

**VOLUNTARY ALCOHOL-RESTRICTED INDIVIDUAL PROGRAM**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates an Alcohol-Restricted Individual Program under the Alcoholic Beverage Control Act.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Alcoholic Beverage Control to establish an Alcohol-Restricted Individual Program (program);
- ▶ prohibits a state store from selling, offering for sale, or furnishing liquor to an individual enrolled in the program;
- ▶ establishes the parameters of the program;
- ▶ grants the Alcoholic Beverage Control Commission rulemaking authority to administer the program; and
- ▶ permits a court to order enrollment in the program.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



- 28 [32B-2-503](#), as last amended by Laws of Utah 2011, Chapters 307 and 334
- 29 [41-6a-502.5](#), as last amended by Laws of Utah 2015, Chapter 438
- 30 [41-6a-505](#), as last amended by Laws of Utah 2019, Chapter 136
- 31 [41-6a-512](#), as last amended by Laws of Utah 2015, Chapter 438
- 32 [77-20-10](#), as last amended by Laws of Utah 2016, Chapter 234
- 33 [77-36-5.1](#), as last amended by Laws of Utah 2018, Chapter 124

34 ENACTS:

35 [32B-1-208](#), Utah Code Annotated 1953



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

38 Section 1. Section **32B-1-208** is enacted to read:

39 **32B-1-208. Alcohol-Restricted Individual Program.**

40 (1) As used in this section, "program" means the Alcohol-Restricted Individual  
41 Program the department establishes in accordance with Subsection (2).

42 (2) The department shall establish an Alcohol-Restricted Individual Program that:

43 (a) prohibits a state store from selling liquor to:

44 (i) an individual who voluntarily enrolls in the program; or

45 (ii) an individual a court orders to enroll in the program;

46 (b) uses an electronic program that scans proof of age to identify an individual enrolled  
47 in the program;

48 (c) permits an individual who voluntarily enrolls in the program to cancel the  
49 individual's enrollment, effective three days after the day on which the individual notifies the  
50 department of the cancellation; and

51 (d) removes an individual a court orders to enroll in the program as the court  
52 determines.

53 (3) The department may not:

54 (a) disclose any information related to an individual currently or previously enrolled in  
55 the program; or

56 (b) retain any information related to an individual previously enrolled in the program.

57 (4) The commission may establish rules in accordance with Title 63G, Chapter 3, Utah  
58 Administrative Rulemaking Act, to administer this section.

59 Section 2. Section **32B-2-503** is amended to read:

60 **32B-2-503. Operational requirements for a state store.**

61 (1) (a) A state store shall display in a prominent place in the store a sign in large letters  
62 that consists of text in the following order:

63 (i) a header that reads: "WARNING";

64 (ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy  
65 can cause birth defects and permanent brain damage for the child.";

66 (iii) a statement in smaller font that reads: "Call the Utah Department of Health at  
67 [insert most current toll-free number] with questions or for more information.";

68 (iv) a header that reads: "WARNING"; and

69 (v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a  
70 serious crime that is prosecuted aggressively in Utah."

71 (b) (i) The text described in Subsections (1)(a)(i) through (iii) shall be in a different  
72 font style than the text described in Subsections (1)(a)(iv) and (v).

73 (ii) The warning statements in the sign described in Subsection (1)(a) shall be in the  
74 same font size.

75 (c) The Department of Health shall work with the commission and department to  
76 facilitate consistency in the format of a sign required under this section.

77 (2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by  
78 the commission.

79 (3) A state store may not sell, offer for sale, or furnish liquor to:

80 (a) a minor;

81 (b) a person actually, apparently, or obviously intoxicated;

82 (c) a known interdicted person; ~~or~~

83 (d) a known habitual drunkard[-]; or

84 (e) an individual enrolled in the Alcohol-Restricted Individual Program described in

85 Section [32B-1-208](#).

86 (4) (a) A state store employee may not:

87 (i) consume an alcoholic product on the premises of a state store; or

88 (ii) allow any person to consume an alcoholic product on the premises of a state store.

89 (b) A violation of this Subsection (4) is a class B misdemeanor.

90 (5) (a) Sale or delivery of liquor may not be made on or from the premises of a state  
91 store, and a state store may not be kept open for the sale of liquor:

- 92 (i) on Sunday; or
- 93 (ii) on a state or federal legal holiday.

94 (b) Sale or delivery of liquor may be made on or from the premises of a state store, and  
95 a state store may be open for the sale of liquor, only on a day and during hours that the  
96 commission directs by rule or order.

97 (6) (a) A minor may not be admitted into, or be on the premises of, a state store unless  
98 accompanied by a person who is:

- 99 (i) 21 years of age or older; and
- 100 (ii) the minor's parent, legal guardian, or spouse.

101 (b) A state store employee that has reason to believe that a person who is on the  
102 premises of a state store is under the age of 21 and is not accompanied by a person described in  
103 Subsection (6)(a) may:

- 104 (i) ask the suspected minor for proof of age;
- 105 (ii) ask the person who accompanies the suspected minor for proof of age; and
- 106 (iii) ask the suspected minor or the person who accompanies the suspected minor for  
107 proof of parental, guardianship, or spousal relationship.

108 (c) A state store employee shall refuse to sell liquor to the suspected minor and to the  
109 person who accompanies the suspected minor into the state store if the suspected minor or  
110 person fails to provide information specified in Subsection (6)(b).

111 (d) A state store employee shall require a suspected minor and the person who  
112 accompanies the suspected minor into the state store to immediately leave the premises of the  
113 state store if the suspected minor or person fails to provide information specified in Subsection  
114 (6)(b).

115 (7) (a) A state store may not sell, offer for sale, or furnish liquor except in a sealed  
116 container.

117 (b) A person may not open a sealed container on the premises of a state store.

118 (8) On or after October 1, 2011, a state store may not sell, offer for sale, or furnish  
119 heavy beer in a sealed container that exceeds two liters.

120 Section 3. Section **41-6a-502.5** is amended to read:

121           **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**  
122 **requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

149           (6) (a) The provisions in Subsections 41-6a-505(1), (2), and (4) that require a  
150 sentencing court to order a convicted person to participate in a screening, an assessment, or an  
151 educational series, enroll in the Alcohol-Restricted Individual Program, or obtain substance

152 abuse treatment or do a combination of those things, apply to a conviction entered under this  
153 section.

154 (b) The court shall render the same order regarding screening, assessment, an  
155 educational series, enrollment, or substance abuse treatment in connection with a first, second,  
156 or subsequent conviction under this section as the court would render in connection with  
157 applying respectively, the first, second, or subsequent conviction requirements of Subsection  
158 41-6a-505(1), (2), or (4).

159 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section  
160 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the  
161 reporting court notifies the Driver License Division that the defendant is participating in or has  
162 successfully completed the program of a driving under the influence court.

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

164 (i) a CDL license holder; or

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

166 (8) The provisions of this section are not available to a person who has a prior  
167 conviction as that term is defined in Subsection 41-6a-501(2).

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

169 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
170 **drugs, or a combination of both violations.**

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

172 (a) the court shall:

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

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

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

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

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

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

182 (vi) order probation for the individual in accordance with Section 41-6a-507, if there is

183 admissible evidence that the individual had a blood alcohol level of .16 or higher;

184 (vii) (A) order the individual to pay the administrative impound fee described in

185 Section 41-6a-1406; or

186 (B) if the administrative impound fee was paid by a party described in Subsection

187 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

188 reimburse the party; or

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

190 72-9-603; or

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

192 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

193 reimburse the party; and

194 (b) the court may:

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

196 treatment program determines that substance abuse treatment is appropriate;

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

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

199 41-6a-515.5 if the individual is 21 years of age or older; ~~(or)~~

200 (iv) order the individual to enroll in the Alcohol-Restricted Individual Program

201 described in Section 32B-1-208, for a period of time; or

202 ~~[(iv)]~~ (v) order a combination of Subsections (1)(b)(i) through ~~[(iii)]~~ (iv).

203 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is

204 within 10 years of the current conviction under Section 41-6a-502 or the commission of the

205 offense upon which the current conviction is based:

206 (a) the court shall:

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

208 (B) impose a jail sentence of not less than 120 hours in addition to home confinement

209 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes

210 a substance abuse testing instrument in accordance with Section 41-6a-506;

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

212 (iii) order the individual to participate in an assessment, if it is found appropriate by a

213 screening under Subsection (2)(a)(ii);

214 (iv) order the individual to participate in an educational series if the court does not  
215 order substance abuse treatment as described under Subsection (2)(b);  
216 (v) impose a fine of not less than \$800;  
217 (vi) order probation for the individual in accordance with Section 41-6a-507;  
218 (vii) (A) order the individual to pay the administrative impound fee described in  
219 Section 41-6a-1406; or  
220 (B) if the administrative impound fee was paid by a party described in Subsection  
221 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
222 reimburse the party; or  
223 (viii) (A) order the individual to pay the towing and storage fees described in Section  
224 72-9-603; or  
225 (B) if the towing and storage fees were paid by a party described in Subsection  
226 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
227 reimburse the party; and  
228 (b) the court may:  
229 (i) order the individual to obtain substance abuse treatment if the substance abuse  
230 treatment program determines that substance abuse treatment is appropriate;  
231 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section  
232 41-6a-515.5 if the individual is 21 years of age or older; [or]  
233 (iii) order the individual to enroll in the Alcohol-Restricted Individual Program  
234 described in Section 32B-1-208, for a period of time; or  
235 ~~[(iii)]~~ (iv) order a combination of Subsections (2)(b)(i) ~~[and (ii)]~~ through (iii).  
236 (3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
237 sentence and places the defendant on probation, the court shall impose:  
238 (a) a fine of not less than \$1,500;  
239 (b) a jail sentence of not less than 1,500 hours; and  
240 (c) supervised probation.  
241 (4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:  
242 (a) shall impose an order requiring the individual to obtain a screening and assessment  
243 for alcohol and substance abuse, and treatment as appropriate; and  
244 (b) may impose an order requiring the individual to:



245 (i) participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the  
246 individual is 21 years of age or older[-]; or

247 (ii) enroll in the Liquor Alcohol-Restricted Individual Program described in Section  
248 32B-1-208, for a period of time.

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

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

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

254 (b) one or more of the following:

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

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

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

261 Section 5. Section 41-6a-512 is amended to read:

262 **41-6a-512. Factual basis for alcohol or drug-related reckless driving plea.**

263 (1) (a) The prosecution shall state for the record a factual basis for a plea, including  
264 whether or not there had been consumption of alcohol, drugs, or a combination of both, by the  
265 defendant in connection with the violation when the prosecution agrees to a plea of guilty or no  
266 contest to a charge of a violation of the following in satisfaction of, or as a substitute for, an  
267 original charge of a violation of Section 41-6a-502 for an offense committed before July 1,  
268 2008:

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

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

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

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

276 (3) The court shall notify the Driver License Division of each conviction of Section  
277 41-6a-528 entered under this section.

278 (4) (a) The provisions in Subsections 41-6a-505(1), (2), and (4) that require a  
279 sentencing court to order a convicted person to participate in a screening, an assessment, or an  
280 educational series, enroll in the Alcohol-Restricted Individual Program, or obtain substance  
281 abuse treatment or do a combination of those things, apply to a conviction for a violation of  
282 Section 41-6a-528 under Subsection (1).

283 (b) The court shall render the same order regarding screening, assessment, an  
284 educational series, enrollment, or substance abuse treatment in connection with a first, second,  
285 or subsequent conviction under Section 41-6a-528 under Subsection (1), as the court would  
286 render in connection with applying respectively, the first, second, or subsequent conviction  
287 requirements of Subsections 41-6a-505(1), (2), and (4).

288 Section 6. Section 77-20-10 is amended to read:

289 **77-20-10. Grounds for detaining defendant while appealing the defendant's**  
290 **conviction -- Conditions for release while on appeal.**

291 (1) The court shall order that a defendant who has been found guilty of an offense in a  
292 court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an  
293 appeal or a petition for a writ of certiorari, be detained, unless the court finds:

294 (a) the appeal raises a substantial question of law or fact likely to result in:

295 (i) reversal;

296 (ii) an order for a new trial; or

297 (iii) a sentence that does not include a term of imprisonment in jail or prison;

298 (b) the appeal is not for the purpose of delay; and

299 (c) by clear and convincing evidence presented by the defendant that the defendant is  
300 not likely to flee the jurisdiction of the court, and will not pose a danger to the physical,  
301 psychological, or financial and economic safety or well-being of any other person or the  
302 community if released.

303 (2) (a) If the court makes a finding under Subsection (1) that justifies not detaining the  
304 defendant, the court shall order the release of the defendant, subject to conditions that result in  
305 the least restrictive condition or combination of conditions that the court determines will  
306 reasonably assure the appearance of the person as required and the safety of any other person

307 and the community.

308 (b) The conditions may include that the defendant:

309 ~~[(a)]~~ (i) post appropriate bail;

310 ~~[(b)]~~ (ii) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act,  
311 in an amount necessary to assure the appearance of the defendant as required;

312 ~~[(c)-(i)]~~ (iii) (A) execute a written agreement to forfeit, upon failing to appear as  
313 required, designated property, including money, as is reasonably necessary to assure the  
314 appearance of the defendant; and

315 ~~[(ii)]~~ (B) post with the court indicia of ownership of the property or a percentage of the  
316 money as the court may specify;

317 ~~[(d)]~~ (iv) not commit a federal, state, or local crime during the period of release;

318 ~~[(e)]~~ (v) remain in the custody of a designated person who agrees to assume  
319 supervision of the defendant and who agrees to report any violation of a release condition to the  
320 court, if the designated person is reasonably able to assure the court that the defendant will  
321 appear as required and will not pose a danger to the safety of any other person or the  
322 community;

323 ~~[(f)]~~ (vi) maintain employment, or if unemployed, actively seek employment;

324 ~~[(g)]~~ (vii) maintain or commence an educational program;

325 ~~[(h)]~~ (viii) abide by specified restrictions on personal associations, place of abode, or  
326 travel;

327 ~~[(i)]~~ (ix) avoid all contact with the victims of the offense and with any witnesses who  
328 testified against the defendant or potential witnesses who may testify concerning the offense if  
329 the appeal results in a reversal or an order for a new trial;

330 ~~[(j)]~~ (x) report on a regular basis to a designated law enforcement agency, pretrial  
331 services agency, or other designated agency;

332 ~~[(k)]~~ (xi) comply with a specified curfew;

333 ~~[(l)]~~ (xii) not possess a firearm, destructive device, or other dangerous weapon;

334 ~~[(m)]~~ (xiii) not use alcohol, or any narcotic drug or other controlled substances except  
335 as prescribed by a licensed medical practitioner;

336 (xiv) enroll in the Alcohol-Restricted Individual Program described in Section  
337 [32B-1-208](#), for a period of time;

338           ~~[(n)]~~ (xv) undergo available medical, psychological, or psychiatric treatment, including  
339 treatment for drug or alcohol dependency, and remain under the supervision of or in a specified  
340 institution if required for that purpose;

341           ~~[(o)]~~ (xvi) return to custody for specified hours following release for employment,  
342 schooling, or other limited purposes;

343           ~~[(p)]~~ (xvii) satisfy any other condition that is reasonably necessary to assure the  
344 appearance of the defendant as required and to assure the safety of any other person and the  
345 community; and

346           ~~[(q)]~~ (xviii) if convicted of committing a sexual offense or an assault or other offense  
347 involving violence against a child 17 years of age or younger, is limited or denied access to any  
348 location or occupation where children are, including but not limited to:

349           ~~[(i)]~~ (A) any residence where children are on the premises;

350           ~~[(ii)]~~ (B) activities, including organized activities, in which children are involved; and

351           ~~[(iii)]~~ (C) locations where children congregate, or where a reasonable person should  
352 know that children congregate.

353           (3) The court may, in ~~[its]~~ the court's discretion, amend an order granting release to  
354 impose additional or different conditions of release.

355           (4) If defendant has been found guilty of an offense in a court not of record and files a  
356 timely notice of appeal pursuant to Subsection [78A-7-118\(1\)](#) for a trial de novo, the court shall  
357 stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance  
358 of the evidence that the defendant poses a danger to another person or the community.

359           (5) If a stay is ordered, the court may order post-conviction restrictions on the  
360 defendant's conduct as appropriate, including:

361           (a) continuation of any pre-trial restrictions or orders;

362           (b) sentencing protective orders under Section [77-36-5.1](#);

363           (c) drug and alcohol use;

364           (d) use of an ignition interlock; and

365           (e) posting appropriate bail.

366           (6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense  
367 under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

368           (7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by

369 the district court.

370 Section 7. Section 77-36-5.1 is amended to read:

371 **77-36-5.1. Conditions of probation for person convicted of domestic violence**  
372 **offense -- Continuous protective orders.**

373 (1) Before any perpetrator who has been convicted of a domestic violence offense may  
374 be placed on probation, the court shall consider the safety and protection of the victim and any  
375 member of the victim's family or household.

376 (2) The court may condition probation or a plea in abeyance on the perpetrator's  
377 compliance with one or more orders of the court, which may include a sentencing protective  
378 order:

379 (a) enjoining the perpetrator from threatening to commit or committing acts of  
380 domestic violence against the victim or other family or household member;

381 (b) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise  
382 communicating with the victim, directly or indirectly;

383 (c) requiring the perpetrator to stay away from the victim's residence, school, place of  
384 employment, and the premises of any of these, or a specified place frequented regularly by the  
385 victim or any designated family or household member;

386 (d) prohibiting the perpetrator from possessing or consuming alcohol or controlled  
387 substances;

388 (e) requiring the perpetrator to enroll in the Alcohol-Restricted Individual Program  
389 described in Section 32B-1-208, for a period of time;

390 [~~e~~] (f) prohibiting the perpetrator from purchasing, using, or possessing a firearm or  
391 other specified weapon;

392 [~~f~~] (g) directing the perpetrator to surrender any weapons the perpetrator owns or  
393 possesses;

394 [~~g~~] (h) directing the perpetrator to participate in and complete, to the satisfaction of  
395 the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse,  
396 or psychiatric or psychological treatment;

397 [~~h~~] (i) directing the perpetrator to pay restitution to the victim, enforcement of which  
398 shall be in accordance with Chapter 38a, Crime Victims Restitution Act; and

399 [~~i~~] (j) imposing any other condition necessary to protect the victim and any other

400 designated family or household member or to rehabilitate the perpetrator.

401 (3) The perpetrator is responsible for the costs of any condition of probation, according  
402 to the perpetrator's ability to pay.

403 (4) (a) Adult Probation and Parole, or other provider, shall immediately report to the  
404 court and notify the victim of any offense involving domestic violence committed by the  
405 perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and  
406 any violation of any sentencing criminal protective order issued by the court.

407 (b) Notification of the victim under Subsection (4)(a) shall consist of a good faith  
408 reasonable effort to provide prompt notification, including mailing a copy of the notification to  
409 the last-known address of the victim.

410 (5) The court shall transmit all dismissals, terminations, and expirations of pretrial and  
411 sentencing criminal protective orders issued by the court to the statewide domestic violence  
412 network.

413 (6) (a) Because of the serious, unique, and highly traumatic nature of domestic violence  
414 crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of  
415 continued acts of violence subsequent to the release of a perpetrator who is convicted of  
416 domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the  
417 issuance of continuous protective orders under this Subsection (6) because of the need to  
418 provide ongoing protection for the victim and to be consistent with the purposes of protecting  
419 victims' rights under Chapter 37, Victims' Rights, and Chapter 38, Rights of Crime Victims  
420 Act, and Article I, Section 28 of the Utah Constitution.

421 (b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence  
422 of imprisonment, including jail, that is to be served after conviction, the court shall issue a  
423 continuous protective order at the time of the conviction or sentencing limiting the contact  
424 between the perpetrator and the victim unless the court determines by clear and convincing  
425 evidence that the victim does not have a reasonable fear of future harm or abuse.

426 (c) (i) The court shall notify the perpetrator of the right to request a hearing.

427 (ii) If the perpetrator requests a hearing under this Subsection (6)(c), the court shall  
428 hold the hearing at the time determined by the court. The continuous protective order shall be  
429 in effect while the hearing is being scheduled and while the hearing is pending.

430 (d) A continuous protective order is permanent in accordance with this Subsection

431 (6)(d) and may grant the following relief:

432 (i) enjoining the perpetrator from threatening to commit or committing acts of  
433 domestic violence against the victim or other family or household member;

434 (ii) prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise  
435 communicating with the victim, directly or indirectly;

436 (iii) prohibiting the perpetrator from going to the victim's residence, school, place of  
437 employment, and the premises of any of these, or a specified place frequented regularly by the  
438 victim or any designated family or other household member;

439 (iv) directing the perpetrator to pay restitution to the victim as may apply, and shall be  
440 enforced in accordance with Chapter 38a, Crime Victims Restitution Act; and

441 (v) any other order the court considers necessary to fully protect the victim and  
442 members of the victim's family or other household member.

443 (e) A continuous protective order may be modified or dismissed only if the court  
444 determines by clear and convincing evidence that all requirements of this Subsection (6) have  
445 been met and the victim does not have a reasonable fear of future harm or abuse.

446 (f) Notice of a continuous protective order issued pursuant to this section shall be sent  
447 by the court to the statewide domestic violence network.

448 (g) Violation of a continuous protective order issued pursuant to this Subsection (6) is  
449 a class A misdemeanor, is a domestic violence offense under Section 77-36-1, and is subject to  
450 increased penalties in accordance with Section 77-36-1.1.

451 (h) In addition to the process of issuing a continuous protective order described in  
452 Subsection (6)(a), a district court may issue a continuous protective order at any time if the  
453 victim files a petition with the district court, and after notice and hearing the district court finds  
454 that a continuous protective order is necessary to protect the victim.

455 (7) (a) Before release of a person who is subject to a continuous protective order issued  
456 under Subsection (6), the victim shall receive notice of the imminent release by the law  
457 enforcement agency that is releasing the person who is subject to the continuous protective  
458 order:

459 (i) if the victim has provided the law enforcement agency contact information; and

460 (ii) in accordance with Section 64-13-14.7, if applicable.

461 (b) Before release, the law enforcement agency shall notify in writing the person being

462 released that a violation of the continuous protective order issued at the time of conviction or  
463 sentencing continues to apply, and that a violation of the continuous protective order is a class  
464 A misdemeanor, is a separate domestic violence offense under Section [77-36-1](#), and is subject  
465 to increased penalties in accordance with Section [77-36-1.1](#).

466 (8) In addition to a protective order issued under this section, the court may issue a  
467 separate order relating to the transfer of a wireless telephone number in accordance with  
468 Section [77-36-5.3](#).