

Representative Lawanna Shurtliff proposes the following substitute bill:

ASSESSMENT AND TREATMENT DECISIONS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lawanna Shurtliff

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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32 **41-6a-517 (Superseded 07/01/19)**, as last amended by Laws of Utah 2018, Third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 **53-3-220**, as last amended by Laws of Utah 2018, Chapters 121 and 133

37 **53-3-231**, as last amended by Laws of Utah 2018, Chapter 417

38 **58-37-8**, as last amended by Laws of Utah 2017, Chapter 330

39 **58-37a-7**, as last amended by Laws of Utah 2017, Chapter 330

40 **62A-15-103**, as last amended by Laws of Utah 2018, Chapter 322

41 **76-9-701**, as last amended by Laws of Utah 2017, Chapter 330

42 **77-18-1.1**, as last amended by Laws of Utah 2016, Chapter 158

43 **78A-6-103**, as last amended by Laws of Utah 2018, Chapter 415

44 ENACTS:

45 **62A-15-103.5**, Utah Code Annotated 1953



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

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

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

51 (1) Unless specifically authorized by this title, it is unlawful for a minor to:

52 (a) purchase an alcoholic product;

53 (b) attempt to purchase an alcoholic product;

54 (c) solicit another person to purchase an alcoholic product;

55 (d) possess an alcoholic product;

56 (e) consume an alcoholic product; or

57 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

58 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
59 product for a minor for:

60 (a) a minor to misrepresent the minor's age; or

61 (b) any other person to misrepresent the age of a minor.

62 (3) It is unlawful for a minor to possess or consume an alcoholic product while riding
63 in a limousine or chartered bus.

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

66 (i) order the minor to complete a screening as defined in Section 41-6a-501;

67 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
68 screening indicates an assessment to be appropriate; and

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

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

73 (i) order the minor to complete a screening as defined in Section 41-6a-501;

74 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
75 screening indicates an assessment to be appropriate; and

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

78 (c) In a county of the first or second class, as classified in Section 17-50-501, a private
79 entity that conducts an assessment of a minor under this Subsection (4) may not also provide
80 substance use disorder treatment to the minor under this Subsection (4).

81 (5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
82 found by a court to have violated this section, except as provided in Section 32B-4-411, the
83 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

84 (b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the
85 suspension period required under Section 53-3-219 if:

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

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

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

89 (c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the
90 requirements of Section 53-3-219, the court may reduce the suspension period required under
91 Section 53-3-219 if:

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

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

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

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

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

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

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

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

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

118 (10) This section does not apply to a minor's consumption of an alcoholic product in

119 accordance with this title:

120 (a) for medicinal purposes if:

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

122 (ii) the alcoholic product is furnished by:

123 (A) the parent or guardian of the minor; or

124 (B) the minor's health care practitioner, if the health care practitioner is authorized by
125 law to write a prescription; or

126 (b) as part of a religious organization's religious services.

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

128 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

129 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
130 premises of:

131 (a) a tavern; or

132 (b) a bar licensee, except to the extent authorized by Section [32B-6-406.1](#).

133 (2) A minor who violates this section is guilty of a class C misdemeanor.

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

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

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

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

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

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

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

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

148 (c) In a county of the first or second class, as classified in Section [17-50-501](#), a private
149 entity that conducts an assessment of a minor under this Subsection (3) may not also provide

150 substance use disorder treatment to the minor under this Subsection (3).

151 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
152 found by a court to have violated this section, except as provided in Section 32B-4-411, the
153 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

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

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

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

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

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

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

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

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

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

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

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

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

180 (7) When a court issues an order suspending a person's driving privileges for a

181 violation of this section, the Driver License Division shall suspend the person's license under
182 Section 53-3-219.

183 (8) When the Department of Public Safety receives the arrest or conviction record of a
184 person for a driving offense committed while the person's license is suspended pursuant to this
185 section, the Department of Public Safety shall extend the suspension for an additional like
186 period of time.

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

188 **32B-4-411. Minor's unlawful use of proof of age.**

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

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

191 (b) if as part of the violation the minor uses a proof of age in violation of Chapter 1,
192 Part 4, Proof of Age Act:

193 (i) Section 32B-4-409; or

194 (ii) Section 32B-4-410.

195 (2) If a court finds a minor engaged in a proof of age violation, notwithstanding the
196 penalties provided for in Subsection (1):

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

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

199 (iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor,
200 except that the court may impose:

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

202 (B) screening, assessment, or substance use disorder treatment, as defined in Section
203 41-6a-501;

204 (C) an educational series, as defined in Section 41-6a-501;

205 (D) alcoholic product related community service or compensatory service work
206 program hours;

207 (E) fees for restitution and treatment costs;

208 (F) defensive driver education courses; or

209 (G) a combination of these penalties; and

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

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

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

213 (B) the provisions regarding suspension of a driver license under Section 78A-6-606

214 apply; and

215 (ii) for a minor who is at least 18 years old, but younger than 21 years old:

216 (A) the court shall forward to the Driver License Division a record of conviction for a
217 violation under this section; and

218 (B) the Driver License Division shall suspend the person's license under Section
219 53-3-220.

220 ~~(c)~~ (3) Notwithstanding Subsection (2)(a), if a minor is adjudicated under Section
221 78A-6-117, the court may order:

222 ~~(i)~~ (a) substance use disorder treatment or an educational series only if the minor has
223 an assessed need for the intervention based on the results of a validated assessment; and

224 ~~(ii)~~ (b) a fine, fee, service hours, or costs in accordance with Section 78A-6-117.

225 (4) In a county of the first or second class, as classified in Section 17-50-501, a private
226 entity that conducts an assessment of a minor under Subsections (2) or (3) may not also provide
227 substance use disorder treatment to the minor under Subsections (2) or (3).

228 ~~(3)~~ (5) (a) Notwithstanding Subsection (2)(b), the court may reduce the suspension
229 period under Subsection 53-3-220(1)(e) or 78A-6-606~~(3)~~(4)(d) if:

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

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

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

233 (b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the
234 suspension period under Subsection 53-3-220(1)(e) or 78A-6-606~~(3)~~(4)(d) if:

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

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

238 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
239 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
240 consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or
241 78A-6-606~~(3)~~(4)(d); or

242 (B) the minor is under 18 years of age and has the minor's parent or legal guardian

243 provide an affidavit or sworn statement to the court certifying that to the parent or legal
244 guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a
245 one-year consecutive period during the suspension period imposed under Subsection
246 [53-3-220\(1\)\(e\)](#) or [78A-6-606](#)~~(f)~~(4)(d).

247 ~~(4)~~ (6) When the Department of Public Safety receives the arrest or conviction record
248 of an individual for a driving offense committed while the individual's license is suspended
249 pursuant to this section, the Department of Public Safety shall extend the suspension for an
250 additional like period of time.

251 ~~(5)~~ (7) A court may not fail to enter a judgment of conviction under this section under
252 a plea in abeyance agreement.

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

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

256 (1) As part of any sentence for a first conviction of Section [41-6a-502](#):

257 (a) the court shall:

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

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

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

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

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

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

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

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

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

274 (viii) (A) order the individual to pay the towing and storage fees described in Section
275 72-9-603; or

276 (B) if the towing and storage fees were paid by a party described in Subsection
277 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
278 reimburse the party; and

279 (b) the court may:

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

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

283 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
284 41-6a-515.5 if the individual is 21 years of age or older; or

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

286 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
287 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
288 offense upon which the current conviction is based:

289 (a) the court shall:

290 (i) (A) impose a jail sentence of not less than 240 hours; or

291 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
292 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
293 a substance abuse testing instrument in accordance with Section 41-6a-506;

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

295 (iii) order the individual to participate in an assessment, if it is found appropriate by a
296 screening under Subsection (2)(a)(ii);

297 (iv) order the individual to participate in an educational series if the court does not
298 order substance abuse treatment as described under Subsection (2)(b);

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

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

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

303 (B) if the administrative impound fee was paid by a party described in Subsection
304 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

305 reimburse the party; or

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

307 72-9-603; or

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

309 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

310 reimburse the party; and

311 (b) the court may:

312 (i) order the individual to obtain substance abuse treatment if the substance abuse

313 treatment program determines that substance abuse treatment is appropriate;

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

315 41-6a-515.5 if the individual is 21 years of age or older; or

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

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

318 sentence and places the defendant on probation, the court shall impose:

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

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

321 (c) supervised probation.

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

323 (a) shall impose an order requiring the individual to obtain a screening and assessment

324 for alcohol and substance abuse, and treatment as appropriate; and

325 (b) may impose an order requiring the individual to participate in a 24-7 sobriety

326 program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

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

328 (6) If an individual is convicted of a violation of Section 41-6a-502 and there is

329 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court

330 shall order the following, or describe on record why the order or orders are not appropriate:

331 (a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

332 (b) one or more of the following:

333 (i) the installation of an ignition interlock system as a condition of probation for the

334 individual in accordance with Section 41-6a-518;

335 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring

336 device as a condition of probation for the individual; or

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

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

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

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

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

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

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

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

351 (ii) the current driving under the influence violation under Section [41-6a-502](#) is
352 committed:

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

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

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

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

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

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

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

366 (c) revoke the person's driver license until the person is 21 years of age or for a period

367 of two years, whichever is longer, if:

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

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

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

371 violation; or

372 (d) deny the person's application for a license or learner's permit until the person is 21

373 years of age or for a period of two years, whichever is longer, if:

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

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

376 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior

377 violation; and

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

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

380 of arrest:

381 (a) suspend the person's driver license until the person is 21 years of age if the person

382 is convicted for the first time of a driving under the influence violation under Section

383 41-6a-502 of an offense that was committed on or after July 1, 2009;

384 (b) deny the person's application for a license or learner's permit until the person is 21

385 years of age if the person:

386 (i) is convicted for the first time of a driving under the influence violation under

387 Section 41-6a-502 of an offense committed on or after July 1, 2009; and

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

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

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

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

392 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior

393 violation; or

394 (d) deny the person's application for a license or learner's permit until the person is 21

395 years of age if:

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

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

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

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

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

403 (5) The Driver License Division shall:

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

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

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

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

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

417 (7) If a conviction recorded as impaired driving is amended to a driving under the
418 influence conviction under Section 41-6a-502 in accordance with Subsection
419 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

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

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

429 (b) completes a screening;

430 (c) completes an assessment, if it is found appropriate by a screening under Subsection
431 (8)(b);

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

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

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

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

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

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

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

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

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

459 (b) If the court suspends or revokes the person's license under this Subsection (10), the

460 court shall prepare and send to the Driver License Division an order to suspend or revoke that
461 person's driving privileges for a specified period of time.

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

463 (i) complete all court ordered:

464 (A) screening;

465 (B) assessment;

466 (C) educational series;

467 (D) substance abuse treatment; and

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

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

470 (b) Upon receiving the notification described in Subsection (11)(a), the division shall
471 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

472 (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
473 Driver License Division may shorten the suspension period imposed under Subsection (1)
474 before completion of the suspension period if the person is participating in or has successfully
475 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

476 (b) If the court shortens a person's license suspension period in accordance with the
477 requirements of this Subsection (12), the court shall forward to the Driver License Division the
478 order shortening the person's suspension period.

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

481 (d) Upon receiving the notification described in Subsection (12)(c), the division shall
482 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

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

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

487 **41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable**
488 **controlled substance in the body -- Penalties -- Arrest without warrant.**

489 (1) As used in this section:

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

- 491 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.
- 492 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.
- 493 (d) "Prescription" means the same as that term is defined in Section 58-37-2.
- 494 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
495 operate or be in actual physical control of a motor vehicle within this state if the person has any
496 measurable controlled substance or metabolite of a controlled substance in the person's body.
- 497 (3) It is an affirmative defense to prosecution under this section that the controlled
498 substance was:
- 499 (a) involuntarily ingested by the accused;
- 500 (b) prescribed by a practitioner for use by the accused;
- 501 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
502 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
503 Cannabis Act; or
- 504 (d) otherwise legally ingested.
- 505 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
506 misdemeanor.
- 507 (b) A person who violates this section is subject to conviction and sentencing under
508 both this section and any applicable offense under Section 58-37-8.
- 509 (5) A peace officer may, without a warrant, arrest a person for a violation of this
510 section when the officer has probable cause to believe the violation has occurred, although not
511 in the officer's presence, and if the officer has probable cause to believe that the violation was
512 committed by the person.
- 513 (6) The Driver License Division shall, if the person is 21 years of age or older on the
514 date of arrest:
- 515 (a) suspend, for a period of 120 days, the driver license of a person convicted under
516 Subsection (2) of an offense committed on or after July 1, 2009; or
- 517 (b) revoke, for a period of two years, the driver license of a person if:
- 518 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
519 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
520 and within a period of 10 years after the date of the prior violation.
- 521 (7) The Driver License Division shall, if the person is 19 years of age or older but

522 under 21 years of age on the date of arrest:

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

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

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

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

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

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

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

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

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

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

543 (10) The Driver License Division shall:

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

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

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

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

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

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

558 (b) completes a screening;

559 (c) completes an assessment, if it is found appropriate by a screening under Subsection
560 (11)(b);

561 (d) completes substance abuse treatment if it is found appropriate by the assessment
562 under Subsection (11)(c);

563 (e) completes an educational series if substance abuse treatment is not required by the
564 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

565 (f) has not been convicted of a violation of any motor vehicle law in which the person
566 was involved as the operator of the vehicle during the suspension period imposed under
567 Subsection (7)(a) or (8)(a);

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

570 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
571 person has not consumed a controlled substance not prescribed by a practitioner for use by the
572 person or unlawfully consumed alcohol during the suspension period imposed under
573 Subsection (7)(a) or (8)(a); or

574 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
575 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
576 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
577 for use by the person or unlawfully consumed alcohol during the suspension period imposed
578 under Subsection (7)(a) or (8)(a).

579 (12) If the court shortens a person's license suspension period in accordance with the
580 requirements of Subsection (11), the court shall forward the order shortening the person's
581 license suspension period prior to the completion of the suspension period imposed under
582 Subsection (7)(a) or (8)(a) to the Driver License Division.

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

584 (i) complete all court ordered screening and assessment, educational series, and
585 substance abuse treatment; or

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

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

589 (14) The court:

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

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

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

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

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

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

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

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

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

611 (1) As used in this section:

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

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

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

- 615 (d) "Prescription" means the same as that term is defined in Section 58-37-2.
- 616 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not
617 operate or be in actual physical control of a motor vehicle within this state if the person has any
618 measurable controlled substance or metabolite of a controlled substance in the person's body.
- 619 (3) It is an affirmative defense to prosecution under this section that the controlled
620 substance was:
- 621 (a) involuntarily ingested by the accused;
- 622 (b) prescribed by a practitioner for use by the accused;
- 623 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage
624 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical
625 Cannabis Act; or
- 626 (d) otherwise legally ingested.
- 627 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B
628 misdemeanor.
- 629 (b) A person who violates this section is subject to conviction and sentencing under
630 both this section and any applicable offense under Section 58-37-8.
- 631 (5) A peace officer may, without a warrant, arrest a person for a violation of this
632 section when the officer has probable cause to believe the violation has occurred, although not
633 in the officer's presence, and if the officer has probable cause to believe that the violation was
634 committed by the person.
- 635 (6) The Driver License Division shall, if the person is 21 years of age or older on the
636 date of arrest:
- 637 (a) suspend, for a period of 120 days, the driver license of a person convicted under
638 Subsection (2) of an offense committed on or after July 1, 2009; or
- 639 (b) revoke, for a period of two years, the driver license of a person if:
- 640 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
641 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,
642 and within a period of 10 years after the date of the prior violation.
- 643 (7) The Driver License Division shall, if the person is 19 years of age or older but
644 under 21 years of age on the date of arrest:
- 645 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is

646 longer, the driver license of a person convicted under Subsection (2) of an offense committed
647 on or after July 1, 2011; or

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

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

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

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

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

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

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

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

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

665 (10) The Driver License Division shall:

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

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

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

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

675 (11) A court that reported a conviction of a violation of this section for a violation that
676 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension

677 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period
678 if the person:

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

680 (b) completes a screening;

681 (c) completes an assessment, if it is found appropriate by a screening under Subsection
682 (11)(b);

683 (d) completes substance abuse treatment if it is found appropriate by the assessment
684 under Subsection (11)(c);

685 (e) completes an educational series if substance abuse treatment is not required by the
686 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

687 (f) has not been convicted of a violation of any motor vehicle law in which the person
688 was involved as the operator of the vehicle during the suspension period imposed under
689 Subsection (7)(a) or (8)(a);

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

692 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the
693 person has not consumed a controlled substance not prescribed by a practitioner for use by the
694 person or unlawfully consumed alcohol during the suspension period imposed under
695 Subsection (7)(a) or (8)(a); or

696 (ii) is under 18 years of age and has the person's parent or legal guardian provide an
697 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's
698 knowledge the person has not consumed a controlled substance not prescribed by a practitioner
699 for use by the person or unlawfully consumed alcohol during the suspension period imposed
700 under Subsection (7)(a) or (8)(a).

701 (12) If the court shortens a person's license suspension period in accordance with the
702 requirements of Subsection (11), the court shall forward the order shortening the person's
703 license suspension period prior to the completion of the suspension period imposed under
704 Subsection (7)(a) or (8)(a) to the Driver License Division.

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

706 (i) complete all court ordered screening and assessment, educational series, and
707 substance abuse treatment; or

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

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

711 (14) The court:

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

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

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

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

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

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

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

730 Section 8. Section 53-3-220 is amended to read:

731 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
732 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
733 **Limited driving privileges.**

734 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
735 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
736 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
737 receiving a record of the person's conviction for:

738 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or

- 739 automobile homicide under Section 76-5-207 or 76-5-207.5;
- 740 (ii) driving or being in actual physical control of a motor vehicle while under the
741 influence of alcohol, any drug, or combination of them to a degree that renders the person
742 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
743 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 744 (iii) driving or being in actual physical control of a motor vehicle while having a blood
745 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
746 that complies with the requirements of Subsection 41-6a-510(1);
- 747 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
748 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
749 regulating driving on highways;
- 750 (v) any felony under the motor vehicle laws of this state;
- 751 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 752 (vii) failure to stop and render aid as required under the laws of this state if a motor
753 vehicle accident results in the death or personal injury of another;
- 754 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
755 driving and impaired driving committed within a period of 12 months; but if upon a first
756 conviction of reckless driving or impaired driving the judge or justice recommends suspension
757 of the convicted person's license, the division may after a hearing suspend the license for a
758 period of three months;
- 759 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
760 officer as required in Section 41-6a-210;
- 761 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
762 requires disqualification;
- 763 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
764 allowing the discharge of a firearm from a vehicle;
- 765 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
766 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 767 (xiii) operating or being in actual physical control of a motor vehicle while having any
768 measurable controlled substance or metabolite of a controlled substance in the person's body in
769 violation of Section 41-6a-517;

770 (xiv) operating or being in actual physical control of a motor vehicle while having any
771 measurable or detectable amount of alcohol in the person's body in violation of Section
772 41-6a-530;

773 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
774 violation of Section 41-6a-606;

775 (xvi) operating or being in actual physical control of a motor vehicle in this state
776 without an ignition interlock system in violation of Section 41-6a-518.2; or

777 (xvii) custodial interference, under:

778 (A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless
779 the court provides the division with an order of suspension for a shorter period of time;

780 (B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless
781 the court provides the division with an order of suspension for a shorter period of time; or

782 (C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless
783 the court provides the division with an order of suspension for a shorter period of time.

784 (b) The division shall immediately revoke the license of a person upon receiving a
785 record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

786 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
787 allowing the discharge of a firearm from a vehicle; or

788 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
789 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

790 (c) Except when action is taken under Section 53-3-219 for the same offense, upon
791 receiving a record of conviction, the division shall immediately suspend for six months the
792 license of the convicted person if the person was convicted of one of the following offenses
793 while the person was an operator of a motor vehicle:

794 (i) any violation of:

795 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

796 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

797 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

798 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

799 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

800 (ii) any criminal offense that prohibits:

801 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
802 that is prohibited under the acts described in Subsection (1)(c)(i); or

803 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
804 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

805 (d) (i) The division shall immediately suspend a person's driver license for conviction
806 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

807 (A) an order from the sentencing court requiring that the person's driver license be
808 suspended; and

809 (B) a record of the conviction.

810 (ii) An order of suspension under this section is at the discretion of the sentencing
811 court, and may not be for more than 90 days for each offense.

812 (e) (i) The division shall immediately suspend for one year the license of a person upon
813 receiving a record of:

814 (A) conviction for the first time for a violation under Section 32B-4-411; or

815 (B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation
816 under Section 32B-4-411.

817 (ii) The division shall immediately suspend for a period of two years the license of a
818 person upon receiving a record of:

819 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

820 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
821 conviction for a violation under Section 32B-4-411; or

822 (B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court
823 Act of 1996, for a violation under Section 32B-4-411; and

824 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
825 adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under
826 Section 32B-4-411.

827 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

828 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

829 (I) impose a suspension for one year beginning on the date of conviction; or

830 (II) if the person is under the age of eligibility for a driver license, impose a suspension
831 that begins on the date of conviction and continues for one year beginning on the date of

832 eligibility for a driver license; or

833 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

834 (I) impose a suspension for a period of two years; or

835 (II) if the person is under the age of eligibility for a driver license, impose a suspension
836 that begins on the date of conviction and continues for two years beginning on the date of
837 eligibility for a driver license.

838 (iv) Upon receipt of the first order suspending a person's driving privileges under
839 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
840 ordered by the court in accordance with Subsection 32B-4-411~~(3)~~(5)(a).

841 (v) Upon receipt of the second or subsequent order suspending a person's driving
842 privileges under Section 32B-4-411, the division shall reduce the suspension period under
843 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

844 (2) The division shall extend the period of the first denial, suspension, revocation, or
845 disqualification for an additional like period, to a maximum of one year for each subsequent
846 occurrence, upon receiving:

847 (a) a record of the conviction of any person on a charge of driving a motor vehicle
848 while the person's license is denied, suspended, revoked, or disqualified;

849 (b) a record of a conviction of the person for any violation of the motor vehicle law in
850 which the person was involved as a driver;

851 (c) a report of an arrest of the person for any violation of the motor vehicle law in
852 which the person was involved as a driver; or

853 (d) a report of an accident in which the person was involved as a driver.

854 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
855 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
856 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
857 or revocation originally imposed under Section 53-3-221.

858 (4) (a) The division may extend to a person the limited privilege of driving a motor
859 vehicle to and from the person's place of employment or within other specified limits on
860 recommendation of the judge in any case where a person is convicted of any of the offenses
861 referred to in Subsections (1) and (2) except:

862 (i) automobile homicide under Subsection (1)(a)(i);

863 (ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and
864 (1)(c); and

865 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
866 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
867 41-6a-517, a local ordinance which complies with the requirements of Subsection
868 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person
869 was charged with violating as a result of a plea bargain after having been originally charged
870 with violating one or more of these sections or ordinances, unless:

871 (A) the person has had the period of the first denial, suspension, revocation, or
872 disqualification extended for a period of at least three years;

873 (B) the division receives written verification from the person's primary care physician
874 that:

875 (I) to the physician's knowledge the person has not used any narcotic drug or other
876 controlled substance except as prescribed by a licensed medical practitioner within the last
877 three years; and

878 (II) the physician is not aware of any physical, emotional, or mental impairment that
879 would affect the person's ability to operate a motor vehicle safely; and

880 (C) for a period of one year prior to the date of the request for a limited driving
881 privilege:

882 (I) the person has not been convicted of a violation of any motor vehicle law in which
883 the person was involved as the operator of the vehicle;

884 (II) the division has not received a report of an arrest for a violation of any motor
885 vehicle law in which the person was involved as the operator of the vehicle; and

886 (III) the division has not received a report of an accident in which the person was
887 involved as an operator of a vehicle.

888 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
889 authorized in this Subsection (4):

890 (A) is limited to when undue hardship would result from a failure to grant the
891 privilege; and

892 (B) may be granted only once to any person during any single period of denial,
893 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,

894 or disqualification.

895 (ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

896 (A) is limited to when the limited privilege is necessary for the person to commute to
897 school or work; and

898 (B) may be granted only once to any person during any single period of denial,
899 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
900 or disqualification.

901 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
902 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
903 denied under this chapter.

904 Section 9. Section **53-3-231** is amended to read:

905 **53-3-231. Person under 21 may not operate a vehicle or motorboat with**
906 **detectable alcohol in body -- Chemical test procedures -- Temporary license -- Hearing**
907 **and decision -- Suspension of license or operating privilege -- Fees -- Judicial review --**
908 **Referral to local substance abuse authority or program.**

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

910 (i) "Local substance abuse authority" has the same meaning as provided in Section
911 [62A-15-102](#).

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

915 (b) Calculations of blood, breath, or urine alcohol concentration under this section shall
916 be made in accordance with the procedures in Subsection [41-6a-502](#)(1).

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

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

923 (3) (a) When a peace officer has reasonable grounds to believe that a person may be
924 violating or has violated Subsection (2), the peace officer may, in connection with arresting the

925 person for a violation of Section 32B-4-409, request that the person submit to a chemical test
926 or tests to be administered in compliance with the standards under Section 41-6a-520.

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

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

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

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

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

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

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

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

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

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

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

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

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

955 (ii) The request shall be made within 10 calendar days of the day on which notice is

956 provided.

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

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

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

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

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

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

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

967 (iii) the test results, if any.

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

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

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

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

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

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

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

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

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

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

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

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

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

999 (i) prior to July 1, 2009, for a violation under Subsection (2)(a) that was committed
1000 prior to July 1, 2009;

1001 (ii) from July 1, 2009, through June 30, 2011, if the person was 20 years 6 months of
1002 age or older but under 21 years of age at the time of arrest and the conviction under Subsection
1003 (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011; or

1004 (iii) prior to May 14, 2013, for a violation under Subsection (2)(a) that was committed
1005 prior to May 14, 2013.

1006 (9) (a) Notwithstanding the provisions in Subsection (8)(e)(iii), the division shall
1007 shorten a person's one-year license suspension or denial period that is currently in effect to a
1008 six-month suspension or denial period if:

1009 (i) the driver was under the age of 19 at the time of arrest;

1010 (ii) the offense was a first offense that was committed prior to May 14, 2013; and

1011 (iii) the suspension or denial under Subsection (8)(e)(iii) was based on the same
1012 occurrence upon which the following written verifications are based:

1013 (A) a court order shortening the driver license suspension for a violation of Section
1014 41-6a-502 pursuant to Subsection 41-6a-509(8);

1015 (B) a court order shortening the driver license suspension for a violation of Section
1016 41-6a-517 pursuant to Subsection 41-6a-517(11);

1017 (C) a court order shortening the driver license suspension for a violation of Section

1018 32B-4-409;

1019 (D) a dismissal for a violation of Section 41-6a-502, Section 41-6a-517, or Section
1020 32B-4-409;

1021 (E) a notice of declination to prosecute for a charge under Section 41-6a-502, Section
1022 41-6a-517, or Section 32B-4-409;

1023 (F) a reduction of a charge under Section 41-6a-502, Section 41-6a-517, or Section
1024 32B-4-409; or

1025 (G) other written documentation acceptable to the division.

1026 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1027 division may make rules establishing requirements for acceptable documentation to shorten a
1028 person's driver license suspension or denial period under this Subsection (9).

1029 (c) If a person's license sanction is shortened under this Subsection (9), the person is
1030 required to pay the license reinstatement fees under Subsections 53-3-105(24) and (25).

1031 (10) (a) (i) Following denial or suspension the division shall assess against a person, in
1032 addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105,
1033 which shall be paid before the person's driving privilege is reinstated, to cover administrative
1034 costs.

1035 (ii) This fee shall be canceled if the person obtains an unappealed division hearing or
1036 court decision that the suspension was not proper.

1037 (b) A person whose operator license has been denied, suspended, or postponed by the
1038 division under this section following an administrative hearing may file a petition within 30
1039 days after the suspension for a hearing on the matter which, if held, is governed by Section
1040 53-3-224.

1041 (11) After reinstatement of an operator license for a first offense under this section, a
1042 report authorized under Section 53-3-104 may not contain evidence of the denial or suspension
1043 of the person's operator license under this section if the person has not been convicted of any
1044 other offense for which the denial or suspension may be extended.

1045 (12) (a) In addition to the penalties in Subsection (8), a person who violates Subsection
1046 (2)(a) shall:

1047 (i) obtain an assessment and recommendation for appropriate action from a substance
1048 abuse program, but any associated costs shall be the person's responsibility; or

1049 (ii) be referred by the division to the local substance abuse authority for an assessment
1050 and recommendation for appropriate action.

1051 (b) (i) Reinstatement of the person's operator license or the right to obtain an operator
1052 license within five years of the effective date of the license sanction under Subsection (8) is
1053 contingent upon successful completion of the action recommended by the local substance
1054 abuse authority or the substance abuse program.

1055 (ii) The local substance abuse authority's or the substance abuse program's
1056 recommended action shall be determined by an assessment of the person's alcohol abuse and
1057 may include:

1058 (A) a targeted education and prevention program;

1059 (B) an early intervention program; or

1060 (C) a substance abuse treatment program.

1061 (iii) Successful completion of the recommended action shall be determined by
1062 standards established by the Division of Substance Abuse and Mental Health.

1063 (c) At the conclusion of the penalty period imposed under Subsection (2), the local
1064 substance abuse authority or the substance abuse program shall notify the division of the
1065 person's status regarding completion of the recommended action.

1066 (d) The local substance abuse authorities and the substance abuse programs shall
1067 cooperate with the division in:

1068 (i) conducting the assessments;

1069 (ii) making appropriate recommendations for action; and

1070 (iii) notifying the division about the person's status regarding completion of the
1071 recommended action.

1072 (e) (i) The local substance abuse authority is responsible for the cost of the assessment
1073 of the person's alcohol abuse, if the assessment is conducted by the local substance abuse
1074 authority.

1075 (ii) The local substance abuse authority or a substance abuse program selected by a
1076 person is responsible for:

1077 (A) conducting an assessment of the person's alcohol abuse; and

1078 (B) for making a referral to an appropriate program on the basis of the findings of the
1079 assessment.

1080 (iii) (A) The person who violated Subsection (2)(a) is responsible for all costs and fees
1081 associated with the recommended program to which the person selected or is referred.

1082 (B) The costs and fees under Subsection (12)(e)(iii)(A) shall be based on a sliding scale
1083 consistent with the local substance abuse authority's policies and practices regarding fees for
1084 services or determined by the substance abuse program.

1085 (f) In a county of the first or second class, as classified in Section 17-50-501, a private
1086 entity that conducts an assessment of a person under this Subsection (12) may not also provide
1087 substance abuse treatment to the person under this Subsection (12).

1088 Section 10. Section **58-37-8** is amended to read:

1089 **58-37-8. Prohibited acts -- Penalties.**

1090 (1) Prohibited acts A -- Penalties and reporting:

1091 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and
1092 intentionally:

1093 (i) produce, manufacture, or dispense, or to possess with intent to produce,
1094 manufacture, or dispense, a controlled or counterfeit substance;

1095 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
1096 arrange to distribute a controlled or counterfeit substance;

1097 (iii) possess a controlled or counterfeit substance with intent to distribute; or

1098 (iv) engage in a continuing criminal enterprise where:

1099 (A) the person participates, directs, or engages in conduct that results in any violation
1100 of any provision of [~~Title 58;~~] Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug
1101 Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance
1102 Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

1103 (B) the violation is a part of a continuing series of two or more violations of [~~Title 58;~~]
1104 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
1105 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
1106 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
1107 more persons with respect to whom the person occupies a position of organizer, supervisor, or
1108 any other position of management.

1109 (b) Any person convicted of violating Subsection (1)(a) with respect to:

1110 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled

1111 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
1112 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
1113 subsequent conviction is guilty of a first degree felony;

1114 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
1115 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
1116 upon a second or subsequent conviction is guilty of a second degree felony; or

1117 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
1118 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1119 felony.

1120 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
1121 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
1122 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
1123 person or in the person's immediate possession during the commission or in furtherance of the
1124 offense, the court shall additionally sentence the person convicted for a term of one year to run
1125 consecutively and not concurrently; and the court may additionally sentence the person
1126 convicted for an indeterminate term not to exceed five years to run consecutively and not
1127 concurrently.

1128 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1129 felony punishable by imprisonment for an indeterminate term of not less than seven years and
1130 which may be for life. Imposition or execution of the sentence may not be suspended, and the
1131 person is not eligible for probation.

1132 (e) The Administrative Office of the Courts shall report to the Division of
1133 Occupational and Professional Licensing the name, case number, date of conviction, and if
1134 known, the date of birth of each person convicted of violating Subsection (2)(a).

1135 (2) Prohibited acts B -- Penalties and reporting:

1136 (a) It is unlawful:

1137 (i) for any person knowingly and intentionally to possess or use a controlled substance
1138 analog or a controlled substance, unless it was obtained under a valid prescription or order,
1139 directly from a practitioner while acting in the course of the person's professional practice, or as
1140 otherwise authorized by this chapter;

1141 (ii) for any owner, tenant, licensee, or person in control of any building, room,

1142 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
1143 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
1144 any of those locations; or

1145 (iii) for any person knowingly and intentionally to possess an altered or forged
1146 prescription or written order for a controlled substance.

1147 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

1148 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1149 or

1150 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
1151 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
1152 conviction is guilty of a third degree felony.

1153 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
1154 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
1155 penalty than provided in this Subsection (2).

1156 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
1157 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
1158 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
1159 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
1160 person is guilty of a third degree felony.

1161 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior
1162 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or
1163 any public jail or other place of confinement shall be sentenced to a penalty one degree greater
1164 than provided in Subsection (2)(b), and if the conviction is with respect to controlled
1165 substances as listed in:

1166 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
1167 indeterminate term as provided by law, and:

1168 (A) the court shall additionally sentence the person convicted to a term of one year to
1169 run consecutively and not concurrently; and

1170 (B) the court may additionally sentence the person convicted for an indeterminate term
1171 not to exceed five years to run consecutively and not concurrently; and

1172 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an

1173 indeterminate term as provided by law, and the court shall additionally sentence the person
1174 convicted to a term of six months to run consecutively and not concurrently.

1175 (f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

1176 (i) on a first conviction, guilty of a class B misdemeanor;

1177 (ii) on a second conviction, guilty of a class A misdemeanor; and

1178 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1179 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1180 amounting to a violation of Section 76-5-207:

1181 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1182 body any measurable amount of a controlled substance; and

1183 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
1184 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

1185 (h) A person who violates Subsection (2)(g) by having in the person's body:

1186 (i) a controlled substance classified under Schedule I, other than those described in
1187 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1188 degree felony;

1189 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection
1190 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
1191 degree felony; or

1192 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
1193 A misdemeanor.

1194 (i) A person is guilty of a separate offense for each victim suffering serious bodily
1195 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)
1196 whether or not the injuries arise from the same episode of driving.

1197 (j) The Administrative Office of the Courts shall report to the Division of Occupational
1198 and Professional Licensing the name, case number, date of conviction, and if known, the date
1199 of birth of each person convicted of violating Subsection (2)(a).

1200 (3) Prohibited acts C -- Penalties:

1201 (a) It is unlawful for any person knowingly and intentionally:

1202 (i) to use in the course of the manufacture or distribution of a controlled substance a
1203 license number which is fictitious, revoked, suspended, or issued to another person or, for the

1204 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1205 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1206 person;

1207 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1208 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
1209 be attempting to acquire or obtain possession of, or to procure the administration of any
1210 controlled substance by misrepresentation or failure by the person to disclose receiving any
1211 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1212 prescription or written order for a controlled substance, or the use of a false name or address;

1213 (iii) to make any false or forged prescription or written order for a controlled substance,
1214 or to utter the same, or to alter any prescription or written order issued or written under the
1215 terms of this chapter; or

1216 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
1217 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1218 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1219 so as to render any drug a counterfeit controlled substance.

1220 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
1221 misdemeanor.

1222 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
1223 degree felony.

1224 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1225 (4) Prohibited acts D -- Penalties:

1226 (a) Notwithstanding other provisions of this section, a person not authorized under this
1227 chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or
1228 Section 58-37b-4 is upon conviction subject to the penalties and classifications under this
1229 Subsection (4) if the trier of fact finds the act is committed:

1230 (i) in a public or private elementary or secondary school or on the grounds of any of
1231 those schools during the hours of 6 a.m. through 10 p.m.;

1232 (ii) in a public or private vocational school or postsecondary institution or on the
1233 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1234 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or

1235 facility's hours of operation;

1236 (iv) in a public park, amusement park, arcade, or recreation center when the public or
1237 amusement park, arcade, or recreation center is open to the public;

1238 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1239 (vi) in or on the grounds of a library when the library is open to the public;

1240 (vii) within any area that is within 100 feet of any structure, facility, or grounds
1241 included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1242 (viii) in the presence of a person younger than 18 years of age, regardless of where the
1243 act occurs; or

1244 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1245 distribution of a substance in violation of this section to an inmate or on the grounds of any
1246 correctional facility as defined in Section 76-8-311.3.

1247 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1248 and shall be imprisoned for a term of not less than five years if the penalty that would
1249 otherwise have been established but for this Subsection (4) would have been a first degree
1250 felony.

1251 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1252 not eligible for probation.

1253 (c) If the classification that would otherwise have been established would have been
1254 less than a first degree felony but for this Subsection (4), a person convicted under this
1255 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1256 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1257 (d) (i) If the violation is of Subsection (4)(a)(ix):

1258 (A) the person may be sentenced to imprisonment for an indeterminate term as
1259 provided by law, and the court shall additionally sentence the person convicted for a term of
1260 one year to run consecutively and not concurrently; and

1261 (B) the court may additionally sentence the person convicted for an indeterminate term
1262 not to exceed five years to run consecutively and not concurrently; and

1263 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with
1264 the mental state required for the commission of an offense, directly or indirectly solicits,
1265 requests, commands, coerces, encourages, or intentionally aids another person to commit a

1266 violation of Subsection (4)(a)(ix).

1267 (e) It is not a defense to a prosecution under this Subsection (4) that the actor
1268 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
1269 was unaware of the individual's true age; nor that the actor mistakenly believed that the
1270 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
1271 the location where the act occurred was as described in Subsection (4)(a).

1272 (5) Any violation of this chapter for which no penalty is specified is a class B
1273 misdemeanor.

1274 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1275 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1276 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1277 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1278 abeyance agreement.

1279 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1280 conviction that is:

1281 (i) from a separate criminal episode than the current charge; and

1282 (ii) from a conviction that is separate from any other conviction used to enhance the
1283 current charge.

1284 (7) A person may be charged and sentenced for a violation of this section,
1285 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1286 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in
1287 lieu of, any civil or administrative penalty or sanction authorized by law.

1288 (b) Where violation of this chapter violates a federal law or the law of another state,
1289 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1290 prosecution in this state.

1291 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1292 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1293 substance or substances, is prima facie evidence that the person or persons did so with
1294 knowledge of the character of the substance or substances.

1295 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1296 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or

1297 administering controlled substances or from causing the substances to be administered by an
1298 assistant or orderly under the veterinarian's direction and supervision.

1299 (11) Civil or criminal liability may not be imposed under this section on:

1300 (a) any person registered under this chapter who manufactures, distributes, or possesses
1301 an imitation controlled substance for use as a placebo or investigational new drug by a
1302 registered practitioner in the ordinary course of professional practice or research; or

1303 (b) any law enforcement officer acting in the course and legitimate scope of the
1304 officer's employment.

1305 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1306 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide
1307 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1308 as defined in Subsection 58-37-2(1)(w).

1309 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1310 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,
1311 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in
1312 connection with the practice of a traditional Indian religion.

1313 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1314 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
1315 trial.

1316 (ii) The notice shall include the specific claims of the affirmative defense.

1317 (iii) The court may waive the notice requirement in the interest of justice for good
1318 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1319 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1320 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1321 charges.

1322 (13) (a) It is an affirmative defense that the person produced, possessed, or
1323 administered a controlled substance listed in Section 58-37-4.2 if the person:

1324 (i) was engaged in medical research; and

1325 (ii) was a holder of a valid license to possess controlled substances under Section
1326 58-37-6.

1327 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed

1328 a controlled substance listed in Section 58-37-4.2.

1329 (14) It is an affirmative defense that the person possessed, in the person's body, a
1330 controlled substance listed in Section 58-37-4.2 if:

1331 (a) the person was the subject of medical research conducted by a holder of a valid
1332 license to possess controlled substances under Section 58-37-6; and

1333 (b) the substance was administered to the person by the medical researcher.

1334 (15) The application of any increase in penalty under this section to a violation of
1335 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1336 Subsection (15) takes precedence over any conflicting provision of this section.

1337 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1338 listed in Subsection (16)(b) that the person:

1339 (i) reasonably believes that the person or another person is experiencing an overdose
1340 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1341 controlled substance or other substance;

1342 (ii) reports in good faith the overdose event to a medical provider, an emergency
1343 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
1344 emergency call system, or an emergency dispatch system, or the person is the subject of a
1345 report made under this Subsection (16);

1346 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
1347 actual location of the overdose event that facilitates responding to the person experiencing the
1348 overdose event;

1349 (iv) remains at the location of the person experiencing the overdose event until a
1350 responding law enforcement officer or emergency medical service provider arrives, or remains
1351 at the medical care facility where the person experiencing an overdose event is located until a
1352 responding law enforcement officer arrives;

1353 (v) cooperates with the responding medical provider, emergency medical service
1354 provider, and law enforcement officer, including providing information regarding the person
1355 experiencing the overdose event and any substances the person may have injected, inhaled, or
1356 otherwise introduced into the person's body; and

1357 (vi) is alleged to have committed the offense in the same course of events from which
1358 the reported overdose arose.

1359 (b) The offenses referred to in Subsection (16)(a) are:

1360 (i) the possession or use of less than 16 ounces of marijuana;

1361 (ii) the possession or use of a scheduled or listed controlled substance other than
1362 marijuana; and

1363 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1364 Imitation Controlled Substances Act.

1365 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
1366 include seeking medical assistance under this section during the course of a law enforcement
1367 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1368 (17) If any provision of this chapter, or the application of any provision to any person
1369 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1370 invalid provision or application.

1371 (18) A legislative body of a political subdivision may not enact an ordinance that is
1372 less restrictive than any provision of this chapter.

1373 (19) (a) If a minor who is under 18 years of age is found by a court to have violated this
1374 section, the court may order:

1375 ~~[(a)]~~ (i) the minor to complete a screening as defined in Section [41-6a-501](#);

1376 ~~[(b)]~~ (ii) the minor to complete an assessment as defined in Section [41-6a-501](#) if the
1377 screening indicates an assessment to be appropriate; and

1378 ~~[(c)]~~ (iii) the minor to complete an educational series as defined in Section [41-6a-501](#)
1379 or substance use disorder treatment as indicated by an assessment.

1380 (b) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1381 entity that conducts an assessment of a minor under this Subsection (19) may not also provide
1382 substance use disorder treatment to the minor under this Subsection (19).

1383 Section 11. Section **58-37a-7** is amended to read:

1384 **58-37a-7. Sentencing requirements for minors.**

1385 (1) If a minor who is under 18 years of age is found by a court to have violated this
1386 chapter, the court may order the minor to complete:

1387 ~~[(1)]~~ (a) a screening as defined in Section [41-6a-501](#);

1388 ~~[(2)]~~ (b) an assessment as defined in Section [41-6a-501](#) if the screening indicates an
1389 assessment to be appropriate; and

1390 ~~[(3)]~~ (c) an educational series as defined in Section [41-6a-501](#) or substance use
1391 disorder treatment as indicated by an assessment.

1392 (2) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1393 entity that conducts an assessment of a minor under this section may not also provide substance
1394 use disorder treatment to the minor under this section.

1395 Section 12. Section **62A-15-103** is amended to read:

1396 **62A-15-103. Division -- Creation -- Responsibilities.**

1397 (1) There is created the Division of Substance Abuse and Mental Health within the
1398 department, under the administration and general supervision of the executive director. The
1399 division is the substance abuse authority and the mental health authority for this state.

1400 (2) The division shall:

1401 (a) (i) educate the general public regarding the nature and consequences of substance
1402 abuse by promoting school and community-based prevention programs;

1403 (ii) render support and assistance to public schools through approved school-based
1404 substance abuse education programs aimed at prevention of substance abuse;

1405 (iii) promote or establish programs for the prevention of substance abuse within the
1406 community setting through community-based prevention programs;

1407 (iv) cooperate with and assist treatment centers, recovery residences, and other
1408 organizations that provide services to individuals recovering from a substance abuse disorder,
1409 by identifying and disseminating information about effective practices and programs;

1410 (v) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1411 Rulemaking Act, to develop, in collaboration with public and private programs, minimum
1412 standards for public and private providers of substance abuse and mental health programs
1413 licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

1414 (vi) promote integrated programs that address an individual's substance abuse, mental
1415 health, physical health, and criminal risk factors;

1416 (vii) establish and promote an evidence-based continuum of screening, assessment,
1417 prevention, treatment, and recovery support services in the community for individuals with
1418 substance use disorder and mental illness that addresses criminal risk factors;

1419 (viii) evaluate the effectiveness of programs described in this Subsection (2);

1420 (ix) consider the impact of the programs described in this Subsection (2) on:

- 1421 (A) emergency department utilization;
- 1422 (B) jail and prison populations;
- 1423 (C) the homeless population; and
- 1424 (D) the child welfare system; and
- 1425 (x) promote or establish programs for education and certification of instructors to
- 1426 educate persons convicted of driving under the influence of alcohol or drugs or driving with
- 1427 any measurable controlled substance in the body;
- 1428 (b) (i) collect and disseminate information pertaining to mental health;
- 1429 (ii) provide direction over the state hospital including approval of its budget,
- 1430 administrative policy, and coordination of services with local service plans;
- 1431 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 1432 Rulemaking Act, to educate families concerning mental illness and promote family
- 1433 involvement, when appropriate, and with patient consent, in the treatment program of a family
- 1434 member; and
- 1435 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 1436 Rulemaking Act, to direct that an individual receiving services through a local mental health
- 1437 authority or the Utah State Hospital be informed about and, if desired by the individual,
- 1438 provided assistance in the completion of a declaration for mental health treatment in
- 1439 accordance with Section [62A-15-1002](#);
- 1440 (c) (i) consult and coordinate with local substance abuse authorities and local mental
- 1441 health authorities regarding programs and services;
- 1442 (ii) provide consultation and other assistance to public and private agencies and groups
- 1443 working on substance abuse and mental health issues;
- 1444 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
- 1445 medical and social agencies, public health authorities, law enforcement agencies, education and
- 1446 research organizations, and other related groups;
- 1447 (iv) promote or conduct research on substance abuse and mental health issues, and
- 1448 submit to the governor and the Legislature recommendations for changes in policy and
- 1449 legislation;
- 1450 (v) receive, distribute, and provide direction over public funds for substance abuse and
- 1451 mental health services;

- 1452 (vi) monitor and evaluate programs provided by local substance abuse authorities and
- 1453 local mental health authorities;
- 1454 (vii) examine expenditures of local, state, and federal funds;
- 1455 (viii) monitor the expenditure of public funds by:
- 1456 (A) local substance abuse authorities;
- 1457 (B) local mental health authorities; and
- 1458 (C) in counties where they exist, a private contract provider that has an annual or
- 1459 otherwise ongoing contract to provide comprehensive substance abuse or mental health
- 1460 programs or services for the local substance abuse authority or local mental health authority;
- 1461 (ix) contract with local substance abuse authorities and local mental health authorities
- 1462 to provide a comprehensive continuum of services that include community-based services for
- 1463 individuals involved in the criminal justice system, in accordance with division policy, contract
- 1464 provisions, and the local plan;
- 1465 (x) contract with private and public entities for special statewide or nonclinical
- 1466 services, or services for individuals involved in the criminal justice system, according to
- 1467 division rules;
- 1468 (xi) review and approve each local substance abuse authority's plan and each local
- 1469 mental health authority's plan in order to ensure:
- 1470 (A) a statewide comprehensive continuum of substance abuse services;
- 1471 (B) a statewide comprehensive continuum of mental health services;
- 1472 (C) services result in improved overall health and functioning;
- 1473 (D) a statewide comprehensive continuum of community-based services designed to
- 1474 reduce criminal risk factors for individuals who are determined to have substance abuse or
- 1475 mental illness conditions or both, and who are involved in the criminal justice system;
- 1476 (E) compliance, where appropriate, with the certification requirements in Subsection
- 1477 (2)(j); and
- 1478 (F) appropriate expenditure of public funds;
- 1479 (xii) review and make recommendations regarding each local substance abuse
- 1480 authority's contract with the local substance abuse authority's provider of substance abuse
- 1481 programs and services and each local mental health authority's contract with the local mental
- 1482 health authority's provider of mental health programs and services to ensure compliance with

1483 state and federal law and policy;

1484 (xiii) monitor and ensure compliance with division rules and contract requirements;

1485 and

1486 (xiv) withhold funds from local substance abuse authorities, local mental health

1487 authorities, and public and private providers for contract noncompliance, failure to comply

1488 with division directives regarding the use of public funds, or for misuse of public funds or

1489 money;

1490 (d) ensure that the requirements of this part are met and applied uniformly by local

1491 substance abuse authorities and local mental health authorities across the state;

1492 (e) require each local substance abuse authority and each local mental health authority,

1493 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(5)(a)(ii), to submit a plan to

1494 the division on or before May 15 of each year;

1495 (f) conduct an annual program audit and review of each local substance abuse authority

1496 and each local substance abuse authority's contract provider, and each local mental health

1497 authority and each local mental health authority's contract provider, including:

1498 (i) a review and determination regarding whether:

1499 (A) public funds allocated to the local substance abuse authority or the local mental

1500 health authorities are consistent with services rendered by the authority or the authority's

1501 contract provider, and with outcomes reported by the authority's contract provider; and

1502 (B) each local substance abuse authority and each local mental health authority is

1503 exercising sufficient oversight and control over public funds allocated for substance use

1504 disorder and mental health programs and services; and

1505 (ii) items determined by the division to be necessary and appropriate; and

1506 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,

1507 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

1508 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer

1509 supports services to an individual with:

1510 (A) a substance use disorder;

1511 (B) a mental health disorder; or

1512 (C) a substance use disorder and a mental health disorder;

1513 (ii) certify a person to carry out, as needed, the division's duty to train and certify an

1514 adult as a peer support specialist;

1515 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

1516 Rulemaking Act, that:

1517 (A) establish training and certification requirements for a peer support specialist;

1518 (B) specify the types of services a peer support specialist is qualified to provide;

1519 (C) specify the type of supervision under which a peer support specialist is required to

1520 operate; and

1521 (D) specify continuing education and other requirements for maintaining or renewing

1522 certification as a peer support specialist; and

1523 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

1524 Rulemaking Act, that:

1525 (A) establish the requirements for a person to be certified to carry out, as needed, the

1526 division's duty to train and certify an adult as a peer support specialist; and

1527 (B) specify how the division shall provide oversight of a person certified to train and

1528 certify a peer support specialist;

1529 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative

1530 Rulemaking Act, minimum standards and requirements for the provision of substance use

1531 disorder and mental health treatment to an individual who is required to participate in treatment

1532 by the court or the Board of Pardons and Parole, or who is incarcerated, including:

1533 (i) collaboration with the Department of Corrections and the Utah Substance Use and

1534 Mental Health Advisory Council to develop and coordinate the standards, including standards

1535 for county and state programs serving individuals convicted of class A and class B

1536 misdemeanors;

1537 (ii) determining that the standards ensure available treatment, including the most

1538 current practices and procedures demonstrated by recognized scientific research to reduce

1539 recidivism, including focus on the individual's criminal risk factors; and

1540 (iii) requiring that all public and private treatment programs meet the standards

1541 established under this Subsection (2)(i) in order to receive public funds allocated to the

1542 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice

1543 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

1544 (j) subject to Section 62A-15-103.5, establish by rule, in accordance with Title 63G,

1545 Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the
1546 certification of licensed public and private providers who provide, as part of their practice,
1547 substance use disorder and mental health treatment to an individual involved in the criminal
1548 justice system, including:

1549 (i) collaboration with the Department of Corrections, the Utah Substance Use and
1550 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
1551 and implement the certification process;

1552 (ii) basing the certification process on the standards developed under Subsection (2)(i)
1553 for the treatment of an individual involved in the criminal justice system; and

1554 (iii) the requirement that a public or private provider of treatment to an individual
1555 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
1556 shall renew the certification every two years, in order to qualify for funds allocated to the
1557 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
1558 on or after July 1, 2016;

1559 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
1560 provide recommendations to the Legislature regarding:

1561 (i) pretrial services and the resources needed to reduce recidivism;

1562 (ii) county jail and county behavioral health early-assessment resources needed for an
1563 offender convicted of a class A or class B misdemeanor; and

1564 (iii) the replacement of federal dollars associated with drug interdiction law
1565 enforcement task forces that are reduced;

1566 (l) (i) establish performance goals and outcome measurements for all treatment
1567 programs for which minimum standards are established under Subsection (2)(i), including
1568 recidivism data and data regarding cost savings associated with recidivism reduction and the
1569 reduction in the number of inmates, that are obtained in collaboration with the Administrative
1570 Office of the Courts and the Department of Corrections; and

1571 (ii) collect data to track and determine whether the goals and measurements are being
1572 attained and make this information available to the public;

1573 (m) in the division's discretion, use the data to make decisions regarding the use of
1574 funds allocated to the division, the Administrative Office of the Courts, and the Department of
1575 Corrections to provide treatment for which standards are established under Subsection (2)(i);

1576 and

1577 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
1578 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
1579 based on the data and provide the report to the Judiciary Interim Committee, the Health and
1580 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
1581 Committee, and the related appropriations subcommittees.

1582 (3) (a) The division may refuse to contract with and may pursue legal remedies against
1583 any local substance abuse authority or local mental health authority that fails, or has failed, to
1584 expend public funds in accordance with state law, division policy, contract provisions, or
1585 directives issued in accordance with state law.

1586 (b) The division may withhold funds from a local substance abuse authority or local
1587 mental health authority if the authority's contract provider of substance abuse or mental health
1588 programs or services fails to comply with state and federal law or policy.

1589 (4) Before reissuing or renewing a contract with any local substance abuse authority or
1590 local mental health authority, the division shall review and determine whether the local
1591 substance abuse authority or local mental health authority is complying with the oversight and
1592 management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and
1593 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and
1594 liability described in Section 17-43-303 and to the responsibility and liability described in
1595 Section 17-43-203.

1596 (5) In carrying out the division's duties and responsibilities, the division may not
1597 duplicate treatment or educational facilities that exist in other divisions or departments of the
1598 state, but shall work in conjunction with those divisions and departments in rendering the
1599 treatment or educational services that those divisions and departments are competent and able
1600 to provide.

1601 (6) The division may accept in the name of and on behalf of the state donations, gifts,
1602 devises, or bequests of real or personal property or services to be used as specified by the
1603 donor.

1604 (7) The division shall annually review with each local substance abuse authority and
1605 each local mental health authority the authority's statutory and contract responsibilities
1606 regarding:

- 1607 (a) use of public funds;
- 1608 (b) oversight of public funds; and
- 1609 (c) governance of substance use disorder and mental health programs and services.
- 1610 (8) The Legislature may refuse to appropriate funds to the division upon the division's
- 1611 failure to comply with the provisions of this part.

1612 (9) If a local substance abuse authority contacts the division under Subsection
1613 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
1614 minor, the division shall:

- 1615 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
- 1616 capacity to provide the treatment services; or
- 1617 (b) otherwise ensure that treatment services are made available to the pregnant woman
- 1618 or pregnant minor.

1619 Section 13. Section **62A-15-103.5** is enacted to read:

1620 **62A-15-103.5. Treatment and assessment certification.**

1621 A public or private provider is not required to obtain certification from the division as
1622 described in Subsection [62A-15-103](#)(2)(j) if the provider:

- 1623 (1) conducts assessments to determine if an individual requires substance use disorder
- 1624 treatment; and
- 1625 (2) does not provide substance use disorder or mental health treatment.

1626 Section 14. Section **76-9-701** is amended to read:

1627 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**
1628 **center.**

1629 (1) A person is guilty of intoxication if the person is under the influence of alcohol, a
1630 controlled substance, or any substance having the property of releasing toxic vapors, to a
1631 degree that the person may endanger the person or another, in a public place or in a private
1632 place where the person unreasonably disturbs other persons.

1633 (2) (a) A peace officer or a magistrate may release from custody a person arrested
1634 under this section if the peace officer or magistrate believes imprisonment is unnecessary for
1635 the protection of the person or another.

1636 (b) A peace officer may take the arrested person to a detoxification center or other
1637 special facility as an alternative to incarceration or release from custody.

1638 (3) (a) If a minor is found by a court to have violated this section and the violation is
1639 the minor's first violation of this section, the court may:

1640 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1641 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1642 screening indicates an assessment to be appropriate; and

1643 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1644 or substance use disorder treatment as indicated by an assessment.

1645 (b) If a minor is found by a court to have violated this section and the violation is the
1646 minor's second or subsequent violation of this section, the court shall:

1647 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1648 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
1649 screening indicates an assessment to be appropriate; and

1650 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
1651 or substance use disorder treatment as indicated by an assessment.

1652 (c) In a county of the first or second class, as classified in Section 17-50-501, a private
1653 entity that conducts an assessment of a minor under this Subsection (3) may not also provide
1654 substance use disorder treatment to the minor under this Subsection (3).

1655 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
1656 found by a court to have violated this section, the court hearing the case shall suspend the
1657 minor's driving privileges under Section 53-3-219.

1658 (b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the
1659 suspension period required under Section 53-3-219 if:

1660 (i) the violation is the minor's first violation of this section; and

1661 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

1662 (B) the minor demonstrates substantial progress in substance use disorder treatment.

1663 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the
1664 requirements of Section 53-3-219, the court may reduce the suspension period required under
1665 Section 53-3-219 if:

1666 (i) the violation is the minor's second or subsequent violation of this section;

1667 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
1668 demonstrated substantial progress in substance use disorder treatment; and

1669 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
1670 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
1671 consecutive period during the suspension period imposed under Subsection (4)(a); or

1672 (B) the person is under 18 years of age and has the person's parent or legal guardian
1673 provide an affidavit or sworn statement to the court certifying that to the parent or legal
1674 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
1675 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

1676 (5) When a person who is younger than 18 years old is found by a court to have
1677 violated this section, the provisions regarding suspension of the driver's license under Section
1678 [78A-6-606](#) apply to the violation.

1679 (6) (a) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under
1680 Section [78A-6-117](#), the court may only order substance use disorder treatment or an
1681 educational series if the minor has an assessed need for the intervention based on the results of
1682 a validated assessment.

1683 (b) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1684 entity that conducts an assessment of a minor under this Subsection (6) may not also provide
1685 substance use disorder treatment to the minor under this Subsection (6).

1686 (7) When the court issues an order suspending a person's driving privileges for a
1687 violation of this section, the person's driver license shall be suspended under Section [53-3-219](#).

1688 (8) An offense under this section is a class C misdemeanor.

1689 Section 15. Section [77-18-1.1](#) is amended to read:

1690 **[77-18-1.1. Screening, assessment, and treatment.](#)**

1691 (1) As used in this section:

1692 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

1693 (b) "Convicted" means:

1694 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental
1695 illness, or no contest; and

1696 (ii) conviction of any crime or offense.

1697 (c) "Screening" has the same meaning as in Section [41-6a-501](#).

1698 (d) "Substance use disorder treatment" means treatment obtained through a substance
1699 use disorder program that is licensed by the Office of Licensing within the Department of

1700 Human Services.

1701 (2) (a) On or after July 1, 2009, the courts of the judicial districts where the Drug
1702 -Related Offenses Reform Act under Section [63M-7-305](#) is implemented shall, in coordination
1703 with the local substance abuse authority regarding available resources, order convicted persons
1704 determined to be eligible in accordance with the implementation plan developed by the Utah
1705 Substance Use and Mental Health Advisory Council under Section [63M-7-305](#) to:

1706 [~~(a)~~] (i) participate in a screening prior to sentencing;

1707 [~~(b)~~] (ii) participate in an assessment prior to sentencing if the screening indicates an
1708 assessment to be appropriate; and

1709 [~~(c)~~] (iii) participate in substance use disorder treatment if:

1710 [~~(i)~~] (A) the assessment indicates treatment to be appropriate;

1711 [~~(ii)~~] (B) the court finds treatment to be appropriate for the convicted person; and

1712 [~~(iii)~~] (C) the court finds the convicted person to be an appropriate candidate for
1713 community-based supervision.

1714 (b) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1715 entity that conducts an assessment of a person under this Subsection (2) may not also provide
1716 substance use disorder treatment to the person under this Subsection (2).

1717 (3) The findings from any screening and any assessment conducted under this section
1718 shall be part of the presentence investigation report submitted to the court before sentencing of
1719 the convicted person.

1720 (4) Money appropriated by the Legislature to assist in the funding of the screening,
1721 assessment, substance use disorder treatment, and supervision provided under this section is
1722 not subject to any requirement regarding matching funds from a state or local governmental
1723 entity.

1724 Section 16. Section **78A-6-103** is amended to read:

1725 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

1726 (1) Except as otherwise provided by law, the juvenile court has exclusive original
1727 jurisdiction in proceedings concerning:

1728 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
1729 person younger than 21 years of age who has violated any law or ordinance before becoming
1730 18 years of age, regardless of where the violation occurred, excluding offenses:

- 1731 (i) in Section 53G-8-211 until such time that the child is referred to the courts under
1732 Section 53G-8-211; and
- 1733 (ii) in Subsection 78A-7-106(2);
- 1734 (b) a child who is an abused child, neglected child, or dependent child, as those terms
1735 are defined in Section 78A-6-105;
- 1736 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child
1737 Protective Orders, which the juvenile court may transfer to the district court if the juvenile
1738 court has entered an ex parte protective order and finds that:
- 1739 (i) the petitioner and the respondent are the natural parent, adoptive parent, or
1740 stepparent of the child who is the object of the petition;
- 1741 (ii) the district court has a petition pending or an order related to custody or parent-time
1742 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
1743 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
1744 respondent are parties; and
- 1745 (iii) the best interests of the child will be better served in the district court;
- 1746 (d) appointment of a guardian of the person or other guardian of a minor who comes
1747 within the court's jurisdiction under other provisions of this section;
- 1748 (e) the emancipation of a minor in accordance with Part 8, Emancipation;
- 1749 (f) the termination of the legal parent-child relationship in accordance with Part 5,
1750 Termination of Parental Rights Act, including termination of residual parental rights and
1751 duties;
- 1752 (g) the treatment or commitment of a minor who has an intellectual disability;
- 1753 (h) the judicial consent to the marriage of a child under age 16 upon a determination of
1754 voluntariness or where otherwise required by law, employment, or enlistment of a child when
1755 consent is required by law;
- 1756 (i) any parent or parents of a child committed to a secure youth facility, to order, at the
1757 discretion of the court and on the recommendation of a secure facility, the parent or parents of a
1758 child committed to a secure facility for a custodial term, to undergo group rehabilitation
1759 therapy under the direction of a secure facility therapist, who has supervision of that parent's or
1760 parents' child, or any other therapist the court may direct, for a period directed by the court as
1761 recommended by a secure facility;

- 1762 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
1763 (k) subject to Subsection (8), the treatment or commitment of a child with a mental
1764 illness;
1765 (l) the commitment of a child to a secure drug or alcohol facility in accordance with
1766 Section [62A-15-301](#);
1767 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);
1768 (n) de novo review of final agency actions resulting from an informal adjudicative
1769 proceeding as provided in Section [63G-4-402](#); and
1770 (o) adoptions conducted in accordance with the procedures described in Title 78B,
1771 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
1772 terminating the rights of a parent and finds that adoption is in the best interest of the child.
1773 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile
1774 court has exclusive jurisdiction over the following offenses committed by a child:
1775 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;
1776 (ii) Section [73-18-12](#), reckless operation; and
1777 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
1778 of a single criminal episode filed in a petition that contains an offense over which the court has
1779 jurisdiction.
1780 (b) A juvenile court may only order substance use disorder treatment or an educational
1781 series if the minor has an assessed need for the intervention on the basis of the results of a
1782 validated assessment.
1783 (c) In a county of the first or second class, as classified in Section [17-50-501](#), a private
1784 entity that conducts an assessment of a minor under this Subsection (2) may not also provide
1785 substance use disorder treatment to the minor under this Subsection (2).
1786 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
1787 referred to it by the Division of Child and Family Services or by public or private agencies that
1788 contract with the division to provide services to that child when, despite earnest and persistent
1789 efforts by the division or agency, the child has demonstrated that the child:
1790 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
1791 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
1792 others; or

1793 (b) has run away from home.

1794 (4) This section does not restrict the right of access to the juvenile court by private
1795 agencies or other persons.

1796 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
1797 arising under Section [78A-6-702](#).

1798 (6) The juvenile court has jurisdiction to make a finding of substantiated,
1799 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

1800 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
1801 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [53G-8-211](#).

1802 (8) The court may commit a child to the physical custody of a local mental health
1803 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
1804 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
1805 Hospital.