:

514 (a) suspend, for a period of 120 days, the driver license of a person convicted under
515 Subsection (2) of an offense committed on or after July 1, 2009; or

516 (b) revoke, for a period of two years, the driver license of a person if:

517 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

518 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
519 and within a period of 10 years after the date of the prior violation.

520 (7) The Driver License Division shall, if the person is 19 years of age or older but
521 under 21 years of age on the date of arrest:

522 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
523 longer, the driver license of a person convicted under Subsection (2) of an offense committed

524 on or after July 1, 2011; or

525 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is
526 longer, the driver license of a person if:

527 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

528 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
529 and within a period of 10 years after the date of the prior violation.

530 (8) The Driver License Division shall, if the person is under 19 years of age on the date
531 of arrest:

532 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
533 under Subsection (2) of an offense committed on or after July 1, 2009; or

534 (b) revoke, until the person is 21 years of age, the driver license of a person if:

535 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

536 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
537 and within a period of 10 years after the date of the prior violation.

538 (9) The Driver License Division shall subtract from any suspension or revocation
539 period the number of days for which a license was previously suspended under Section
540 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
541 which the record of conviction is based.

542 (10) The Driver License Division shall:

543 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
544 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
545 committed prior to July 1, 2009; or

546 (b) deny, suspend, or revoke the operator's license of a person for the denial,
547 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

548 (i) the person was 20 years of age or older but under 21 years of age at the time of
549 arrest; and

550 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
551 July 1, 2009, and prior to July 1, 2011.

552 (11) A court that reported a conviction of a violation of this section for a violation that
553 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
554 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period

555 if the person:

556 (a) completes at least six months of the license suspension;

557 (b) completes a screening;

558 (c) completes an assessment, if it is found appropriate by a screening under Subsection

559 (11)(b);

560 (d) completes substance abuse treatment if it is found appropriate by the assessment

561 under Subsection (11)(c);

562 (e) completes an educational series if substance abuse treatment is not required by the

563 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

564 (f) has not been convicted of a violation of any motor vehicle law in which the person

565 was involved as the operator of the vehicle during the suspension period imposed under

566 Subsection (7)(a) or (8)(a);

567 (g) has complied with all the terms of the person's probation or all orders of the court if

568 not ordered to probation; and

569 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the

570 person has not consumed a controlled substance not prescribed by a practitioner for use by the

571 person or unlawfully consumed alcohol during the suspension period imposed under

572 Subsection (7)(a) or (8)(a); or

573 (ii) is under 18 years of age and has the person's parent or legal guardian provide an

574 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's

575 knowledge the person has not consumed a controlled substance not prescribed by a practitioner

576 for use by the person or unlawfully consumed alcohol during the suspension period imposed

577 under Subsection (7)(a) or (8)(a).

578 (12) If the court shortens a person's license suspension period in accordance with the

579 requirements of Subsection (11), the court shall forward the order shortening the person's

580 license suspension period prior to the completion of the suspension period imposed under

581 Subsection (7)(a) or (8)(a) to the Driver License Division.

582 (13) (a) The court shall notify the Driver License Division if a person fails to:

583 (i) complete all court ordered screening and assessment, educational series, and

584 substance abuse treatment; or

585 (ii) pay all fines and fees, including fees for restitution and treatment costs.

586 (b) Upon receiving the notification, the division shall suspend the person's driving
587 privilege in accordance with Subsections 53-3-221(2) and (3).

588 (14) The court:

589 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
590 convicted under Subsection (2); and

591 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
592 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

593 (15) (a) A court that reported a conviction of a violation of this section to the Driver
594 License Division may shorten the suspension period imposed under Subsection (6) before
595 completion of the suspension period if the person is participating in or has successfully
596 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

597 (b) If the court shortens a person's license suspension period in accordance with the
598 requirements of this Subsection (15), the court shall forward to the Driver License Division the
599 order shortening the person's suspension period.

600 (c) The court shall notify the Driver License Division if a person fails to complete all
601 requirements of a 24-7 sobriety program.

602 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
603 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

604 (16) In a county of the first or second class, as classified in Section 17-50-501, a
605 private entity that conducts an assessment of a person under this section may not also provide
606 substance abuse treatment to the person under this section.

607 Section 7. Section 41-6a-517 (Effective 07/01/19) is amended to read:

608 **41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable**
609 **controlled substance in the body -- Penalties -- Arrest without warrant.**

610 (1) As used in this section:

611 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

612 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

613 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

614 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

615 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
616 operate or be in actual physical control of a motor vehicle within this state if the person has any

617 measurable controlled substance or metabolite of a controlled substance in the person's body.

618 (3) It is an affirmative defense to prosecution under this section that the controlled
619 substance was:

620 (a) involuntarily ingested by the accused;

621 (b) prescribed by a practitioner for use by the accused;

622 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
623 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
624 Cannabis Act; or

625 (d) otherwise legally ingested.

626 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
627 misdemeanor.

628 (b) A person who violates this section is subject to conviction and sentencing under
629 both this section and any applicable offense under Section 58-37-8.

630 (5) A peace officer may, without a warrant, arrest a person for a violation of this
631 section when the officer has probable cause to believe the violation has occurred, although not
632 in the officer's presence, and if the officer has probable cause to believe that the violation was
633 committed by the person.

634 (6) The Driver License Division shall, if the person is 21 years of age or older on the
635 date of arrest:

636 (a) suspend, for a period of 120 days, the driver license of a person convicted under
637 Subsection (2) of an offense committed on or after July 1, 2009; or

638 (b) revoke, for a period of two years, the driver license of a person if:

639 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

640 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
641 and within a period of 10 years after the date of the prior violation.

642 (7) The Driver License Division shall, if the person is 19 years of age or older but
643 under 21 years of age on the date of arrest:

644 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is
645 longer, the driver license of a person convicted under Subsection (2) of an offense committed
646 on or after July 1, 2011; or

647 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is

648 longer, the driver license of a person if:

649 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

650 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

651 and within a period of 10 years after the date of the prior violation.

652 (8) The Driver License Division shall, if the person is under 19 years of age on the date
653 of arrest:

654 (a) suspend, until the person is 21 years of age, the driver license of a person convicted
655 under Subsection (2) of an offense committed on or after July 1, 2009; or

656 (b) revoke, until the person is 21 years of age, the driver license of a person if:

657 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

658 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

659 and within a period of 10 years after the date of the prior violation.

660 (9) The Driver License Division shall subtract from any suspension or revocation
661 period the number of days for which a license was previously suspended under Section
662 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
663 which the record of conviction is based.

664 (10) The Driver License Division shall:

665 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in
666 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was
667 committed prior to July 1, 2009; or

668 (b) deny, suspend, or revoke the operator's license of a person for the denial,
669 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

670 (i) the person was 20 years of age or older but under 21 years of age at the time of
671 arrest; and

672 (ii) the conviction under Subsection (2) is for an offense that was committed on or after
673 July 1, 2009, and prior to July 1, 2011.

674 (11) A court that reported a conviction of a violation of this section for a violation that
675 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension
676 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
677 if the person:

678 (a) completes at least six months of the license suspension;

- 679 (b) completes a screening;
- 680 (c) completes an assessment, if it is found appropriate by a screening under Subsection
681 (11)(b);
- 682 (d) completes substance abuse treatment if it is found appropriate by the assessment
683 under Subsection (11)(c);
- 684 (e) completes an educational series if substance abuse treatment is not required by the
685 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;
- 686 (f) has not been convicted of a violation of any motor vehicle law in which the person
687 was involved as the operator of the vehicle during the suspension period imposed under
688 Subsection (7)(a) or (8)(a);
- 689 (g) has complied with all the terms of the person's probation or all orders of the court if
690 not ordered to probation; and
- 691 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
692 person has not consumed a controlled substance not prescribed by a practitioner for use by the
693 person or unlawfully consumed alcohol during the suspension period imposed under
694 Subsection (7)(a) or (8)(a); or
- 695 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
696 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
697 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
698 for use by the person or unlawfully consumed alcohol during the suspension period imposed
699 under Subsection (7)(a) or (8)(a).
- 700 (12) If the court shortens a person's license suspension period in accordance with the
701 requirements of Subsection (11), the court shall forward the order shortening the person's
702 license suspension period prior to the completion of the suspension period imposed under
703 Subsection (7)(a) or (8)(a) to the Driver License Division.
- 704 (13) (a) The court shall notify the Driver License Division if a person fails to:
- 705 (i) complete all court ordered screening and assessment, educational series, and
706 substance abuse treatment; or
- 707 (ii) pay all fines and fees, including fees for restitution and treatment costs.
- 708 (b) Upon receiving the notification, the division shall suspend the person's driving
709 privilege in accordance with Subsections [53-3-221\(2\)](#) and (3).

710 (14) The court:

711 (a) shall order supervised probation in accordance with Section [41-6a-507](#) for a person
712 convicted under Subsection (2); and

713 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
714 program as defined in Section [41-6a-515.5](#) if the person is 21 years of age or older.

715 (15) (a) A court that reported a conviction of a violation of this section to the Driver
716 License Division may shorten the suspension period imposed under Subsection (6) before
717 completion of the suspension period if the person is participating in or has successfully
718 completed a 24-7 sobriety program as defined in Section [41-6a-515.5](#).

719 (b) If the court shortens a person's license suspension period in accordance with the
720 requirements of this Subsection (15), the court shall forward to the Driver License Division the
721 order shortening the person's suspension period.

722 (c) The court shall notify the Driver License Division if a person fails to complete all
723 requirements of a 24-7 sobriety program.

724 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
725 suspend the person's driving privilege in accordance with Subsections [53-3-221](#)(2) and (3).

726 (16) In a county of the first or second class, as classified in Section [17-50-501](#), a
727 private entity that conducts an assessment of a person under this section may not also provide
728 substance abuse treatment to the person under this section.

729 Section 8. Section [53-3-231](#) is amended to read:

730 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
731 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
732 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
733 **Referral to local substance abuse authority or program.**

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

735 (i) "Local substance abuse authority" has the same meaning as provided in Section
736 [62A-15-102](#).

737 (ii) "Substance abuse program" means any substance abuse program licensed by the
738 Department of Human Services or the Department of Health and approved by the local
739 substance abuse authority.

740 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall

741 be made in accordance with the procedures in Subsection 41-6a-502(1).

742 (2) (a) A person younger than 21 years of age may not operate or be in actual physical
743 control of a vehicle or motorboat with any measurable blood, breath, or urine alcohol
744 concentration in the person's body as shown by a chemical test.

745 (b) A person who violates Subsection (2)(a), in addition to any other applicable
746 penalties arising out of the incident, shall have the person's operator license denied or
747 suspended as provided in Subsection (8).

748 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
749 violating or has violated Subsection (2), the peace officer may, in connection with arresting the
750 person for a violation of Section 32B-4-409, request that the person submit to a chemical test
751 or tests to be administered in compliance with the standards under Section 41-6a-520.

752 (b) The peace officer shall advise a person prior to the person's submission to a
753 chemical test that a test result indicating a violation of Subsection (2)(a) will result in denial or
754 suspension of the person's license to operate a motor vehicle or a refusal to issue a license.

755 (c) If the person submits to a chemical test and the test results indicate a blood, breath,
756 or urine alcohol content in violation of Subsection (2)(a), or if a peace officer makes a
757 determination, based on reasonable grounds, that the person is otherwise in violation of
758 Subsection (2)(a), a peace officer shall, on behalf of the division and within 24 hours of the
759 arrest, give notice of the division's intention to deny or suspend the person's license to operate a
760 vehicle or refusal to issue a license under this section.

761 (4) When a peace officer gives notice on behalf of the division, the peace officer shall:

762 (a) take the Utah license certificate or permit, if any, of the operator;

763 (b) issue a temporary license certificate effective for only 29 days from the date of
764 arrest if the driver had a valid operator's license; and

765 (c) supply to the operator, in a manner specified by the division, basic information
766 regarding how to obtain a prompt hearing before the division.

767 (5) A citation issued by a peace officer may, if provided in a manner specified by the
768 division, also serve as the temporary license certificate under Subsection (4)(b).

769 (6) As a matter of procedure, a peace officer shall send to the division within 10
770 calendar days after the day on which notice is provided:

771 (a) the person's driver license certificate, if any;

772 (b) a copy of the citation issued for the offense;

773 (c) a signed report in a manner specified by the Driver License Division indicating the
774 chemical test results, if any; and

775 (d) any other basis for a peace officer's determination that the person has violated
776 Subsection (2).

777 (7) (a) (i) Upon request in a manner specified by the division, the Driver License
778 Division shall grant to the person an opportunity to be heard within 29 days after the date of
779 arrest under Section [32B-4-409](#).

780 (ii) The request shall be made within 10 calendar days of the day on which notice is
781 provided.

782 (b) (i) Except as provided in Subsection (7)(b)(ii), a hearing, if held, shall be before the
783 division in:

784 (A) the county in which the arrest occurred; or

785 (B) a county that is adjacent to the county in which the arrest occurred.

786 (ii) The division may hold a hearing in some other county if the division and the person
787 both agree.

788 (c) The hearing shall be documented and shall cover the issues of:

789 (i) whether a peace officer had reasonable grounds to believe the person was operating
790 a motor vehicle or motorboat in violation of Subsection (2)(a);

791 (ii) whether the person refused to submit to the test; and

792 (iii) the test results, if any.

793 (d) In connection with a hearing, the division or its authorized agent may administer
794 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant
795 books and papers and records as defined in Section [46-4-102](#).

796 (e) One or more members of the division may conduct the hearing.

797 (f) Any decision made after a hearing before any number of the members of the
798 division is as valid as if made after a hearing before the full membership of the division.

799 (8) If, after a hearing, the division determines that a peace officer had reasonable
800 grounds to believe that the person was driving a motor vehicle in violation of Subsection (2)(a),
801 if the person fails to appear before the division as required in the notice, or if the person does
802 not request a hearing under this section, the division shall for a person under 21 years of age on

803 the date of arrest:

804 (a) deny the person's license until the person complies with Subsection (12)(b)(i) but
805 for a period of not less than six months beginning on the 30th day after the date of arrest for a
806 first offense under Subsection (2)(a) committed on or after May 14, 2013;

807 (b) suspend the person's license until the person complies with Subsection (12)(b)(i)
808 and until the person is 21 years of age or for a period of two years, whichever is longer,
809 beginning on the 30th day after the date of arrest for a second or subsequent offense under
810 Subsection (2)(a) committed on or after July 1, 2009, and within 10 years of a prior denial or
811 suspension;

812 (c) deny the person's application for a license or learner's permit until the person
813 complies with Subsection (12)(b)(i) but for a period of not less than six months if:

814 (i) the person has not been issued an operator license; and

815 (ii) the suspension is for a first offense under Subsection (2)(a) committed on or after
816 July 1, 2009;

817 (d) deny the person's application for a license or learner's permit until the person
818 complies with Subsection (12)(b)(i) and until the person is 21 years of age or for a period of
819 two years, whichever is longer, if:

820 (i) the person has not been issued an operator license; and

821 (ii) the suspension is for a second or subsequent offense under Subsection (2)(a)
822 committed on or after July 1, 2009, and within 10 years of a prior denial or suspension; or

823 (e) deny or suspend a person's license for the denial and suspension periods in effect:

824 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed
825 prior to July 1, 2009;

826 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of
827 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
828 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

829 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed
830 prior to May 14, 2013.

831 (9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall
832 shorten a person's one-year license suspension or denial period that is currently in effect to a
833 six-month suspension or denial period if:

- 834 (i) the driver was under the age of 19 at the time of arrest;
- 835 (ii) the offense was a first offense that was committed prior to May 14, 2013; and
- 836 (iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same
- 837 occurrence upon which the following written verifications are based:
 - 838 (A) a court order shortening the driver license suspension for a violation of Section
 - 839 41-6a-502 pursuant to Subsection 41-6a-509(8);
 - 840 (B) a court order shortening the driver license suspension for a violation of Section
 - 841 41-6a-517 pursuant to Subsection 41-6a-517(11);
 - 842 (C) a court order shortening the driver license suspension for a violation of Section
 - 843 32B-4-409;
 - 844 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
 - 845 32B-4-409;
 - 846 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
 - 847 41-6a-517, or Section 32B-4-409;
 - 848 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
 - 849 32B-4-409; or
 - 850 (G) other written documentation acceptable to the division.
- 851 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 852 division may make rules establishing requirements for acceptable documentation to shorten a
- 853 person's driver license suspension or denial period under this Subsection (9).
- 854 (c) If a person's license sanction is shortened under this Subsection (9), the person is
- 855 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).
- 856 (10) (a) (i) Following denial or suspension the division shall assess against a person, in
- 857 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,
- 858 which shall be paid before the person's driving privilege is reinstated, to cover administrative
- 859 costs.
 - 860 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or
 - 861 court decision that the suspension was not proper.
- 862 (b) A person whose operator license has been denied, suspended, or postponed by the
- 863 division under this section following an administrative hearing may file a petition within 30
- 864 days after the suspension for a hearing on the matter which, if held, is governed by Section

865 53-3-224.

866 (11) After reinstatement of an operator license for a first offense under this section, a
867 report authorized under Section 53-3-104 may not contain evidence of the denial or suspension
868 of the person's operator license under this section if the person has not been convicted of any
869 other offense for which the denial or suspension may be extended.

870 (12) (a) In addition to the penalties in Subsection (8), a person who violates Subsection
871 (2)(a) shall:

872 (i) obtain an assessment and recommendation for appropriate action from a substance
873 abuse program, but any associated costs shall be the person's responsibility; or

874 (ii) be referred by the division to the local substance abuse authority for an assessment
875 and recommendation for appropriate action.

876 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
877 license within five years of the effective date of the license sanction under Subsection (8) is
878 contingent upon successful completion of the action recommended by the local substance
879 abuse authority or the substance abuse program.

880 (ii) The local substance abuse authority's or the substance abuse program's
881 recommended action shall be determined by an assessment of the person's alcohol abuse and
882 may include:

883 (A) a targeted education and prevention program;

884 (B) an early intervention program; or

885 (C) a substance abuse treatment program.

886 (iii) Successful completion of the recommended action shall be determined by
887 standards established by the Division of Substance Abuse and Mental Health.

888 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
889 substance abuse authority or the substance abuse program shall notify the division of the
890 person's status regarding completion of the recommended action.

891 (d) The local substance abuse authorities and the substance abuse programs shall
892 cooperate with the division in:

893 (i) conducting the assessments;

894 (ii) making appropriate recommendations for action; and

895 (iii) notifying the division about the person's status regarding completion of the

896 recommended action.

897 (e) (i) The local substance abuse authority is responsible for the cost of the assessment
898 of the person's alcohol abuse, if the assessment is conducted by the local substance abuse
899 authority.

900 (ii) The local substance abuse authority or a substance abuse program selected by a
901 person is responsible for:

902 (A) conducting an assessment of the person's alcohol abuse; and

903 (B) for making a referral to an appropriate program on the basis of the findings of the
904 assessment.

905 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees
906 associated with the recommended program to which the person selected or is referred.

907 (B) The costs and fees under Subsection (12)(e)(iii)(A) shall be based on a sliding scale
908 consistent with the local substance abuse authority's policies and practices regarding fees for
909 services or determined by the substance abuse program.

910 (f) In a county of the first or second class, as classified in Section 17-50-501, a private
911 entity that conducts an assessment of a person under this Subsection (12) may not also provide
912 substance abuse treatment to the person under this Subsection (12).

913 Section 9. Section **58-37-8** is amended to read:

914 **58-37-8. Prohibited acts -- Penalties.**

915 (1) Prohibited acts A -- Penalties and reporting:

916 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and
917 intentionally:

918 (i) produce, manufacture, or dispense, or to possess with intent to produce,
919 manufacture, or dispense, a controlled or counterfeit substance;

920 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
921 arrange to distribute a controlled or counterfeit substance;

922 (iii) possess a controlled or counterfeit substance with intent to distribute; or

923 (iv) engage in a continuing criminal enterprise where:

924 (A) the person participates, directs, or engages in conduct that results in any violation
925 of any provision of [~~Title 58;~~] Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug
926 Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance

927 Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

928 (B) the violation is a part of a continuing series of two or more violations of [~~Title 58;~~
929 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
930 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
931 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
932 more persons with respect to whom the person occupies a position of organizer, supervisor, or
933 any other position of management.

934 (b) Any person convicted of violating Subsection (1)(a) with respect to:

935 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
936 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
937 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
938 subsequent conviction is guilty of a first degree felony;

939 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
940 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
941 upon a second or subsequent conviction is guilty of a second degree felony; or

942 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
943 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
944 felony.

945 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
946 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
947 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
948 person or in the person's immediate possession during the commission or in furtherance of the
949 offense, the court shall additionally sentence the person convicted for a term of one year to run
950 consecutively and not concurrently; and the court may additionally sentence the person
951 convicted for an indeterminate term not to exceed five years to run consecutively and not
952 concurrently.

953 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
954 felony punishable by imprisonment for an indeterminate term of not less than seven years and
955 which may be for life. Imposition or execution of the sentence may not be suspended, and the
956 person is not eligible for probation.

957 (e) The Administrative Office of the Courts shall report to the Division of

958 Occupational and Professional Licensing the name, case number, date of conviction, and if
959 known, the date of birth of each person convicted of violating Subsection (2)(a).

960 (2) Prohibited acts B -- Penalties and reporting:

961 (a) It is unlawful:

962 (i) for any person knowingly and intentionally to possess or use a controlled substance
963 analog or a controlled substance, unless it was obtained under a valid prescription or order,
964 directly from a practitioner while acting in the course of the person's professional practice, or as
965 otherwise authorized by this chapter;

966 (ii) for any owner, tenant, licensee, or person in control of any building, room,
967 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
968 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
969 any of those locations; or

970 (iii) for any person knowingly and intentionally to possess an altered or forged
971 prescription or written order for a controlled substance.

972 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

973 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

974 or

975 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
976 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
977 conviction is guilty of a third degree felony.

978 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
979 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
980 penalty than provided in this Subsection (2).

981 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
982 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
983 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
984 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
985 person is guilty of a third degree felony.

986 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior
987 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or
988 any public jail or other place of confinement shall be sentenced to a penalty one degree greater

989 than provided in Subsection (2)(b), and if the conviction is with respect to controlled
990 substances as listed in:

991 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
992 indeterminate term as provided by law, and:

993 (A) the court shall additionally sentence the person convicted to a term of one year to
994 run consecutively and not concurrently; and

995 (B) the court may additionally sentence the person convicted for an indeterminate term
996 not to exceed five years to run consecutively and not concurrently; and

997 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
998 indeterminate term as provided by law, and the court shall additionally sentence the person
999 convicted to a term of six months to run consecutively and not concurrently.

1000 (f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

1001 (i) on a first conviction, guilty of a class B misdemeanor;

1002 (ii) on a second conviction, guilty of a class A misdemeanor; and

1003 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1004 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1005 amounting to a violation of Section 76-5-207:

1006 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1007 body any measurable amount of a controlled substance; and

1008 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
1009 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

1010 (h) A person who violates Subsection (2)(g) by having in the person's body:

1011 (i) a controlled substance classified under Schedule I, other than those described in
1012 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1013 degree felony;

1014 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection
1015 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
1016 degree felony; or

1017 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
1018 A misdemeanor.

1019 (i) A person is guilty of a separate offense for each victim suffering serious bodily

1020 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
1021 whether or not the injuries arise from the same episode of driving.

1022 (j) The Administrative Office of the Courts shall report to the Division of Occupational
1023 and Professional Licensing the name, case number, date of conviction, and if known, the date
1024 of birth of each person convicted of violating Subsection (2)(a).

1025 (3) Prohibited acts C -- Penalties:

1026 (a) It is unlawful for any person knowingly and intentionally:

1027 (i) to use in the course of the manufacture or distribution of a controlled substance a
1028 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1029 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1030 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1031 person;

1032 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1033 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
1034 be attempting to acquire or obtain possession of, or to procure the administration of any
1035 controlled substance by misrepresentation or failure by the person to disclose receiving any
1036 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1037 prescription or written order for a controlled substance, or the use of a false name or address;

1038 (iii) to make any false or forged prescription or written order for a controlled substance,
1039 or to utter the same, or to alter any prescription or written order issued or written under the
1040 terms of this chapter; or

1041 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
1042 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1043 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1044 so as to render any drug a counterfeit controlled substance.

1045 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
1046 misdemeanor.

1047 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
1048 degree felony.

1049 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1050 (4) Prohibited acts D -- Penalties:

1051 (a) Notwithstanding other provisions of this section, a person not authorized under this
1052 chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or
1053 Section 58-37b-4 is upon conviction subject to the penalties and classifications under this
1054 Subsection (4) if the trier of fact finds the act is committed:

1055 (i) in a public or private elementary or secondary school or on the grounds of any of
1056 those schools during the hours of 6 a.m. through 10 p.m.;

1057 (ii) in a public or private vocational school or postsecondary institution or on the
1058 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1059 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
1060 facility's hours of operation;

1061 (iv) in a public park, amusement park, arcade, or recreation center when the public or
1062 amusement park, arcade, or recreation center is open to the public;

1063 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1064 (vi) in or on the grounds of a library when the library is open to the public;

1065 (vii) within any area that is within 100 feet of any structure, facility, or grounds
1066 included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1067 (viii) in the presence of a person younger than 18 years of age, regardless of where the
1068 act occurs; or

1069 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1070 distribution of a substance in violation of this section to an inmate or on the grounds of any
1071 correctional facility as defined in Section 76-8-311.3.

1072 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1073 and shall be imprisoned for a term of not less than five years if the penalty that would
1074 otherwise have been established but for this Subsection (4) would have been a first degree
1075 felony.

1076 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1077 not eligible for probation.

1078 (c) If the classification that would otherwise have been established would have been
1079 less than a first degree felony but for this Subsection (4), a person convicted under this
1080 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1081 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1082 (d) (i) If the violation is of Subsection (4)(a)(ix):

1083 (A) the person may be sentenced to imprisonment for an indeterminate term as
1084 provided by law, and the court shall additionally sentence the person convicted for a term of
1085 one year to run consecutively and not concurrently; and

1086 (B) the court may additionally sentence the person convicted for an indeterminate term
1087 not to exceed five years to run consecutively and not concurrently; and

1088 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with
1089 the mental state required for the commission of an offense, directly or indirectly solicits,
1090 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1091 violation of Subsection (4)(a)(ix).

1092 (e) It is not a defense to a prosecution under this Subsection (4) that the actor
1093 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
1094 was unaware of the individual's true age; nor that the actor mistakenly believed that the
1095 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
1096 the location where the act occurred was as described in Subsection (4)(a).

1097 (5) Any violation of this chapter for which no penalty is specified is a class B
1098 misdemeanor.

1099 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1100 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1101 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1102 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1103 abeyance agreement.

1104 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1105 conviction that is:

1106 (i) from a separate criminal episode than the current charge; and

1107 (ii) from a conviction that is separate from any other conviction used to enhance the
1108 current charge.

1109 (7) A person may be charged and sentenced for a violation of this section,
1110 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1111 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in
1112 lieu of, any civil or administrative penalty or sanction authorized by law.

1113 (b) Where violation of this chapter violates a federal law or the law of another state,
1114 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1115 prosecution in this state.

1116 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1117 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1118 substance or substances, is prima facie evidence that the person or persons did so with
1119 knowledge of the character of the substance or substances.

1120 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1121 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1122 administering controlled substances or from causing the substances to be administered by an
1123 assistant or orderly under the veterinarian's direction and supervision.

1124 (11) Civil or criminal liability may not be imposed under this section on:

1125 (a) any person registered under this chapter who manufactures, distributes, or possesses
1126 an imitation controlled substance for use as a placebo or investigational new drug by a
1127 registered practitioner in the ordinary course of professional practice or research; or

1128 (b) any law enforcement officer acting in the course and legitimate scope of the
1129 officer's employment.

1130 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1131 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide
1132 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1133 as defined in Subsection 58-37-2(1)(w).

1134 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1135 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,
1136 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in
1137 connection with the practice of a traditional Indian religion.

1138 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1139 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
1140 trial.

1141 (ii) The notice shall include the specific claims of the affirmative defense.

1142 (iii) The court may waive the notice requirement in the interest of justice for good
1143 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1144 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1145 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1146 charges.

1147 (13) (a) It is an affirmative defense that the person produced, possessed, or
1148 administered a controlled substance listed in Section 58-37-4.2 if the person:

1149 (i) was engaged in medical research; and

1150 (ii) was a holder of a valid license to possess controlled substances under Section
1151 58-37-6.

1152 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1153 a controlled substance listed in Section 58-37-4.2.

1154 (14) It is an affirmative defense that the person possessed, in the person's body, a
1155 controlled substance listed in Section 58-37-4.2 if:

1156 (a) the person was the subject of medical research conducted by a holder of a valid
1157 license to possess controlled substances under Section 58-37-6; and

1158 (b) the substance was administered to the person by the medical researcher.

1159 (15) The application of any increase in penalty under this section to a violation of
1160 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1161 Subsection (15) takes precedence over any conflicting provision of this section.

1162 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1163 listed in Subsection (16)(b) that the person:

1164 (i) reasonably believes that the person or another person is experiencing an overdose
1165 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1166 controlled substance or other substance;

1167 (ii) reports in good faith the overdose event to a medical provider, an emergency
1168 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
1169 emergency call system, or an emergency dispatch system, or the person is the subject of a
1170 report made under this Subsection (16);

1171 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
1172 actual location of the overdose event that facilitates responding to the person experiencing the
1173 overdose event;

1174 (iv) remains at the location of the person experiencing the overdose event until a

1175 responding law enforcement officer or emergency medical service provider arrives, or remains
1176 at the medical care facility where the person experiencing an overdose event is located until a
1177 responding law enforcement officer arrives;

1178 (v) cooperates with the responding medical provider, emergency medical service
1179 provider, and law enforcement officer, including providing information regarding the person
1180 experiencing the overdose event and any substances the person may have injected, inhaled, or
1181 otherwise introduced into the person's body; and

1182 (vi) is alleged to have committed the offense in the same course of events from which
1183 the reported overdose arose.

1184 (b) The offenses referred to in Subsection (16)(a) are:

1185 (i) the possession or use of less than 16 ounces of marijuana;

1186 (ii) the possession or use of a scheduled or listed controlled substance other than
1187 marijuana; and

1188 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1189 Imitation Controlled Substances Act.

1190 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
1191 include seeking medical assistance under this section during the course of a law enforcement
1192 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1193 (17) If any provision of this chapter, or the application of any provision to any person
1194 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1195 invalid provision or application.

1196 (18) A legislative body of a political subdivision may not enact an ordinance that is
1197 less restrictive than any provision of this chapter.

1198 (19) (a) If a minor who is under 18 years of age is found by a court to have violated this
1199 section, the court may order:

1200 ~~[(a)]~~ (i) the minor to complete a screening as defined in Section [41-6a-501](#);

1201 ~~[(b)]~~ (ii) the minor to complete an assessment as defined in Section [41-6a-501](#) if the
1202 screening indicates an assessment to be appropriate; and

1203 ~~[(c)]~~ (iii) the minor to complete an educational series as defined in Section [41-6a-501](#)
1204 or substance use disorder treatment as indicated by an assessment.

1205 (b) In a county of the first or second class, as classified in Section [17-50-501](#), a private

1206 entity that conducts an assessment of a minor under this Subsection (19) may not also provide
1207 substance use disorder treatment to the minor under this Subsection (19).

1208 Section 10. Section **58-37a-7** is amended to read:

1209 **58-37a-7. Sentencing requirements for minors.**

1210 (1) If a minor who is under 18 years of age is found by a court to have violated this
1211 chapter, the court may order the minor to complete:

1212 [~~(1)~~] (a) a screening as defined in Section [41-6a-501](#);

1213 [~~(2)~~] (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
1214 assessment to be appropriate; and

1215 [~~(3)~~] (c) an educational series as defined in Section [41-6a-501](#) or substance use
1216 disorder treatment as indicated by an assessment.

1217 (2) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1218 entity that conducts an assessment of a minor under this section may not also provide substance
1219 use disorder treatment to the minor under this section.

1220 Section 11. Section **62A-15-103** is amended to read:

1221 **62A-15-103. Division -- Creation -- Responsibilities.**

1222 (1) There is created the Division of Substance Abuse and Mental Health within the
1223 department, under the administration and general supervision of the executive director. The
1224 division is the substance abuse authority and the mental health authority for this state.

1225 (2) The division shall:

1226 (a) (i) educate the general public regarding the nature and consequences of substance
1227 abuse by promoting school and community-based prevention programs;

1228 (ii) render support and assistance to public schools through approved school-based
1229 substance abuse education programs aimed at prevention of substance abuse;

1230 (iii) promote or establish programs for the prevention of substance abuse within the
1231 community setting through community-based prevention programs;

1232 (iv) cooperate with and assist treatment centers, recovery residences, and other
1233 organizations that provide services to individuals recovering from a substance abuse disorder,
1234 by identifying and disseminating information about effective practices and programs;

1235 (v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1236 Rulemaking Act, to develop, in collaboration with public and private programs, minimum

1237 standards for public and private providers of substance abuse and mental health programs
1238 licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;
1239 (vi) promote integrated programs that address an individual's substance abuse, mental
1240 health, physical health, and criminal risk factors;
1241 (vii) establish and promote an evidence-based continuum of screening, assessment,
1242 prevention, treatment, and recovery support services in the community for individuals with
1243 substance use disorder and mental illness that addresses criminal risk factors;
1244 (viii) evaluate the effectiveness of programs described in this Subsection (2);
1245 (ix) consider the impact of the programs described in this Subsection (2) on:
1246 (A) emergency department utilization;
1247 (B) jail and prison populations;
1248 (C) the homeless population; and
1249 (D) the child welfare system; and
1250 (x) promote or establish programs for education and certification of instructors to
1251 educate persons convicted of driving under the influence of alcohol or drugs or driving with
1252 any measurable controlled substance in the body;
1253 (b) (i) collect and disseminate information pertaining to mental health;
1254 (ii) provide direction over the state hospital including approval of its budget,
1255 administrative policy, and coordination of services with local service plans;
1256 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1257 Rulemaking Act, to educate families concerning mental illness and promote family
1258 involvement, when appropriate, and with patient consent, in the treatment program of a family
1259 member; and
1260 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1261 Rulemaking Act, to direct that an individual receiving services through a local mental health
1262 authority or the Utah State Hospital be informed about and, if desired by the individual,
1263 provided assistance in the completion of a declaration for mental health treatment in
1264 accordance with Section [62A-15-1002](#);
1265 (c) (i) consult and coordinate with local substance abuse authorities and local mental
1266 health authorities regarding programs and services;
1267 (ii) provide consultation and other assistance to public and private agencies and groups

- 1268 working on substance abuse and mental health issues;
- 1269 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
1270 medical and social agencies, public health authorities, law enforcement agencies, education and
1271 research organizations, and other related groups;
- 1272 (iv) promote or conduct research on substance abuse and mental health issues, and
1273 submit to the governor and the Legislature recommendations for changes in policy and
1274 legislation;
- 1275 (v) receive, distribute, and provide direction over public funds for substance abuse and
1276 mental health services;
- 1277 (vi) monitor and evaluate programs provided by local substance abuse authorities and
1278 local mental health authorities;
- 1279 (vii) examine expenditures of local, state, and federal funds;
- 1280 (viii) monitor the expenditure of public funds by:
- 1281 (A) local substance abuse authorities;
- 1282 (B) local mental health authorities; and
- 1283 (C) in counties where they exist, a private contract provider that has an annual or
1284 otherwise ongoing contract to provide comprehensive substance abuse or mental health
1285 programs or services for the local substance abuse authority or local mental health authority;
- 1286 (ix) contract with local substance abuse authorities and local mental health authorities
1287 to provide a comprehensive continuum of services that include community-based services for
1288 individuals involved in the criminal justice system, in accordance with division policy, contract
1289 provisions, and the local plan;
- 1290 (x) contract with private and public entities for special statewide or nonclinical
1291 services, or services for individuals involved in the criminal justice system, according to
1292 division rules;
- 1293 (xi) review and approve each local substance abuse authority's plan and each local
1294 mental health authority's plan in order to ensure:
- 1295 (A) a statewide comprehensive continuum of substance abuse services;
- 1296 (B) a statewide comprehensive continuum of mental health services;
- 1297 (C) services result in improved overall health and functioning;
- 1298 (D) a statewide comprehensive continuum of community-based services designed to

1299 reduce criminal risk factors for individuals who are determined to have substance abuse or
1300 mental illness conditions or both, and who are involved in the criminal justice system;

1301 (E) compliance, where appropriate, with the certification requirements in Subsection
1302 (2)(j); and

1303 (F) appropriate expenditure of public funds;

1304 (xii) review and make recommendations regarding each local substance abuse
1305 authority's contract with the local substance abuse authority's provider of substance abuse
1306 programs and services and each local mental health authority's contract with the local mental
1307 health authority's provider of mental health programs and services to ensure compliance with
1308 state and federal law and policy;

1309 (xiii) monitor and ensure compliance with division rules and contract requirements;
1310 and

1311 (xiv) withhold funds from local substance abuse authorities, local mental health
1312 authorities, and public and private providers for contract noncompliance, failure to comply
1313 with division directives regarding the use of public funds, or for misuse of public funds or
1314 money;

1315 (d) ensure that the requirements of this part are met and applied uniformly by local
1316 substance abuse authorities and local mental health authorities across the state;

1317 (e) require each local substance abuse authority and each local mental health authority,
1318 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit a plan to
1319 the division on or before May 15 of each year;

1320 (f) conduct an annual program audit and review of each local substance abuse authority
1321 and each local substance abuse authority's contract provider, and each local mental health
1322 authority and each local mental health authority's contract provider, including:

1323 (i) a review and determination regarding whether:

1324 (A) public funds allocated to the local substance abuse authority or the local mental
1325 health authorities are consistent with services rendered by the authority or the authority's
1326 contract provider, and with outcomes reported by the authority's contract provider; and

1327 (B) each local substance abuse authority and each local mental health authority is
1328 exercising sufficient oversight and control over public funds allocated for substance use
1329 disorder and mental health programs and services; and

- 1330 (ii) items determined by the division to be necessary and appropriate; and
- 1331 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
- 1332 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;
- 1333 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer
- 1334 supports services to an individual with:
 - 1335 (A) a substance use disorder;
 - 1336 (B) a mental health disorder; or
 - 1337 (C) a substance use disorder and a mental health disorder;
- 1338 (ii) certify a person to carry out, as needed, the division's duty to train and certify an
- 1339 adult as a peer support specialist;
- 1340 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 1341 Rulemaking Act, that:
 - 1342 (A) establish training and certification requirements for a peer support specialist;
 - 1343 (B) specify the types of services a peer support specialist is qualified to provide;
 - 1344 (C) specify the type of supervision under which a peer support specialist is required to
 - 1345 operate; and
 - 1346 (D) specify continuing education and other requirements for maintaining or renewing
 - 1347 certification as a peer support specialist; and
- 1348 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 1349 Rulemaking Act, that:
 - 1350 (A) establish the requirements for a person to be certified to carry out, as needed, the
 - 1351 division's duty to train and certify an adult as a peer support specialist; and
 - 1352 (B) specify how the division shall provide oversight of a person certified to train and
 - 1353 certify a peer support specialist;
 - 1354 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
 - 1355 Rulemaking Act, minimum standards and requirements for the provision of substance use
 - 1356 disorder and mental health treatment to an individual who is required to participate in treatment
 - 1357 by the court or the Board of Pardons and Parole, or who is incarcerated, including:
 - 1358 (i) collaboration with the Department of Corrections and the Utah Substance Use and
 - 1359 Mental Health Advisory Council to develop and coordinate the standards, including standards
 - 1360 for county and state programs serving individuals convicted of class A and class B

1361 misdemeanors;

1362 (ii) determining that the standards ensure available treatment, including the most
1363 current practices and procedures demonstrated by recognized scientific research to reduce
1364 recidivism, including focus on the individual's criminal risk factors; and

1365 (iii) requiring that all public and private treatment programs meet the standards
1366 established under this Subsection (2)(i) in order to receive public funds allocated to the
1367 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
1368 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

1369 (j) subject to Section 62A-15-103.5, establish by rule, in accordance with Title 63G,
1370 Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the
1371 certification of licensed public and private providers who provide, as part of their practice,
1372 substance use disorder and mental health treatment to an individual involved in the criminal
1373 justice system, including:

1374 (i) collaboration with the Department of Corrections, the Utah Substance Use and
1375 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
1376 and implement the certification process;

1377 (ii) basing the certification process on the standards developed under Subsection (2)(i)
1378 for the treatment of an individual involved in the criminal justice system; and

1379 (iii) the requirement that a public or private provider of treatment to an individual
1380 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
1381 shall renew the certification every two years, in order to qualify for funds allocated to the
1382 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
1383 on or after July 1, 2016;

1384 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
1385 provide recommendations to the Legislature regarding:

1386 (i) pretrial services and the resources needed to reduce recidivism;

1387 (ii) county jail and county behavioral health early-assessment resources needed for an
1388 offender convicted of a class A or class B misdemeanor; and

1389 (iii) the replacement of federal dollars associated with drug interdiction law
1390 enforcement task forces that are reduced;

1391 (l) (i) establish performance goals and outcome measurements for all treatment

1392 programs for which minimum standards are established under Subsection (2)(i), including
1393 recidivism data and data regarding cost savings associated with recidivism reduction and the
1394 reduction in the number of inmates, that are obtained in collaboration with the Administrative
1395 Office of the Courts and the Department of Corrections; and

1396 (ii) collect data to track and determine whether the goals and measurements are being
1397 attained and make this information available to the public;

1398 (m) in the division's discretion, use the data to make decisions regarding the use of
1399 funds allocated to the division, the Administrative Office of the Courts, and the Department of
1400 Corrections to provide treatment for which standards are established under Subsection (2)(i);
1401 and

1402 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
1403 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
1404 based on the data and provide the report to the Judiciary Interim Committee, the Health and
1405 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
1406 Committee, and the related appropriations subcommittees.

1407 (3) (a) The division may refuse to contract with and may pursue legal remedies against
1408 any local substance abuse authority or local mental health authority that fails, or has failed, to
1409 expend public funds in accordance with state law, division policy, contract provisions, or
1410 directives issued in accordance with state law.

1411 (b) The division may withhold funds from a local substance abuse authority or local
1412 mental health authority if the authority's contract provider of substance abuse or mental health
1413 programs or services fails to comply with state and federal law or policy.

1414 (4) Before reissuing or renewing a contract with any local substance abuse authority or
1415 local mental health authority, the division shall review and determine whether the local
1416 substance abuse authority or local mental health authority is complying with the oversight and
1417 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
1418 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
1419 liability described in Section 17-43-303 and to the responsibility and liability described in
1420 Section 17-43-203.

1421 (5) In carrying out the division's duties and responsibilities, the division may not
1422 duplicate treatment or educational facilities that exist in other divisions or departments of the

1423 state, but shall work in conjunction with those divisions and departments in rendering the
 1424 treatment or educational services that those divisions and departments are competent and able
 1425 to provide.

1426 (6) The division may accept in the name of and on behalf of the state donations, gifts,
 1427 devises, or bequests of real or personal property or services to be used as specified by the
 1428 donor.

1429 (7) The division shall annually review with each local substance abuse authority and
 1430 each local mental health authority the authority's statutory and contract responsibilities
 1431 regarding:

1432 (a) use of public funds;

1433 (b) oversight of public funds; and

1434 (c) governance of substance use disorder and mental health programs and services.

1435 (8) The Legislature may refuse to appropriate funds to the division upon the division's
 1436 failure to comply with the provisions of this part.

1437 (9) If a local substance abuse authority contacts the division under Subsection
 1438 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
 1439 minor, the division shall:

1440 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
 1441 capacity to provide the treatment services; or

1442 (b) otherwise ensure that treatment services are made available to the pregnant woman
 1443 or pregnant minor.

1444 Section 12. Section **62A-15-103.5** is enacted to read:

1445 **62A-15-103.5. Treatment and assessment certification.**

1446 A public or private provider is not required to obtain certification from the division as
 1447 described in Subsection [62A-15-103](#)(2)(j) if the provider:

1448 (1) conducts assessments to determine if an individual requires substance use disorder
 1449 treatment; and

1450 (2) does not provide substance use disorder or mental health treatment.

1451 Section 13. Section **76-9-701** is amended to read:

1452 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**
 1453 **center.**

1454 (1) A person is guilty of intoxication if the person is under the influence of alcohol, a
1455 controlled substance, or any substance having the property of releasing toxic vapors, to a
1456 degree that the person may endanger the person or another, in a public place or in a private
1457 place where the person unreasonably disturbs other persons.

1458 (2) (a) A peace officer or a magistrate may release from custody a person arrested
1459 under this section if the peace officer or magistrate believes imprisonment is unnecessary for
1460 the protection of the person or another.

1461 (b) A peace officer may take the arrested person to a detoxification center or other
1462 special facility as an alternative to incarceration or release from custody.

1463 (3) (a) If a minor is found by a court to have violated this section and the violation is
1464 the minor's first violation of this section, the court may:

1465 (i) order the minor to complete a screening as defined in Section [41-6a-501](#);

1466 (ii) order the minor to complete an assessment as defined in Section [41-6a-501](#) if the
1467 screening indicates an assessment to be appropriate; and

1468 (iii) order the minor to complete an educational series as defined in Section [41-6a-501](#)
1469 or substance use disorder treatment as indicated by an assessment.

1470 (b) If a minor is found by a court to have violated this section and the violation is the
1471 minor's second or subsequent violation of this section, the court shall:

1472 (i) order the minor to complete a screening as defined in Section [41-6a-501](#);

1473 (ii) order the minor to complete an assessment as defined in Section [41-6a-501](#) if the
1474 screening indicates an assessment to be appropriate; and

1475 (iii) order the minor to complete an educational series as defined in Section [41-6a-501](#)
1476 or substance use disorder treatment as indicated by an assessment.

1477 (c) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1478 entity that conducts an assessment of a minor under this Subsection (3) may not also provide
1479 substance use disorder treatment to the minor under this Subsection (3).

1480 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
1481 found by a court to have violated this section, the court hearing the case shall suspend the
1482 minor's driving privileges under Section [53-3-219](#).

1483 (b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the
1484 suspension period required under Section [53-3-219](#) if:

- 1485 (i) the violation is the minor's first violation of this section; and
- 1486 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or
- 1487 (B) the minor demonstrates substantial progress in substance use disorder treatment.
- 1488 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the
- 1489 requirements of Section 53-3-219, the court may reduce the suspension period required under
- 1490 Section 53-3-219 if:
- 1491 (i) the violation is the minor's second or subsequent violation of this section;
- 1492 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
- 1493 demonstrated substantial progress in substance use disorder treatment; and
- 1494 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
- 1495 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
- 1496 consecutive period during the suspension period imposed under Subsection (4)(a); or
- 1497 (B) the person is under 18 years of age and has the person's parent or legal guardian
- 1498 provide an affidavit or sworn statement to the court certifying that to the parent or legal
- 1499 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
- 1500 one-year consecutive period during the suspension period imposed under Subsection (4)(a).
- 1501 (5) When a person who is younger than 18 years old is found by a court to have
- 1502 violated this section, the provisions regarding suspension of the driver's license under Section
- 1503 78A-6-606 apply to the violation.
- 1504 (6) (a) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under
- 1505 Section 78A-6-117, the court may only order substance use disorder treatment or an
- 1506 educational series if the minor has an assessed need for the intervention based on the results of
- 1507 a validated assessment.
- 1508 (b) In a county of the first or second class, as classified in Section 17-50-501, a private
- 1509 entity that conducts an assessment of a minor under this Subsection (6) may not also provide
- 1510 substance use disorder treatment to the minor under this Subsection (6).
- 1511 (7) When the court issues an order suspending a person's driving privileges for a
- 1512 violation of this section, the person's driver license shall be suspended under Section 53-3-219.
- 1513 (8) An offense under this section is a class C misdemeanor.
- 1514 Section 14. Section 77-18-1.1 is amended to read:
- 1515 **77-18-1.1. Screening, assessment, and treatment.**

1516 (1) As used in this section:

1517 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

1518 (b) "Convicted" means:

1519 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
1520 illness, or no contest; and

1521 (ii) conviction of any crime or offense.

1522 (c) "Screening" has the same meaning as in Section [41-6a-501](#).

1523 (d) "Substance use disorder treatment" means treatment obtained through a substance
1524 use disorder program that is licensed by the Office of Licensing within the Department of
1525 Human Services.

1526 (2) (a) On or after July 1, 2009, the courts of the judicial districts where the Drug
1527 -Related Offenses Reform Act under Section [63M-7-305](#) is implemented shall, in coordination
1528 with the local substance abuse authority regarding available resources, order convicted persons
1529 determined to be eligible in accordance with the implementation plan developed by the Utah
1530 Substance Use and Mental Health Advisory Council under Section [63M-7-305](#) to:

1531 ~~[(a)]~~ (i) participate in a screening prior to sentencing;

1532 ~~[(b)]~~ (ii) participate in an assessment prior to sentencing if the screening indicates an
1533 assessment to be appropriate; and

1534 ~~[(c)]~~ (iii) participate in substance use disorder treatment if:

1535 ~~[(i)]~~ (A) the assessment indicates treatment to be appropriate;

1536 ~~[(ii)]~~ (B) the court finds treatment to be appropriate for the convicted person; and

1537 ~~[(iii)]~~ (C) the court finds the convicted person to be an appropriate candidate for
1538 community-based supervision.

1539 (b) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1540 entity that conducts an assessment of a person under this Subsection (2) may not also provide
1541 substance use disorder treatment to the person under this Subsection (2).

1542 (3) The findings from any screening and any assessment conducted under this section
1543 shall be part of the presentence investigation report submitted to the court before sentencing of
1544 the convicted person.

1545 (4) Money appropriated by the Legislature to assist in the funding of the screening,
1546 assessment, substance use disorder treatment, and supervision provided under this section is

1547 not subject to any requirement regarding matching funds from a state or local governmental
1548 entity.

1549 Section 15. Section **78A-6-103** is amended to read:

1550 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

1551 (1) Except as otherwise provided by law, the juvenile court has exclusive original
1552 jurisdiction in proceedings concerning:

1553 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
1554 person younger than 21 years of age who has violated any law or ordinance before becoming
1555 18 years of age, regardless of where the violation occurred, excluding offenses:

1556 (i) in Section **53G-8-211** until such time that the child is referred to the courts under
1557 Section **53G-8-211**; and

1558 (ii) in Subsection **78A-7-106(2)**;

1559 (b) a child who is an abused child, neglected child, or dependent child, as those terms
1560 are defined in Section **78A-6-105**;

1561 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child
1562 Protective Orders, which the juvenile court may transfer to the district court if the juvenile
1563 court has entered an ex parte protective order and finds that:

1564 (i) the petitioner and the respondent are the natural parent, adoptive parent, or
1565 stepparent of the child who is the object of the petition;

1566 (ii) the district court has a petition pending or an order related to custody or parent-time
1567 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
1568 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
1569 respondent are parties; and

1570 (iii) the best interests of the child will be better served in the district court;

1571 (d) appointment of a guardian of the person or other guardian of a minor who comes
1572 within the court's jurisdiction under other provisions of this section;

1573 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

1574 (f) the termination of the legal parent-child relationship in accordance with Part 5,
1575 Termination of Parental Rights Act, including termination of residual parental rights and
1576 duties;

1577 (g) the treatment or commitment of a minor who has an intellectual disability;

1578 (h) the judicial consent to the marriage of a child under age 16 upon a determination of
1579 voluntariness or where otherwise required by law, employment, or enlistment of a child when
1580 consent is required by law;

1581 (i) any parent or parents of a child committed to a secure youth facility, to order, at the
1582 discretion of the court and on the recommendation of a secure facility, the parent or parents of a
1583 child committed to a secure facility for a custodial term, to undergo group rehabilitation
1584 therapy under the direction of a secure facility therapist, who has supervision of that parent's or
1585 parents' child, or any other therapist the court may direct, for a period directed by the court as
1586 recommended by a secure facility;

1587 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

1588 (k) subject to Subsection (8), the treatment or commitment of a child with a mental
1589 illness;

1590 (l) the commitment of a child to a secure drug or alcohol facility in accordance with
1591 Section [62A-15-301](#);

1592 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);

1593 (n) de novo review of final agency actions resulting from an informal adjudicative
1594 proceeding as provided in Section [63G-4-402](#); and

1595 (o) adoptions conducted in accordance with the procedures described in Title 78B,
1596 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
1597 terminating the rights of a parent and finds that adoption is in the best interest of the child.

1598 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile
1599 court has exclusive jurisdiction over the following offenses committed by a child:

1600 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

1601 (ii) Section [73-18-12](#), reckless operation; and

1602 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
1603 of a single criminal episode filed in a petition that contains an offense over which the court has
1604 jurisdiction.

1605 (b) A juvenile court may only order substance use disorder treatment or an educational
1606 series if the minor has an assessed need for the intervention on the basis of the results of a
1607 validated assessment.

1608 (c) In a county of the first or second class, as classified in Section [17-50-501](#), a private

1609 entity that conducts an assessment of a minor under this Subsection (2) may not also provide
1610 substance use disorder treatment to the minor under this Subsection (2).

1611 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
1612 referred to it by the Division of Child and Family Services or by public or private agencies that
1613 contract with the division to provide services to that child when, despite earnest and persistent
1614 efforts by the division or agency, the child has demonstrated that the child:

1615 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
1616 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
1617 others; or

1618 (b) has run away from home.

1619 (4) This section does not restrict the right of access to the juvenile court by private
1620 agencies or other persons.

1621 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
1622 arising under Section [78A-6-702](#).

1623 (6) The juvenile court has jurisdiction to make a finding of substantiated,
1624 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

1625 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
1626 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [53G-8-211](#).

1627 (8) The court may commit a child to the physical custody of a local mental health
1628 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
1629 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
1630 Hospital.