

**Representative Cheryl K. Acton** proposes the following substitute bill:

**DRIVING OFFENSES AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Cheryl K. Acton**

Senate Sponsor: Lincoln Fillmore

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**LONG TITLE**

**General Description:**

This bill concerns offenses relating to the operation of a motor vehicle.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ modifies offenses and penalties concerning the operation of a motor vehicle while under the influence of drugs or alcohol or while having any measurable amount of a controlled substance in the operator's body;
- ▶ amends negligent driving offenses subject to enhancement under certain circumstances;
- ▶ adjusts offenses subject to driver license suspension and revocation;
- ▶ modifies eligibility and requirements for a plea of guilty or no contest in certain negligent driving offense situations;
- ▶ amends offenses subject to ignition interlock system requirements;
- ▶ modifies offenses relating to alcohol restricted drivers;
- ▶ amends the automobile homicide offenses exempted from probate disqualification;
- ▶ amends offenses subject to chemical testing and related procedures; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 [24-4-102](#), as last amended by Laws of Utah 2021, Chapter 230

33 [41-6a-501](#), as last amended by Laws of Utah 2021, Chapter 79

34 [41-6a-503](#), as last amended by Laws of Utah 2021, Chapter 79

35 [41-6a-505](#), as last amended by Laws of Utah 2021, Chapters 79 and 83

36 [41-6a-509](#), as last amended by Laws of Utah 2021, Chapters 83, 120 and last amended  
37 by Coordination Clause, Laws of Utah 2021, Chapter 83

38 [41-6a-513](#), as last amended by Laws of Utah 2020, Chapter 70

39 [41-6a-517](#), as last amended by Laws of Utah 2021, Chapters 83, 120 and last amended  
40 by Coordination Clause, Laws of Utah 2021, Chapter 83

41 [41-6a-518.2](#), as last amended by Laws of Utah 2020, Chapter 177

42 [41-6a-520](#), as last amended by Laws of Utah 2020, Chapter 177

43 [41-6a-529](#), as last amended by Laws of Utah 2020, Chapter 177

44 [41-6a-1901](#), as enacted by Laws of Utah 2005, Chapter 127

45 [53-3-220](#), as last amended by Laws of Utah 2021, Chapters 83, 262, and 343

46 [53-3-223](#), as last amended by Laws of Utah 2021, Chapter 83

47 [53-3-414](#), as last amended by Laws of Utah 2020, Chapter 218

48 [53-10-403](#), as last amended by Laws of Utah 2021, Chapter 213

49 [58-37-8](#), as last amended by Laws of Utah 2021, Chapter 236

50 [58-37f-201](#), as last amended by Laws of Utah 2020, Chapter 372

51 [58-37f-704](#), as enacted by Laws of Utah 2016, Chapter 99

52 [75-2-803](#), as last amended by Laws of Utah 2006, Chapter 270

53 [76-5-201](#), as last amended by Laws of Utah 2010, Chapter 13

54 [76-5-207](#), as last amended by Laws of Utah 2017, Chapter 283

55 [77-2a-3](#), as last amended by Laws of Utah 2021, Chapters 79 and 260

56 [77-40-102](#), as last amended by Laws of Utah 2021, Chapters 206 and 260

57 [77-40-105](#), as last amended by Laws of Utah 2021, Chapters 206, 260 and last amended  
58 by Coordination Clause, Laws of Utah 2021, Chapter 261

59 [78B-9-402](#), as last amended by Laws of Utah 2021, Chapters 36, 36, 46, and 46

60 [80-6-707](#), as renumbered and amended by Laws of Utah 2021, Chapter 261

61 [80-6-712](#), as enacted by Laws of Utah 2021, Chapter 261

62 [80-6-804](#), as last amended by Laws of Utah 2021, First Special Session, Chapter 2

63 ENACTS:

64 [76-5-102.1](#), Utah Code Annotated 1953



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

67 Section 1. Section [24-4-102](#) is amended to read:

68 **[24-4-102. Property subject to forfeiture.](#)**

69 (1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

70 (a) seized property that was used to facilitate the commission of an offense that is a  
71 violation of federal or state law; and

72 (b) seized proceeds.

73 (2) If seized property is used to facilitate an offense that is a violation of Section

74 [76-10-1204](#), [76-10-1205](#), [76-10-1206](#), or [76-10-1222](#), an agency may not forfeit the property if

75 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights

76 under the First Amendment to the Constitution of the United States or Utah Constitution,

77 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's

78 rights under the First Amendment to the Constitution of the United States or Utah Constitution,

79 Article I, Section 15.

80 (3) If a motor vehicle is used in an offense that is a violation of Section [41-6a-502](#),

81 [41-6a-517](#), a local ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#),

82 Subsection [~~58-37-8(2)(g)~~] [76-5-102.1\(2\)\(b\)](#), or Section [76-5-207](#), an agency may not seek

83 forfeiture of the motor vehicle, unless:

84 (a) the operator of the vehicle has previously been convicted of an offense committed  
85 after May 12, 2009, that is:

86 (i) a felony driving under the influence violation under Section [41-6a-502](#) or

87 Subsection [76-5-102.1\(2\)\(a\)](#);

88 (ii) a felony violation under Subsection ~~[58-37-8(2)(g); or]~~ 76-5-102.1(2)(b);  
89 (iii) ~~[automobile homicide]~~ a violation under Section 76-5-207; or  
90 (iv) operating a motor vehicle with any amount of a controlled substance in an  
91 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
92 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

93 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or  
94 disqualified license and:

95 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)  
96 was imposed because of a violation under:

97 (A) Section 41-6a-502;

98 (B) Section 41-6a-517;

99 (C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

100 (D) Section 41-6a-520;

101 ~~[(E) Subsection 58-37-8(2)(g);]~~

102 (E) operating a motor vehicle with any amount of a controlled substance in an  
103 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
104 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

105 (F) Section 76-5-102.1;

106 ~~[(F)]~~ (G) Section 76-5-207; or

107 ~~[(G)]~~ (H) a criminal prohibition as a result of a plea bargain after having been  
108 originally charged with violating one or more of the sections or ordinances described in  
109 Subsections (3)(b)(i)(A) through ~~[(F)]~~ (G); or

110 (ii) the denial, suspension, revocation, or disqualification described in Subsections  
111 (3)(b)(i)(A) through ~~[(G)]~~ (H):

112 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,  
113 revocation, or disqualification; and

114 (B) the original denial, suspension, revocation, or disqualification was imposed  
115 because of a violation described in Subsections (3)(b)(i)(A) through ~~[(G)]~~ (H).

116 (4) If a peace officer seizes property incident to an arrest solely for possession of a  
117 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 53-37-8(2)(b)(i), an  
118 agency may not seek to forfeit the property that was seized in accordance with the arrest.

119 Section 2. Section **41-6a-501** is amended to read:

120 **41-6a-501. Definitions.**

121 (1) As used in this part:

122 (a) "Actual physical control" is determined by a consideration of the totality of the  
123 circumstances, but does not include a circumstance in which:

124 (i) the person is asleep inside the vehicle;

125 (ii) the person is not in the driver's seat of the vehicle;

126 (iii) the engine of the vehicle is not running;

127 (iv) the vehicle is lawfully parked; and

128 (v) under the facts presented, it is evident that the person did not drive the vehicle to  
129 the location while under the influence of alcohol, a drug, or the combined influence of alcohol  
130 and any drug.

131 (b) "Assessment" means an in-depth clinical interview with a licensed mental health  
132 therapist:

133 (i) used to determine if a person is in need of:

134 (A) substance abuse treatment that is obtained at a substance abuse program;

135 (B) an educational series; or

136 (C) a combination of Subsections (1)(b)(i)(A) and (B); and

137 (ii) that is approved by the Division of Substance Abuse and Mental Health in  
138 accordance with Section [62A-15-105](#).

139 (c) "Driving under the influence court" means a court that is approved as a driving  
140 under the influence court by the Utah Judicial Council according to standards established by  
141 the Judicial Council.

142 (d) "Drug" or "drugs" means:

143 (i) a controlled substance as defined in Section [58-37-2](#);

144 (ii) a drug as defined in Section [58-17b-102](#); or

145 (iii) ~~any~~ a substance that, when knowingly, intentionally, or recklessly taken into the  
146 human body, can impair the ability of a person to safely operate a motor vehicle.

147 (e) "Educational series" means an educational series obtained at a substance abuse  
148 program that is approved by the Division of Substance Abuse and Mental Health in accordance  
149 with Section [62A-15-105](#).

150 (f) "Negligence" means simple negligence, the failure to exercise that degree of care  
151 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

152 (g) "Novice learner driver" means an individual who:

153 (i) has applied for a Utah driver license;

154 (ii) has not previously held a driver license in this state or another state; and

155 (iii) has not completed the requirements for issuance of a Utah driver license.

156 (h) "Screening" means a preliminary appraisal of a person:

157 (i) used to determine if the person is in need of:

158 (A) an assessment; or

159 (B) an educational series; and

160 (ii) that is approved by the Division of Substance Abuse and Mental Health in  
161 accordance with Section [62A-15-105](#).

162 (i) "Serious bodily injury" means bodily injury that creates or causes:

163 (i) serious permanent disfigurement;

164 (ii) protracted loss or impairment of the function of any bodily member or organ; or

165 (iii) a substantial risk of death.

166 (j) "Substance abuse treatment" means treatment obtained at a substance abuse  
167 program that is approved by the Division of Substance Abuse and Mental Health in accordance  
168 with Section [62A-15-105](#).

169 (k) "Substance abuse treatment program" means a state licensed substance abuse  
170 program.

171 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in  
172 Section [41-6a-102](#); and

173 (ii) "Vehicle" or "motor vehicle" includes:

174 (A) an off-highway vehicle as defined under Section [41-22-2](#); and

175 (B) a motorboat as defined in Section [73-18-2](#).

176 (2) As used in Section [41-6a-503](#):

177 (a) "Conviction" means any conviction arising from a separate episode of driving for a  
178 violation of:

179 (i) driving under the influence under Section [41-6a-502](#);

180 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a

181 combination of both-related reckless driving under:

182 (I) Section 41-6a-512; and

183 (II) Section 41-6a-528; or

184 (B) for an offense committed on or after July 1, 2008, impaired driving under Section

185 41-6a-502.5;

186 (iii) driving with any measurable controlled substance that is taken illegally in the body

187 under Section 41-6a-517;

188 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination

189 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in

190 compliance with Section 41-6a-510;

191 (v) ~~[automobile homicide under]~~ Section 76-5-207;

192 ~~[(vi) Subsection 58-37-8(2)(g);]~~

193 (vi) operating a motor vehicle with any amount of a controlled substance in an  
194 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,

195 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

196 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

197 ~~[(vii)]~~ (viii) a violation described in Subsections (2)(a)(i) through ~~[(vii)]~~ (vii), which  
198 judgment of conviction is reduced under Section 76-3-402;

199 ~~[(viii)]~~ (ix) refusal of a chemical test under Subsection 41-6a-520(7); or

200 ~~[(ix)]~~ (x) statutes or ordinances previously in effect in this state or in effect in any other  
201 state, the United States, or any district, possession, or territory of the United States which  
202 would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
203 both-related reckless driving if committed in this state, including punishments administered  
204 under 10 U.S.C. Sec. 815.

205 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)

206 through ~~[(ix)]~~ (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in

207 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been

208 subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for

209 purposes of:

210 (i) enhancement of penalties under~~[-(A)]~~ this Chapter 6a, Part 5, Driving Under the

211 Influence and Reckless Driving; and

- 212 ~~[(B) automobile homicide under Section 76-5-207; and]~~  
213 (ii) expungement under Title 77, Chapter 40, Utah Expungement Act.  
214 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent  
215 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah  
216 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:
- 217 (i) this part; ~~[and]~~  
218 ~~[(ii) automobile homicide under Section 76-5-207.]~~  
219 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and  
220 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.
- 221 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive  
222 metabolite of a controlled substance.
- 223 Section 3. Section 41-6a-503 is amended to read:
- 224 **41-6a-503. Penalties for driving under the influence violations.**
- 225 (1) A person who violates for the first or second time Section 41-6a-502 is guilty of a:  
226 (a) class B misdemeanor; or  
227 (b) class A misdemeanor if the person:
- 228 ~~[(i) has also inflicted bodily injury upon another as a proximate result of having~~  
229 ~~operated the vehicle in a negligent manner;]~~
- 230 ~~[(ii) (i) had a passenger under 16 years [of age] old in the vehicle at the time of the~~  
231 ~~offense;~~
- 232 ~~[(iii) (ii) was 21 years [of age] old or older and had a passenger under 18 years [of~~  
233 ~~age] old in the vehicle at the time of the offense; or~~
- 234 ~~[(iv) (iii) at the time of the violation of Section 41-6a-502, also violated Section~~  
235 ~~41-6a-712 or 41-6a-714.~~
- 236 (2) A person who violates Section 41-6a-502 is guilty of a third degree felony if:  
237 ~~[(a) the person has also inflicted serious bodily injury upon another as a proximate~~  
238 ~~result of having operated the vehicle in a negligent manner;]~~
- 239 ~~[(b) (a) the person has two or more prior convictions as defined in Subsection~~  
240 ~~41-6a-501(2), each of which is within 10 years of:~~
- 241 (i) the current conviction under Section 41-6a-502; or  
242 (ii) the commission of the offense upon which the current conviction is based; or



243 [(e)] (b) the conviction under Section 41-6a-502 is at any time after a conviction of:

244 (i) ~~[automobile homicide under]~~ a violation of Section 76-5-207 that is committed after  
245 July 1, 2001;

246 (ii) a felony violation of Section 41-6a-502, 76-5-102.1, or a statute previously in effect  
247 in this state that would constitute a violation of Section 41-6a-502 or 76-5-102.1 that is  
248 committed after July 1, 2001; or

249 (iii) any conviction described in Subsection (2)[(e)](b)(i) or (ii) which judgment of  
250 conviction is reduced under Section 76-3-402.

251 ~~[(3) A person is guilty of a separate offense for each victim suffering bodily injury or  
252 serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a  
253 result of the person's violation of Section 76-5-207 whether or not the injuries arise from the  
254 same episode of driving.]~~

255 [(4)] (3) A person is guilty of a separate offense under Subsection (1)(b)[(ii)](i) for  
256 each passenger in the vehicle at the time of the offense that is under 16 years old.

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

258 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,  
259 drugs, or a combination of both violations.**

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

266 (a) the court shall:

267 (i) (A) impose a jail sentence of not less than five days; or

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

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

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

274 (iv) order the individual to participate in an educational series if the court does not  
275 order substance abuse treatment as described under Subsection (1)(b);  
276 (v) impose a fine of not less than \$700;  
277 (vi) order probation for the individual in accordance with Section 41-6a-507;  
278 (vii) (A) order the individual to pay the administrative impound fee described in  
279 Section 41-6a-1406; or  
280 (B) if the administrative impound fee was paid by a party described in Subsection  
281 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
282 reimburse the party;  
283 (viii) (A) order the individual to pay the towing and storage fees described in Section  
284 72-9-603; or  
285 (B) if the towing and storage fees were paid by a party described in Subsection  
286 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
287 reimburse the party; or  
288 (ix) unless the court determines and states on the record that an ignition interlock  
289 system is not necessary for the safety of the community and in the best interest of justice, order  
290 the installation of an ignition interlock system as described in Section 41-6a-518; and  
291 (b) the court may:  
292 (i) order the individual to obtain substance abuse treatment if the substance abuse  
293 treatment program determines that substance abuse treatment is appropriate;  
294 (ii) order probation for the individual in accordance with Section 41-6a-507;  
295 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section  
296 41-6a-515.5 if the individual is 21 years old or older; or  
297 (iv) order a combination of Subsections (1)(b)(i) through (iii).  
298 (2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety  
299 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed  
300 under Subsection (1)(a).  
301 (b) If an individual described in Subsection (1) fails to successfully complete all of the  
302 requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence  
303 described in Subsection (2)(a).  
304 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described

305 in Subsection (1):

306 (a) the court shall:

307 (i) (A) impose a jail sentence of not less than [2] two days; or

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

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

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

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

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

316 (vi) (A) order the individual to pay the administrative impound fee described in Section  
317 41-6a-1406; or

318 (B) if the administrative impound fee was paid by a party described in Subsection  
319 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
320 reimburse the party; or

321 (vii) (A) order the individual to pay the towing and storage fees described in Section  
322 72-9-603; or

323 (B) if the towing and storage fees were paid by a party described in Subsection  
324 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
325 reimburse the party; and

326 (b) the court may:

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

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

330 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section  
331 41-6a-515.5 if the individual is 21 years old or older; or

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

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

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

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

346 (a) the court shall:

347 (i) (A) impose a jail sentence of not less than 20 days;

348 (B) impose a jail sentence of not less than 10 days in addition to home confinement of  
349 not fewer than 60 consecutive days through the use of electronic monitoring that includes a  
350 substance abuse testing instrument in accordance with Section 41-6a-506; or

351 (C) impose a jail sentence of not less than 10 days in addition to ordering the  
352 individual to obtain substance abuse treatment, if the court finds that substance abuse treatment  
353 is more likely to reduce recidivism and is in the interests of public safety;

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

355 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
356 screening under Subsection (5)(a)(ii);

357 (iv) order the individual to participate in an educational series if the court does not  
358 order substance abuse treatment as described under Subsection (5)(b);

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

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

361 (vii) order the installation of an ignition interlock system as described in Section  
362 41-6a-518;

363 (viii) (A) order the individual to pay the administrative impound fee described in  
364 Section 41-6a-1406; or

365 (B) if the administrative impound fee was paid by a party described in Subsection  
366 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

367 reimburse the party; or  
368 (ix) (A) order the individual to pay the towing and storage fees described in Section  
369 72-9-603; or  
370 (B) if the towing and storage fees were paid by a party described in Subsection  
371 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
372 reimburse the party; and  
373 (b) the court may:  
374 (i) order the individual to obtain substance abuse treatment if the substance abuse  
375 treatment program determines that substance abuse treatment is appropriate;  
376 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section  
377 41-6a-515.5 if the individual is 21 years old or older; or  
378 (iii) order a combination of Subsections (5)(b)(i) and (ii).  
379 (6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety  
380 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed  
381 under Subsection (5)(a) after the individual has served a minimum of:  
382 (i) five days of the jail sentence for a second offense; or  
383 (ii) 10 days of the jail sentence for a third or subsequent offense.  
384 (b) If an individual described in Subsection (6)(a) fails to successfully complete all of  
385 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail  
386 sentence described in Subsection (6)(a).  
387 (7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is  
388 within 10 years of the current conviction under Section 41-6a-502 or the commission of the  
389 offense upon which the current conviction is based and that does not qualify under Subsection  
390 (5):  
391 (a) the court shall:  
392 (i) (A) impose a jail sentence of not less than 10 days; or  
393 (B) impose a jail sentence of not less than 5 days in addition to home confinement of  
394 not fewer than 30 consecutive days through the use of electronic monitoring that includes a  
395 substance abuse testing instrument in accordance with Section 41-6a-506;  
396 (ii) order the individual to participate in a screening;  
397 (iii) order the individual to participate in an assessment, if it is found appropriate by a

398 screening under Subsection (7)(a)(ii);  
399 (iv) order the individual to participate in an educational series if the court does not  
400 order substance abuse treatment as described under Subsection (7)(b);  
401 (v) impose a fine of not less than \$800;  
402 (vi) order probation for the individual in accordance with Section 41-6a-507;  
403 (vii) (A) order the individual to pay the administrative impound fee described in  
404 Section 41-6a-1406; or  
405 (B) if the administrative impound fee was paid by a party described in Subsection  
406 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
407 reimburse the party; or  
408 (viii) (A) order the individual to pay the towing and storage fees described in Section  
409 72-9-603; or  
410 (B) if the towing and storage fees were paid by a party described in Subsection  
411 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
412 reimburse the party; and  
413 (b) the court may:  
414 (i) order the individual to obtain substance abuse treatment if the substance abuse  
415 treatment program determines that substance abuse treatment is appropriate;  
416 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section  
417 41-6a-515.5 if the individual is 21 years old or older; or  
418 (iii) order a combination of Subsections (7)(b)(i) and (ii).  
419 (8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety  
420 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed  
421 under Subsection (7)(a) after the individual has served a minimum of:  
422 (i) five days of the jail sentence for a second offense; or  
423 (ii) 10 days of the jail sentence for a third or subsequent offense.  
424 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of  
425 the requirements of the 24/7 sobriety program, the court shall impose the suspended jail  
426 sentence described in Subsection (8)(a).  
427 (9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
428 sentence and places the defendant on probation where there is admissible evidence that the

429 individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 in  
430 addition to any measurable controlled substance, or had a combination of two or more  
431 controlled substances in the person's body that were not recommended in accordance with Title  
432 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

- 433 (a) a fine of not less than \$1,500;
- 434 (b) a jail sentence of not less than 120 days;
- 435 (c) home confinement of not fewer than 120 consecutive days through the use of  
436 electronic monitoring that includes a substance abuse testing instrument in accordance with  
437 Section 41-6a-506; and
- 438 (d) supervised probation.

439 (10) (a) For Subsection (9) or Subsection 41-6a-503(2)(~~b~~)(a), the court:

- 440 (i) shall impose an order requiring the individual to obtain a screening and assessment  
441 for alcohol and substance abuse, and treatment as appropriate; and
- 442 (ii) may impose an order requiring the individual to participate in a 24/7 sobriety  
443 program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

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

447 (11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison  
448 sentence and places the defendant on probation with a sentence not described in Subsection (9),  
449 the court shall impose:

- 450 (a) a fine of not less than \$1,500;
- 451 (b) a jail sentence of not less than 60 days;
- 452 (c) home confinement of not fewer than 60 consecutive days through the use of  
453 electronic monitoring that includes a substance abuse testing instrument in accordance with  
454 Section 41-6a-506; and
- 455 (d) supervised probation.

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

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

460 (b) A court, with stipulation of both parties and approval from the judge, may convert a  
461 jail sentence required in this section to electronic home confinement.

462 (c) A court may order a jail sentence imposed as a condition of misdemeanor probation  
463 under this section to be served in multiple two-day increments at weekly intervals if the court  
464 determines that separate jail increments are necessary to ensure the defendant can serve the  
465 statutorily required jail term and maintain employment.

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

469 (a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

470 (b) one or more of the following:

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

473 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
474 device or remote alcohol monitor as a condition of probation for the individual; or

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

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

478 **41-6a-509. Driver license suspension or revocation for a driving under the**  
479 **influence violation.**

480 (1) The Driver License Division shall, if the person is 21 years [~~of age~~] old or older at  
481 the time of arrest:

482 (a) suspend for a period of 120 days the operator's license of a person convicted for the  
483 first time under Section 41-6a-502, 76-5-102.1, or 76-5-207; or

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

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

486 (ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is  
487 committed within a period of 10 years from the date of the prior violation.

488 (2) The Driver License Division shall, if the person is 19 years [~~of age~~] old or older but  
489 under 21 years [~~of age~~] old at the time of arrest:

490 (a) suspend the person's driver license until the person is 21 years [~~of age~~] old or for a



491 period of one year, whichever is longer, if the person is convicted for the first time of a  
492 violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) of an offense that was committed  
493 on or after July 1, 2011;

494 (b) deny the person's application for a license or learner's permit until the person is 21  
495 years [~~of age~~] old or for a period of one year, whichever is longer, if the person:

496 (i) is convicted for the first time of a violation under Section [41-6a-502](#), [76-5-102.1](#), or  
497 [76-5-207](#) of an offense committed on or after July 1, 2011; and

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

499 (c) revoke the person's driver license until the person is 21 years [~~of age~~] old or for a  
500 period of two years, whichever is longer, if:

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

502 (ii) the current violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) is  
503 committed within a period of 10 years from the date of the prior violation; or

504 (d) deny the person's application for a license or learner's permit until the person is 21  
505 years [~~of age~~] old or for a period of two years, whichever is longer, if:

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

507 (ii) the current violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) is  
508 committed within a period of 10 years from the date of the prior violation; and

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

510 (3) The Driver License Division shall, if the person is under 19 years [~~of age~~] old at the  
511 time of arrest:

512 (a) suspend the person's driver license until the person is 21 years [~~of age~~] old if the  
513 person is convicted for the first time of a violation under Section [41-6a-502](#), [76-5-102.1](#), or  
514 [76-5-207](#);

515 (b) deny the person's application for a license or learner's permit until the person is 21  
516 years [~~of age~~] old if the person:

517 (i) is convicted for the first time of a violation under Section [41-6a-502](#), [76-5-102.1](#), or  
518 [76-5-207](#); and

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

520 (c) revoke the person's driver license until the person is 21 years [~~of age~~] old if:

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

522 (ii) the current violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) is  
523 committed within a period of 10 years from the date of the prior violation; or

524 (d) deny the person's application for a license or learner's permit until the person is 21  
525 years ~~[of age]~~ old if:

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

527 (ii) the current violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) is  
528 committed within a period of 10 years from the date of the prior violation; and

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

530 (4) The Driver License Division shall suspend or revoke the license of a person as  
531 ordered by the court under Subsection (9).

532 (5) The Driver License Division shall subtract from any suspension or revocation  
533 period the number of days for which a license was previously suspended under Section  
534 [53-3-223](#) or [53-3-231](#), if the previous suspension was based on the same occurrence upon  
535 which the record of conviction is based.

536 (6) If a conviction recorded as impaired driving is amended to a driving under the  
537 influence conviction under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) in accordance with  
538 Subsection [41-6a-502.5](#)(3)(a)(ii), the Driver License Division:

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

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

543 (7) A court that reported a conviction of a violation of Section [41-6a-502](#), [76-5-102.1](#),  
544 or [76-5-207](#) for a violation that occurred on or after July 1, 2009, to the Driver License  
545 Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or  
546 Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

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

548 (b) completes a screening;

549 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
550 (7)(b);

551 (d) completes substance abuse treatment if it is found appropriate by the assessment  
552 under Subsection (7)(c);

553 (e) completes an educational series if substance abuse treatment is not required by an  
554 assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

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

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

560 (h) (i) is 18 years [~~of age~~] old or older and provides a sworn statement to the court that  
561 the person has not unlawfully consumed alcohol during the suspension period imposed under  
562 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

563 (ii) is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide  
564 an affidavit or sworn statement to the court certifying that to the parent or legal guardian's  
565 knowledge the person has not unlawfully consumed alcohol during the suspension period  
566 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

567 (8) If the court shortens a person's license suspension period in accordance with the  
568 requirements of Subsection (7), the court shall forward the order shortening the person's  
569 suspension period to the Driver License Division in a manner specified by the division prior to  
570 the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection  
571 (3)(a) or (b).

572 (9) (a) (i) In addition to any other penalties provided in this section, a court may order  
573 the operator's license of a person who is convicted of a violation of Section [41-6a-502](#),  
574 [76-5-102.1](#), or [76-5-207](#) to be suspended or revoked for an additional period of 90 days, 120  
575 days, 180 days, one year, or two years to remove from the highways those persons who have  
576 shown they are safety hazards.

577 (ii) The additional suspension or revocation period provided in this Subsection (9) shall  
578 begin the date on which the individual would be eligible to reinstate the individual's driving  
579 privilege for a violation of Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#).

580 (b) If the court suspends or revokes the person's license under this Subsection (9), the  
581 court shall prepare and send to the Driver License Division an order to suspend or revoke that  
582 person's driving privileges for a specified period of time.

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

584 all court ordered:

- 585 (i) screenings;
- 586 (ii) assessments;
- 587 (iii) educational series;
- 588 (iv) substance abuse treatment; and
- 589 (v) hours of work in a compensatory-service work program.

590 (b) Subject to Subsection [53-3-218\(3\)](#), upon receiving the notification described in  
591 Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with  
592 Subsection [53-3-221\(2\)](#).

593 (11) (a) A court that reported a conviction of a violation of Section [41-6a-502](#),  
594 [76-5-102.1](#), or [76-5-207](#) to the Driver License Division may shorten the suspension period  
595 imposed under Subsection (1) before completion of the suspension period if the person is  
596 participating in or has successfully completed a 24-7 sobriety program as defined in Section  
597 [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 (11), the court shall forward the order shortening the person's  
600 suspension period to the Driver License Division in a manner specified by the division.

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

604 (d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first  
605 offense, the division shall suspend the person's driving privilege for a period of 120 days from  
606 the date of notice.

607 (B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be  
608 subtracted from the 120-day suspension period for which a driving privilege was previously  
609 suspended under this section or Section [53-3-223](#), if the previous suspension was based on the  
610 same occurrence upon which the conviction under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#)  
611 is based.

612 (ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or  
613 subsequent offense, the division shall revoke the person's driving privilege for a period of two  
614 years from the date of notice.

615 (B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be  
616 subtracted from the two-year revocation period for which a driving privilege was previously  
617 revoked under this section or Section [53-3-223](#), if the previous revocation was based on the  
618 same occurrence upon which the conviction under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#)  
619 is based.

620 Section 6. Section **41-6a-513** is amended to read:

621 **41-6a-513. Acceptance of plea of guilty to DUI -- Restrictions -- Verification of**  
622 **prior violations -- Prosecutor to examine defendant's record.**

623 (1) An entry of a plea of guilty or no contest to a criminal charge under Section  
624 [41-6a-502](#) is invalid unless the prosecutor agrees to the plea:

625 (a) in open court;

626 (b) in writing; or

627 (c) by another means of communication which the court finds adequate to record the  
628 prosecutor's agreement.

629 (2) (a) Prior to agreeing to a plea of guilty or no contest under Subsection (1), the  
630 prosecutor shall examine the criminal history or driver license record of the defendant to  
631 determine if the defendant's record contains a conviction, arrest, or charge for:

632 (i) more than one prior violation within the previous 10 years of any offense that, if the  
633 defendant were convicted, would qualify as a conviction as defined in Subsection  
634 [41-6a-501\(2\)](#);

635 (ii) a felony violation of:

636 (A) Section [41-6a-502](#); or

637 (B) Section [76-5-102.1](#); or

638 (iii) [~~automobile homicide under~~] a violation of Section [76-5-207](#).

639 (b) If the defendant's record contains a conviction or unresolved arrest or charge for an  
640 offense listed in Subsection (2)(a), a plea may only be accepted if:

641 (i) approved by:

642 (A) a district attorney;

643 (B) a deputy district attorney;

644 (C) a county attorney;

645 (D) a deputy county attorney;

- 646 (E) the attorney general; or
- 647 (F) an assistant attorney general; and
- 648 (ii) the attorney giving approval under Subsection (2)(b)(i) has felony jurisdiction over
- 649 the case.

650 Section 7. Section **41-6a-517** is amended to read:

651 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**  
652 **body -- Penalties -- Arrest without warrant.**

653 (1) As used in this section:

- 654 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).
- 655 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).
- 656 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).
- 657 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

658 (2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of  
659 Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#), a person may not operate or be in actual physical  
660 control of a motor vehicle within this state if the person has any measurable controlled  
661 substance or metabolite of a controlled substance in the person's body.

662 (b) Subsection (2)(a) does not apply to a person that has  
663 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's  
664 body.

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

- 667 (a) involuntarily ingested by the accused;
- 668 (b) prescribed by a practitioner for use by the accused;
- 669 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage  
670 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical  
671 Cannabis Act; or
- 672 (d) otherwise legally ingested.

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

675 (b) A person who violates this section is subject to conviction and sentencing under  
676 both this section and any applicable offense under Section [58-37-8](#).

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

681 (6) The Driver License Division shall, if the person is 21 years [~~of age~~] old or older on  
682 the date of arrest:

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

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

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

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

689 (7) The Driver License Division shall, if the person is 19 years [~~of age~~] old or older but  
690 under 21 years [~~of age~~] old on the date of arrest:

691 (a) suspend, until the person is 21 years [~~of age~~] old or for a period of one year,  
692 whichever is longer, the driver license of a person convicted under Subsection (2) of an offense  
693 committed on or after July 1, 2011; or

694 (b) revoke, until the person is 21 years [~~of age~~] old or for a period of two years,  
695 whichever is longer, the driver license of a person if:

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

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

699 (8) The Driver License Division shall, if the person is under 19 years [~~of age~~] old on  
700 the date of arrest:

701 (a) suspend, until the person is 21 years [~~of age~~] old, the driver license of a person  
702 convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

703 (b) revoke, until the person is 21 years [~~of age~~] old, the driver license of a person if:

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

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

707 (9) The Driver License Division shall subtract from any suspension or revocation

708 period the number of days for which a license was previously suspended under Section  
709 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
710 which the record of conviction is based.

711 (10) The Driver License Division shall:

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

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

717 (i) the person was 20 years [~~of age~~] old or older but under 21 years [~~of age~~] old at the  
718 time of arrest; and

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

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

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

726 (b) completes a screening;

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

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

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

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

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

738 (h) (i) is 18 years [~~of age~~] old or older and provides a sworn statement to the court that



739 the person has not consumed a controlled substance not prescribed by a practitioner for use by  
740 the person or unlawfully consumed alcohol during the suspension period imposed under  
741 Subsection (7)(a) or (8)(a); or

742 (ii) is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide  
743 an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's  
744 knowledge the person has not consumed a controlled substance not prescribed by a practitioner  
745 for use by the person or unlawfully consumed alcohol during the suspension period imposed  
746 under Subsection (7)(a) or (8)(a).

747 (12) If the court shortens a person's license suspension period in accordance with the  
748 requirements of Subsection (11), the court shall forward the order shortening the person's  
749 license suspension period to the Driver License Division in a manner specified by the division  
750 prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a).

751 (13) (a) The court shall notify the Driver License Division if a person fails to complete  
752 all court ordered screening and assessment, educational series, and substance abuse treatment.

753 (b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division  
754 shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

755 (14) The court:

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

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

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

764 (b) If the court shortens a person's license suspension period in accordance with the  
765 requirements of this Subsection (15), the court shall forward to the Driver License Division, in  
766 a manner specified by the division, the order shortening the person's suspension period.

767 (c) The court shall notify the Driver License Division, in a manner specified by the  
768 division, if a person fails to complete all requirements of a 24-7 sobriety program.

769 (d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first

770 offense, the division shall suspend the person's driving privilege for a period of 120 days from  
771 the date of notice.

772 (B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted  
773 from the 120-day suspension period for which a driving privilege was suspended under this  
774 section or under Section 53-3-223, if the previous suspension was based on the same  
775 occurrence upon which the conviction under this section is based.

776 (ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or  
777 subsequent offense, the division shall revoke the person's driving privilege for a period of two  
778 years from the date of notice.

779 (B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted  
780 from the two-year revocation period for which a driving privilege was previously revoked  
781 under this section or under Section 53-3-223, if the previous revocation was based on the same  
782 occurrence upon which the conviction under this section is based.

783 Section 8. Section 41-6a-518.2 is amended to read:

784 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**  
785 **interlock system.**

786 (1) As used in this section:

787 (a) "Ignition interlock system" means a constant monitoring device or any similar  
788 device that:

789 (i) is in working order at the time of operation or actual physical control; and

790 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection  
791 41-6a-518(8).

792 (b) (i) "Interlock restricted driver" means a person who:

793 (A) has been ordered by a court or the Board of Pardons and Parole as a condition of  
794 probation or parole not to operate a motor vehicle without an ignition interlock system;

795 (B) within the last 18 months has been convicted of a violation under Section  
796 41-6a-502 [or] Subsection 41-6a-520(7), or Section 76-5-102.1;

797 (C) (I) within the last three years has been convicted of an offense which would be a  
798 conviction as defined under Section 41-6a-501; and

799 (II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years  
800 from the date that one or more prior offenses was committed if the prior offense resulted in a

801 conviction as defined in Subsection [41-6a-501\(2\)](#);

802 (D) within the last three years has been convicted of a violation of this section;

803 (E) within the last three years has had the person's driving privilege revoked through an  
804 administrative action for refusal to submit to a chemical test under Section [41-6a-520](#);

805 (F) within the last three years has been convicted of a violation of Section [41-6a-502](#)  
806 [~~or~~], Subsection [41-6a-520\(7\)](#), or Section [76-5-102.1](#) and was under the age of 21 at the time  
807 the offense was committed;

808 (G) within the last six years has been convicted of a felony violation of Section  
809 [41-6a-502](#) [~~or~~], Subsection [41-6a-520\(7\)](#), or Section [76-5-102.1](#) for an offense that occurred  
810 after May 1, 2006; or

811 (H) within the last 10 years has been convicted [~~of automobile homicide under~~] of a  
812 violation of Section [76-5-207](#) for an offense that occurred after May 1, 2006.

813 (ii) "Interlock restricted driver" does not include a person:

814 (A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under  
815 Section [41-6a-502](#) that does not involve alcohol or a conviction under Section [41-6a-517](#) and  
816 whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under  
817 Section [41-6a-502](#) that did not involve alcohol or convictions under Section [41-6a-517](#);

818 (B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under  
819 Section [41-6a-502](#) that does not involve alcohol and the convicting court notifies the Driver  
820 License Division at the time of sentencing that the conviction does not involve alcohol; or

821 (C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction  
822 under Section [41-6a-502](#) that does not involve alcohol and the ignition interlock restriction is  
823 removed as described in Subsection (7).

824 (2) The division shall post the ignition interlock restriction on a person's electronic  
825 record that is available to law enforcement.

826 (3) For purposes of this section, a plea of guilty or no contest to a violation of Section  
827 [41-6a-502](#) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
828 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently  
829 reduced or dismissed in accordance with the plea in abeyance agreement.

830 (4) An interlock restricted driver who operates or is in actual physical control of a  
831 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

832 (5) It is an affirmative defense to a charge of a violation of Subsection (4) if:  
833 (a) the interlock restricted driver operated or was in actual physical control of a vehicle  
834 owned by the interlock restricted driver's employer;  
835 (b) the interlock restricted driver had given written notice to the employer of the  
836 interlock restricted driver's interlock restricted status prior to the operation or actual physical  
837 control under Subsection (5)(a);  
838 (c) the interlock restricted driver had on the interlock restricted driver's person, or in  
839 the vehicle, at the time of operation or physical control employer verification, as defined in  
840 Subsection 41-6a-518(1); and  
841 (d) the operation or actual physical control described in Subsection (5)(a) was in the  
842 scope of the interlock restricted driver's employment.  
843 (6) The affirmative defense described in Subsection (5) does not apply to:  
844 (a) an employer-owned motor vehicle that is made available to an interlock restricted  
845 driver for personal use; or  
846 (b) a motor vehicle owned by a business entity that is entirely or partly owned or  
847 controlled by the interlock restricted driver.  
848 (7) (a) An individual with an ignition interlock restriction may petition the division for  
849 removal of the restriction if the individual's offense did not involve alcohol.  
850 (b) If the division is able to establish that an individual's offense did not involve  
851 alcohol, the division may remove the ignition interlock restriction.  
852 Section 9. Section 41-6a-520 is amended to read:  
853 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**  
854 **tests -- Refusal -- Warning, report.**  
855 (1) (a) A person operating a motor vehicle in this state is considered to have given the  
856 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for  
857 the purpose of determining whether the person was operating or in actual physical control of a  
858 motor vehicle while:  
859 (i) having a blood or breath alcohol content statutorily prohibited under Section  
860 41-6a-502, 41-6a-530, or 53-3-231;  
861 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug  
862 under Section 41-6a-502; or

863 (iii) having any measurable controlled substance or metabolite of a controlled  
864 substance in the person's body in violation of Section 41-6a-517.

865 (b) A test or tests authorized under this Subsection (1) must be administered at the  
866 direction of a peace officer having grounds to believe that person to have been operating or in  
867 actual physical control of a motor vehicle while in violation of any provision under Subsections  
868 (1)(a)(i) through (iii).

869 (c) (i) The peace officer determines which of the tests are administered and how many  
870 of them are administered.

871 (ii) If a peace officer requests more than one test, refusal by a person to take one or  
872 more requested tests, even though the person does submit to any other requested test or tests, is  
873 a refusal under this section.

874 (d) (i) A person who has been requested under this section to submit to a chemical test  
875 or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be  
876 administered.

877 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is  
878 not a defense to taking a test requested by a peace officer, and it is not a defense in any  
879 criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the  
880 requested test or tests.

881 (2) (a) A peace officer requesting a test or tests shall warn a person that refusal to  
882 submit to the test or tests may result in criminal prosecution, revocation of the person's license  
883 to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or  
884 detectable amount of alcohol in the person's body depending on the person's prior driving  
885 history, and a three-year prohibition of driving without an ignition interlock device if the  
886 person:

887 (i) has been placed under arrest;

888 (ii) has then been requested by a peace officer to submit to any one or more of the  
889 chemical tests under Subsection (1); and

890 (iii) refuses to submit to any chemical test requested.

891 (b) (i) Following the warning under Subsection (2)(a), if the person does not  
892 immediately request that the chemical test or tests as offered by a peace officer be  
893 administered, a peace officer shall, on behalf of the Driver License Division and within 24

894 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's  
895 privilege or license to operate a motor vehicle.

896 (ii) When a peace officer gives the notice on behalf of the Driver License Division, the  
897 peace officer shall supply to the operator, in a manner specified by the Driver License Division,  
898 basic information regarding how to obtain a hearing before the Driver License Division.

899 (c) As a matter of procedure, the peace officer shall submit a signed report, within 10  
900 calendar days after the day on which notice is provided under Subsection (2)(b), that:

901 (i) the peace officer had grounds to believe the arrested person was in violation of any  
902 provision under Subsections (1)(a)(i) through (iii); and

903 (ii) the person had refused to submit to a chemical test or tests under Subsection (1).

904 (3) Upon the request of the person who was tested, the results of the test or tests shall  
905 be made available to the person.

906 (4) (a) The person to be tested may, at the person's own expense, have a physician or a  
907 physician assistant of the person's own choice administer a chemical test in addition to the test  
908 or tests administered at the direction of a peace officer.

909 (b) The failure or inability to obtain the additional test does not affect admissibility of  
910 the results of the test or tests taken at the direction of a peace officer, or preclude or delay the  
911 test or tests to be taken at the direction of a peace officer.

912 (c) The additional test shall be subsequent to the test or tests administered at the  
913 direction of a peace officer.

914 (5) For the purpose of determining whether to submit to a chemical test or tests, the  
915 person to be tested does not have the right to consult an attorney or have an attorney, physician,  
916 or other person present as a condition for the taking of any test.

917 (6) Notwithstanding the provisions in this section, a blood test taken under this section  
918 is subject to Section [77-23-213](#).

919 (7) A person is guilty of refusing a chemical test if a peace officer has issued the  
920 warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's  
921 blood under Subsection (1) after a court has issued a warrant to draw and test the blood.

922 (8) A person who violates Subsection (7) is guilty of:

923 (a) a third degree felony if:

924 (i) the person has two or more prior convictions as defined in Subsection [41-6a-501\(2\)](#),

- 925 each of which is within 10 years of:
- 926 (A) the current conviction; or
- 927 (B) the commission of the offense upon which the current conviction is based; or
- 928 (ii) the conviction is at any time after a conviction of:
- 929 (A) [~~automobile homicide under~~] a violation of Section 76-5-207;
- 930 (B) a felony violation of this section or Section 41-6a-502 or 76-5-102.1; or
- 931 (C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is
- 932 reduced under Section 76-3-402; or
- 933 (b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies.
- 934 (9) As part of any sentence for a conviction of violating this section, the court shall
- 935 impose the same sentencing as outlined for driving under the influence violations in Section
- 936 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by
- 937 Subsection 41-6a-501(2), with the following modifications:
- 938 (a) any jail sentence shall be 24 consecutive hours more than would be required under
- 939 Section 41-6a-505;
- 940 (b) any fine imposed shall be \$100 more than would be required under Section
- 941 41-6a-505; and
- 942 (c) the court shall order one or more of the following:
- 943 (i) the installation of an ignition interlock system as a condition of probation for the
- 944 individual in accordance with Section 41-6a-518;
- 945 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
- 946 device as a condition of probation for the individual; or
- 947 (iii) the imposition of home confinement through the use of electronic monitoring in
- 948 accordance with Section 41-6a-506.
- 949 (10) (a) The offense of refusal to submit to a chemical test under this section does not
- 950 merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.
- 951 (b) [~~A~~] In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an
- 952 offense of refusal to submit to a chemical test under this section may not be held in abeyance.
- 953 Section 10. Section **41-6a-529** is amended to read:
- 954 **41-6a-529. Definitions -- Alcohol restricted drivers.**
- 955 (1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a

956 person who:

957 (a) within the last two years:

958 (i) has been convicted of:

959 (A) a misdemeanor violation of Section [41-6a-502](#) or [76-5-102.1](#);

960 (B) alcohol, any drug, or a combination of both-related reckless driving under Section  
961 [41-6a-512](#);

962 (C) impaired driving under Section [41-6a-502.5](#);

963 (D) local ordinances similar to Section [41-6a-502](#) or [76-5-102.1](#), alcohol, any drug, or  
964 a combination of both-related reckless driving, or impaired driving adopted in compliance with  
965 Section [41-6a-510](#);

966 (E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of  
967 conviction is reduced under Section [76-3-402](#); or

968 (F) statutes or ordinances previously in effect in this state or in effect in any other state,  
969 the United States, or any district, possession, or territory of the United States which would  
970 constitute a violation of Section [41-6a-502](#) or [76-5-102.1](#), alcohol, any drug, or a combination  
971 of both-related reckless driving, or impaired driving if committed in this state, including  
972 punishments administered under 10 U.S.C. Sec. 815; or

973 (ii) has had the person's driving privilege suspended under Section [53-3-223](#) for an  
974 alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

975 (b) within the last three years has been convicted of a violation of this section or  
976 Section [41-6a-518.2](#);

977 (c) within the last five years:

978 (i) has had the person's driving privilege revoked through an administrative action for  
979 refusal to submit to a chemical test under Section [41-6a-520](#), which refusal occurred on or after  
980 July 1, 2005;

981 (ii) has been convicted of a misdemeanor conviction for refusal to submit to a chemical  
982 test under Subsection [41-6a-520\(7\)](#); or

983 (iii) has been convicted of a class A misdemeanor violation of Section [41-6a-502](#) or  
984 [76-5-102.1](#) committed on or after July 1, 2008;

985 (d) within the last 10 years:

986 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense



987 was committed within 10 years of the commission of a prior offense described in Subsection  
988 (1)(a)(i) for which the person was convicted;

989 (ii) has been convicted of a felony violation of refusal to submit to a chemical test  
990 under Subsection [41-6a-520](#)(7); or

991 (iii) has had the person's driving privilege revoked for refusal to submit to a chemical  
992 test and the refusal is within 10 years after:

993 (A) a prior refusal to submit to a chemical test under Section [41-6a-520](#); or

994 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not  
995 based on the same arrest as the refusal;

996 (e) at any time has been convicted of:

997 (i) [~~automobile homicide under~~] a violation of Section [76-5-207](#) for an offense that  
998 occurred on or after July 1, 2005; or

999 (ii) a felony violation of Section [41-6a-502](#) or [76-5-102.1](#) for an offense that occurred  
1000 on or after July 1, 2005;

1001 (f) at the time of operation of a vehicle is under 21 years [~~of age~~] old; or

1002 (g) is a novice learner driver.

1003 (2) For purposes of this section and Section [41-6a-530](#), a plea of guilty or no contest to  
1004 a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77,  
1005 Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if  
1006 the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance  
1007 agreement.

1008 Section 11. Section **41-6a-1901** is amended to read:

1009 **41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and**  
1010 **records -- Notice to Department of State.**

1011 (1) As used in this section, "diplomat" means an individual who:

1012 (a) has a driver license issued by the United States Department of State; or

1013 (b) claims immunities or privileges under 22 U.S.C. Sections 254a through 258a with  
1014 respect to:

1015 (i) a moving traffic violation under this title or a moving traffic violation of an  
1016 ordinance of a local authority; or

1017 (ii) operating a motor vehicle while committing any of the following offenses:

1018 (A) [~~automobile homicide~~] negligently operating a vehicle resulting in death under  
1019 Section 76-5-207;

1020 (B) manslaughter under Section 76-5-205;

1021 (C) negligent homicide under Section 76-5-206;

1022 (D) aggravated assault under Section 76-5-103; or

1023 (E) reckless endangerment under Section 76-5-112.

1024 (2) A law enforcement officer who stops a motor vehicle and has probable cause to  
1025 believe that the driver is a diplomat that has committed a violation described under Subsection  
1026 (1)(b)(i) or (ii) shall:

1027 (a) as soon as practicable, contact the United States Department of State in order to  
1028 verify the driver's status and immunity, if any;

1029 (b) record all relevant information from any driver license or identification card,  
1030 including a driver license or identification card issued by the United States Department of  
1031 State; and

1032 (c) within five working days after the date the officer stops the driver, forward all of  
1033 the following to the Department of Public Safety:

1034 (i) if the driver is involved in a vehicle accident, the vehicle accident report;

1035 (ii) if a citation or other charging document was issued to the driver, a copy of the  
1036 citation or other charging document; and

1037 (iii) if a citation or other charging document was not issued to the driver, a written  
1038 report of the incident.

1039 (3) The Department of Public Safety shall:

1040 (a) file each vehicle accident report, citation or other charging document, and incident  
1041 report that the Department of Public Safety receives under this section;

1042 (b) keep convenient records or make suitable notations showing each:

1043 (i) conviction;

1044 (ii) finding of responsibility; and

1045 (iii) vehicle accident; and

1046 (c) within five working days after receipt, send a copy of each document and record  
1047 described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign Missions,  
1048 of the United States Department of State.

1049 (4) This section does not prohibit or limit the application of any law to a criminal or  
1050 motor vehicle violation committed by a diplomat.

1051 Section 12. Section **53-3-220** is amended to read:

1052 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
1053 **disqualification of license -- Offense requiring an extension of period -- Hearing --**  
1054 **Limited driving privileges.**

1055 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter  
1056 6a, Traffic Code, or Section [76-5-303](#), specifically provides for denial, suspension, or  
1057 disqualification, the division shall deny, suspend, or disqualify the license of a person upon  
1058 receiving a record of the person's conviction for:

1059 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, [~~or~~  
1060 ~~automobile homicide under Section [76-5-207](#) or [76-5-207.5](#)~~] negligently operating a vehicle  
1061 resulting in death under Section [76-5-207](#), or automobile homicide involving using a handheld  
1062 wireless communication device while driving under Section [76-5-207.5](#);

1063 (ii) driving or being in actual physical control of a motor vehicle while under the  
1064 influence of alcohol, any drug, or combination of them to a degree that renders the person  
1065 incapable of safely driving a motor vehicle as prohibited in Section [41-6a-502](#) or as prohibited  
1066 in an ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#);

1067 (iii) driving or being in actual physical control of a motor vehicle while having a blood  
1068 or breath alcohol content as prohibited in Section [41-6a-502](#) or as prohibited in an ordinance  
1069 that complies with the requirements of Subsection [41-6a-510\(1\)](#);

1070 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
1071 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
1072 regulating driving on highways;

1073 (v) any felony under the motor vehicle laws of this state;

1074 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

1075 (vii) failure to stop and render aid as required under the laws of this state if a motor  
1076 vehicle accident results in the death or personal injury of another;

1077 (viii) two charges of reckless driving, impaired driving, or any combination of reckless  
1078 driving and impaired driving committed within a period of 12 months; but if upon a first  
1079 conviction of reckless driving or impaired driving the judge or justice recommends suspension

1080 of the convicted person's license, the division may after a hearing suspend the license for a  
1081 period of three months;

1082 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement  
1083 officer as required in Section 41-6a-210;

1084 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that  
1085 requires disqualification;

1086 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
1087 allowing the discharge of a firearm from a vehicle;

1088 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or  
1089 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

1090 (xiii) operating or being in actual physical control of a motor vehicle while having any  
1091 measurable controlled substance or metabolite of a controlled substance in the person's body in  
1092 violation of Section 41-6a-517;

1093 (xiv) operating or being in actual physical control of a motor vehicle while having any  
1094 measurable or detectable amount of alcohol in the person's body in violation of Section  
1095 41-6a-530;

1096 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in  
1097 violation of Section 41-6a-606;

1098 (xvi) operating or being in actual physical control of a motor vehicle in this state  
1099 without an ignition interlock system in violation of Section 41-6a-518.2; or

1100 (xvii) refusal of a chemical test under Subsection 41-6a-520(7).

1101 (b) The division shall immediately revoke the license of a person upon receiving a  
1102 record of an adjudication under Section 80-6-701 for:

1103 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
1104 allowing the discharge of a firearm from a vehicle; or

1105 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or  
1106 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

1107 (c) Except when action is taken under Section 53-3-219 for the same offense, upon  
1108 receiving a record of conviction, the division shall immediately suspend for six months the  
1109 license of the convicted person if the person was convicted of one of the following offenses  
1110 while the person was an operator of a motor vehicle, and the court finds that a driver license

- 1111 suspension is likely to reduce recidivism and is in the interest of public safety:
- 1112 (i) any violation of:
- 1113 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 1114 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 1115 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 1116 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
- 1117 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 1118 (ii) any criminal offense that prohibits:
- 1119 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
- 1120 that is prohibited under the acts described in Subsection (1)(c)(i); or
- 1121 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
- 1122 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).
- 1123 (iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall
- 1124 reinstate a person's driving privilege before completion of the suspension period imposed under
- 1125 this Subsection (1)(c) if the reporting court notifies the Driver License Division, in a manner
- 1126 specified by the division, that the defendant is participating in or has successfully completed a
- 1127 drug court program as defined in Section [78A-5-201](#).
- 1128 (iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person
- 1129 is required to pay the license reinstatement fees under Subsection [53-3-105\(26\)](#).
- 1130 (v) The court shall notify the division, in a manner specified by the division, if a person
- 1131 fails to complete all requirements of the drug court program.
- 1132 (vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall
- 1133 suspend the person's driving privilege for a period of six months from the date of the notice,
- 1134 and no days shall be subtracted from the six-month suspension period for which a driving
- 1135 privilege was previously suspended under this Subsection (1)(c).
- 1136 (d) (i) The division shall immediately suspend a person's driver license for conviction
- 1137 of the offense of theft of motor vehicle fuel under Section [76-6-404.7](#) if the division receives:
- 1138 (A) an order from the sentencing court requiring that the person's driver license be
- 1139 suspended; and
- 1140 (B) a record of the conviction.
- 1141 (ii) An order of suspension under this section is at the discretion of the sentencing

1142 court, and may not be for more than 90 days for each offense.

1143 (e) (i) The division shall immediately suspend for one year the license of a person upon  
1144 receiving a record of:

1145 (A) conviction for the first time for a violation under Section 32B-4-411; or

1146 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

1147 (ii) The division shall immediately suspend for a period of two years the license of a  
1148 person upon receiving a record of:

1149 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

1150 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior  
1151 conviction for a violation under Section 32B-4-411; or

1152 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation  
1153 under Section 32B-4-411; and

1154 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior  
1155 adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

1156 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

1157 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

1158 (I) impose a suspension for one year beginning on the date of conviction; or

1159 (II) if the person is under the age of eligibility for a driver license, impose a suspension  
1160 that begins on the date of conviction and continues for one year beginning on the date of  
1161 eligibility for a driver license; or

1162 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

1163 (I) impose a suspension for a period of two years; or

1164 (II) if the person is under the age of eligibility for a driver license, impose a suspension  
1165 that begins on the date of conviction and continues for two years beginning on the date of  
1166 eligibility for a driver license.

1167 (iv) Upon receipt of the first order suspending a person's driving privileges under  
1168 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if  
1169 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

1170 (v) Upon receipt of the second or subsequent order suspending a person's driving  
1171 privileges under Section 32B-4-411, the division shall reduce the suspension period under  
1172 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

1173 (2) The division shall extend the period of the first denial, suspension, revocation, or  
1174 disqualification for an additional like period, to a maximum of one year for each subsequent  
1175 occurrence, upon receiving:

1176 (a) a record of the conviction of any person on a charge of driving a motor vehicle  
1177 while the person's license is denied, suspended, revoked, or disqualified;

1178 (b) a record of a conviction of the person for any violation of the motor vehicle law in  
1179 which the person was involved as a driver;

1180 (c) a report of an arrest of the person for any violation of the motor vehicle law in  
1181 which the person was involved as a driver; or

1182 (d) a report of an accident in which the person was involved as a driver.

1183 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is  
1184 driving while the person's license is denied, suspended, disqualified, or revoked, the person is  
1185 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,  
1186 or revocation originally imposed under Section [53-3-221](#).

1187 (4) (a) The division may extend to a person the limited privilege of driving a motor  
1188 vehicle to and from the person's place of employment or within other specified limits on  
1189 recommendation of the judge in any case where a person is convicted of any of the offenses  
1190 referred to in Subsections (1) and (2) except:

1191 [~~(i) automobile homicide under Subsection (1)(a)(i);~~]

1192 [~~(ii)~~] (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii),  
1193 (1)(b), and (1)(c); and

1194 [~~(iii)~~] (ii) those offenses referred to in Subsection (2) when the original denial,  
1195 suspension, revocation, or disqualification was imposed because of a violation of Section  
1196 [41-6a-502](#), [41-6a-517](#), a local ordinance [~~which~~] that complies with the requirements of  
1197 Subsection [41-6a-510](#)(1), Section [41-6a-520](#), [76-5-102.1](#), or [~~Section~~] [76-5-207](#), or a criminal  
1198 prohibition that the person was charged with violating as a result of a plea bargain after having  
1199 been originally charged with violating one or more of these sections or ordinances, unless:

1200 (A) the person has had the period of the first denial, suspension, revocation, or  
1201 disqualification extended for a period of at least three years;

1202 (B) the division receives written verification from the person's primary care physician  
1203 that:

1204 (I) to the physician's knowledge the person has not used any narcotic drug or other  
1205 controlled substance except as prescribed by a licensed medical practitioner within the last  
1206 three years; and

1207 (II) the physician is not aware of any physical, emotional, or mental impairment that  
1208 would affect the person's ability to operate a motor vehicle safely; and

1209 (C) for a period of one year prior to the date of the request for a limited driving  
1210 privilege:

1211 (I) the person has not been convicted of a violation of any motor vehicle law in which  
1212 the person was involved as the operator of the vehicle;

1213 (II) the division has not received a report of an arrest for a violation of any motor  
1214 vehicle law in which the person was involved as the operator of the vehicle; and

1215 (III) the division has not received a report of an accident in which the person was  
1216 involved as an operator of a vehicle.

1217 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege  
1218 authorized in this Subsection (4):

1219 (A) is limited to when undue hardship would result from a failure to grant the  
1220 privilege; and

1221 (B) may be granted only once to any person during any single period of denial,  
1222 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,  
1223 or disqualification.

1224 (ii) The discretionary privilege authorized in Subsection (4)(a)(~~(iii)~~)(ii):

1225 (A) is limited to when the limited privilege is necessary for the person to commute to  
1226 school or work; and

1227 (B) may be granted only once to any person during any single period of denial,  
1228 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,  
1229 or disqualification.

1230 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform  
1231 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or  
1232 denied under this chapter.

1233 Section 13. Section **53-3-223** is amended to read:

1234 **53-3-223. Chemical test for driving under the influence -- Temporary license --**



1235 **Hearing and decision -- Suspension and fee -- Judicial review.**

1236 (1) (a) If a peace officer has reasonable grounds to believe that a person may be  
1237 violating or has violated Section [41-6a-502](#), [~~prohibiting the operation of a vehicle with a~~  
1238 ~~certain blood or breath alcohol concentration and driving under the influence of any drug,~~  
1239 ~~alcohol, or combination of a drug and alcohol or while having any measurable controlled~~  
1240 ~~substance or metabolite of a controlled substance in the person's body in violation of Section]~~  
1241 [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), the peace officer may, in connection with arresting the  
1242 person, request that the person submit to a chemical test or tests to be administered in  
1243 compliance with the standards under Section [41-6a-520](#).

1244 (b) In this section, a reference to Section [41-6a-502](#) includes any similar local  
1245 ordinance adopted in compliance with Subsection [41-6a-510](#)(1).

1246 (2) The peace officer shall advise a person prior to the person's submission to a  
1247 chemical test that a test result indicating a violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#),  
1248 [76-5-102.1](#), or [76-5-207](#) shall, and the existence of a blood alcohol content sufficient to render  
1249 the person incapable of safely driving a motor vehicle may, result in suspension or revocation  
1250 of the person's license to drive a motor vehicle.

1251 (3) If the person submits to a chemical test and the test results indicate a blood or  
1252 breath alcohol content in violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or  
1253 [76-5-207](#), or if a peace officer makes a determination, based on reasonable grounds, that the  
1254 person is otherwise in violation of Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#), a peace officer  
1255 shall, on behalf of the division and within 24 hours of arrest, give notice of the division's  
1256 intention to suspend the person's license to drive a motor vehicle.

1257 (4) When a peace officer gives notice on behalf of the division, the peace officer shall  
1258 supply to the driver, in a manner specified by the division, basic information regarding how to  
1259 obtain a prompt hearing before the division.

1260 (5) As a matter of procedure, a peace officer shall send to the division within 10  
1261 calendar days after the day on which notice is provided:

1262 (a) a copy of the citation issued for the offense;

1263 (b) a signed report in a manner specified by the division indicating the chemical test  
1264 results, if any; and

1265 (c) any other basis for the peace officer's determination that the person has violated

1266 Section [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#).

1267 (6) (a) Upon request in a manner specified by the division, the division shall grant to  
1268 the person an opportunity to be heard within 29 days after the date of arrest. The request to be  
1269 heard shall be made within 10 calendar days of the day on which notice is provided under  
1270 Subsection (5).

1271 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the  
1272 division in:

1273 (A) the county in which the arrest occurred; or

1274 (B) a county that is adjacent to the county in which the arrest occurred.

1275 (ii) The division may hold a hearing in some other county if the division and the person  
1276 both agree.

1277 (c) The hearing shall be documented and shall cover the issues of:

1278 (i) whether a peace officer had reasonable grounds to believe the person was driving a  
1279 motor vehicle in violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#);

1280 (ii) whether the person refused to submit to the test; and

1281 (iii) the test results, if any.

1282 (d) (i) In connection with a hearing the division or its authorized agent:

1283 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and  
1284 the production of relevant books and papers; or

1285 (B) may issue subpoenas for the attendance of necessary peace officers.

1286 (ii) The division shall pay witness fees and mileage from the Transportation Fund in  
1287 accordance with the rates established in Section [78B-1-119](#).

1288 (e) The division may designate one or more employees to conduct the hearing.

1289 (f) Any decision made after a hearing before any designated employee is as valid as if  
1290 made by the division.

1291 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable  
1292 grounds to believe that the person was driving a motor vehicle in violation of Section  
1293 [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), if the person failed to appear before the  
1294 division as required in the notice, or if a hearing is not requested under this section, the division  
1295 shall:

1296 (i) if the person is 21 years [~~of age~~] old or older at the time of arrest, suspend the

1297 person's license or permit to operate a motor vehicle for a period of:

1298 (A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

1299 (B) two years beginning on the 45th day after the date of arrest for a second or

1300 subsequent suspension for an offense that occurred within the previous 10 years; or

1301 (ii) if the person is under 21 years [~~of age~~] old at the time of arrest:

1302 (A) suspend the person's license or permit to operate a motor vehicle:

1303 (I) for a period of six months, beginning on the 45th day after the date of arrest for a  
1304 first suspension; or

1305 (II) until the person is 21 years [~~of age~~] old or for a period of two years, whichever is  
1306 longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension  
1307 for an offense that occurred within the previous 10 years; or

1308 (B) deny the person's application for a license or learner's permit:

1309 (I) for a period of six months beginning on the 45th day after the date of the arrest for a  
1310 first suspension, if the person has not been issued an operator license; or

1311 (II) until the person is 21 years [~~of age~~] old or for a period of two years, whichever is  
1312 longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension  
1313 for an offense that occurred within the previous 10 years.

1314 (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall  
1315 reinstate a person's license prior to completion of the 120 day suspension period imposed under  
1316 Subsection (7)(a)(i)(A):

1317 (A) immediately upon receiving written verification of the person's dismissal of a  
1318 charge for a violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), if the  
1319 written verification is received prior to completion of the suspension period; or

1320 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon  
1321 receiving written verification of the person's reduction of a charge for a violation of Section  
1322 [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), if the written verification is received prior  
1323 to completion of the suspension period.

1324 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall  
1325 reinstate a person's license prior to completion of the 120-day suspension period imposed under  
1326 Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's  
1327 conviction of impaired driving under Section [41-6a-502.5](#) if:

1328 (A) the written verification is received prior to completion of the suspension period;  
1329 and

1330 (B) the reporting court notifies the Driver License Division that the defendant is  
1331 participating in or has successfully completed the program of a driving under the influence  
1332 court as defined in Section 41-6a-501.

1333 (iii) If a person's license is reinstated under this Subsection (7)(b), the person is  
1334 required to pay the license reinstatement application fees under Subsections 53-3-105(26) and  
1335 (27).

1336 (iv) The driver license reinstatements authorized under this Subsection (7)(b) only  
1337 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

1338 (8) (a) The division shall assess against a person, in addition to any fee imposed under  
1339 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover  
1340 administrative costs, which shall be paid before the person's driving privilege is reinstated.  
1341 This fee shall be cancelled if the person obtains an unappealed division hearing or court  
1342 decision that the suspension was not proper.

1343 (b) A person whose license has been suspended by the division under this section  
1344 following an administrative hearing may file a petition within 30 days after the suspension for a  
1345 hearing on the matter which, if held, is governed by Section 53-3-224.

1346 (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall  
1347 reinstate a person's license before completion of the suspension period imposed under  
1348 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the  
1349 defendant is participating in or has successfully completed a 24-7 sobriety program as defined  
1350 in Section 41-6a-515.5.

1351 (b) If a person's license is reinstated under Subsection (9)(a), the person is required to  
1352 pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

1353 (10) (a) If the division suspends a person's license for an alcohol related offense under  
1354 Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition  
1355 interlock restricted driver if the person:

1356 (i) has a valid driving privilege, with the exception of the suspension under Subsection  
1357 (7)(a)(i)(A);

1358 (ii) completes a risk assessment approved by the division that:

1359 (A) is completed after the date of the arrest for which the person is suspended under  
1360 Subsection (7)(a)(i)(A); and

1361 (B) identifies the person as a low risk offender;

1362 (iii) installs an ignition interlock device in any vehicle owned or driven by the person  
1363 in accordance with Section 53-3-1007; and

1364 (iv) pays the license reinstatement application fees described in Subsections  
1365 53-3-105(26) and (27).

1366 (b) The person shall remain an ignition interlock restricted driver for a period of 120  
1367 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the  
1368 person removes an ignition interlock device from a vehicle owned or driven by the person prior  
1369 to the expiration of the 120 day ignition interlock restriction period:

1370 (i) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the  
1371 remainder of the 120 day ignition interlock restriction period;

1372 (ii) the person is required to pay the license reinstatement application fee under  
1373 Subsection 53-3-105(26); and

1374 (iii) the person may not elect to become an ignition interlock restricted driver under  
1375 this section.

1376 (c) If a person elects to become an ignition interlock restricted driver under Subsection  
1377 (10)(a), the provisions under Subsection (7)(b) do not apply.

1378 Section 14. Section 53-3-414 is amended to read:

1379 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**  
1380 **Procedure.**

1381 (1) (a) An individual who holds or is required to hold a CDL is disqualified from  
1382 driving a commercial motor vehicle for a period of not less than one year effective seven days  
1383 from the date of notice to the driver if convicted of a first offense of:

1384 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled  
1385 substance, or more than one of these;

1386 (ii) driving a commercial motor vehicle while the concentration of alcohol in the  
1387 person's blood, breath, or urine is .04 grams or more;

1388 (iii) leaving the scene of an accident involving a motor vehicle the person was driving;

1389 (iv) failing to provide reasonable assistance or identification when involved in an

1390 accident resulting in:

1391 (A) death in accordance with Section [41-6a-401.5](#); or

1392 (B) personal injury in accordance with Section [41-6a-401.3](#);

1393 (v) using a motor vehicle in the commission of a felony;

1394 (vi) refusal to submit to a test to determine the concentration of alcohol in the person's  
1395 blood, breath, or urine;

1396 (vii) driving a commercial motor vehicle while the person's commercial driver license  
1397 is disqualified in accordance with the provisions of this section for violating an offense  
1398 described in this section; or

1399 (viii) operating a commercial motor vehicle in a negligent manner causing the death of  
1400 another including the offenses of [~~automobile homicide under Section [76-5-207](#);~~] manslaughter  
1401 under Section [76-5-205](#), [~~or~~] negligent homicide under Section [76-5-206](#), or negligently  
1402 operating a vehicle resulting in death under Section [76-5-207](#).

1403 (b) The division shall subtract from any disqualification period under Subsection  
1404 (1)(a)(i) the number of days for which a license was previously disqualified under Subsection  
1405 (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which  
1406 the record of conviction is based.

1407 (2) If any of the violations under Subsection (1) occur while the driver is transporting a  
1408 hazardous material required to be placarded, the driver is disqualified for not less than three  
1409 years.

1410 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds  
1411 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if  
1412 convicted of or administrative action is taken for two or more of any of the offenses under  
1413 Subsection (1), (5), or (14) arising from two or more separate incidents.

1414 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

1415 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under  
1416 this section may apply to the division for reinstatement of the driver's CDL if the driver:

1417 (i) has both voluntarily enrolled in and successfully completed an appropriate  
1418 rehabilitation program that:

1419 (A) meets the standards of the division; and

1420 (B) complies with 49 C.F.R. Sec. 383.51;

1421 (ii) has served a minimum disqualification period of 10 years; and  
1422 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving  
1423 privileges established by rule of the division.

1424 (b) If a reinstated driver is subsequently convicted of another disqualifying offense  
1425 under this section, the driver is permanently disqualified for life and is ineligible to again apply  
1426 for a reduction of the lifetime disqualification.

1427 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
1428 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the  
1429 commission of any felony involving the manufacturing, distributing, or dispensing of a  
1430 controlled substance, or possession with intent to manufacture, distribute, or dispense a  
1431 controlled substance and is ineligible to apply for a reduction of the lifetime disqualification  
1432 under Subsection (4).

1433 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds  
1434 or is required to hold a CDL is disqualified for not less than:

1435 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
1436 serious traffic violations; and

1437 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

1438 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic  
1439 violations:

1440 (i) occur within three years of each other;

1441 (ii) arise from separate incidents; and

1442 (iii) involve the use or operation of a commercial motor vehicle.

1443 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is  
1444 disqualified from driving a commercial motor vehicle and the division receives notice of a  
1445 subsequent conviction for a serious traffic violation that results in an additional disqualification  
1446 period under this Subsection (6), the subsequent disqualification period is effective beginning  
1447 on the ending date of the current serious traffic violation disqualification period.

1448 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an  
1449 out-of-service order while driving a commercial motor vehicle is disqualified from driving a  
1450 commercial motor vehicle for a period not less than:

1451 (i) 180 days if the driver is convicted of a first violation;

1452 (ii) two years if, during any 10 year period, the driver is convicted of two violations of  
1453 out-of-service orders in separate incidents;

1454 (iii) three years but not more than five years if, during any 10 year period, the driver is  
1455 convicted of three or more violations of out-of-service orders in separate incidents;

1456 (iv) 180 days but not more than two years if the driver is convicted of a first violation  
1457 of an out-of-service order while transporting hazardous materials required to be placarded or  
1458 while operating a motor vehicle designed to transport 16 or more passengers, including the  
1459 driver; or

1460 (v) three years but not more than five years if, during any 10 year period, the driver is  
1461 convicted of two or more violations, in separate incidents, of an out-of-service order while  
1462 transporting hazardous materials required to be placarded or while operating a motor vehicle  
1463 designed to transport 16 or more passengers, including the driver.

1464 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an  
1465 out-of-service order is subject to a civil penalty of not less than \$2,500.

1466 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent  
1467 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

1468 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is  
1469 disqualified for not less than 60 days if the division determines, in its check of the driver's  
1470 driver license status, application, and record prior to issuing a CDL or at any time after the  
1471 CDL is issued, that the driver has falsified information required to apply for a CDL in this  
1472 state.

1473 (9) A driver of a commercial motor vehicle who is convicted of violating a  
1474 railroad-highway grade crossing provision under Section [41-6a-1205](#), while driving a  
1475 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period  
1476 not less than:

1477 (a) 60 days if the driver is convicted of a first violation;

1478 (b) 120 days if, during any three-year period, the driver is convicted of a second  
1479 violation in separate incidents; or

1480 (c) one year if, during any three-year period, the driver is convicted of three or more  
1481 violations in separate incidents.

1482 (10) (a) The division shall update its records and notify the CDLIS within 10 days of



1483 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

1484 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,  
1485 the division shall notify the licensing authority of the issuing state or other jurisdiction and the  
1486 CDLIS within 10 days after the action is taken.

1487 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this  
1488 state, the division shall notify the CDLIS within 10 days after the action is taken.

1489 (11) (a) The division may immediately suspend or disqualify the CDL of a driver  
1490 without a hearing or receiving a record of the driver's conviction when the division has reason  
1491 to believe that the:

1492 (i) CDL was issued by the division through error or fraud;

1493 (ii) applicant provided incorrect or incomplete information to the division;

1494 (iii) applicant cheated on any part of a CDL examination;

1495 (iv) driver no longer meets the fitness standards required to obtain a CDL; or

1496 (v) driver poses an imminent hazard.

1497 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with  
1498 Section [53-3-221](#).

1499 (c) If a hearing is held under Section [53-3-221](#), the division shall then rescind the  
1500 suspension order or cancel the CDL.

1501 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is  
1502 required to hold a CDL is disqualified for not less than:

1503 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
1504 serious traffic violations; and

1505 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

1506 (b) The disqualifications under Subsection (12)(a) are effective only if the serious  
1507 traffic violations:

1508 (i) occur within three years of each other;

1509 (ii) arise from separate incidents; and

1510 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving  
1511 privilege from at least one of the violations.

1512 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
1513 from driving a commercial motor vehicle and the division receives notice of a subsequent

1514 conviction for a serious traffic violation that results in an additional disqualification period  
1515 under this Subsection (12), the subsequent disqualification period is effective beginning on the  
1516 ending date of the current serious traffic violation disqualification period.

1517 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no  
1518 contest to a violation of a disqualifying offense described in this section which plea is held in  
1519 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,  
1520 cancel, or revoke the person's CDL for the period required under this section for a conviction of  
1521 that disqualifying offense, even if the charge has been subsequently reduced or dismissed in  
1522 accordance with the plea in abeyance agreement.

1523 (b) The division shall report the plea in abeyance to the CDLIS within 10 days of  
1524 taking the action under Subsection (13)(a).

1525 (c) A plea which is held in abeyance may not be removed from a person's driving  
1526 record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

1527 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or

1528 (ii) expunged under Title 77, Chapter 40, Utah Expungement Act.

1529 (14) The division shall disqualify the CDL of a driver for an arrest of a violation of  
1530 Section 41-6a-502 when administrative action is taken against the operator's driving privilege  
1531 pursuant to Section 53-3-223 for a period of:

1532 (a) one year; or

1533 (b) three years if the violation occurred while transporting hazardous materials.

1534 (15) The division may concurrently impose any disqualification periods that arise  
1535 under this section while a driver is disqualified by the Secretary of the United States  
1536 Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

1537 Section 15. Section 53-10-403 is amended to read:

1538 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

1539 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to  
1540 any person who:

1541 (a) has pled guilty to or has been convicted of any of the offenses under Subsection

1542 (2)(a) or (b) on or after July 1, 2002;

1543 (b) has pled guilty to or has been convicted by any other state or by the United States  
1544 government of an offense which if committed in this state would be punishable as one or more

1545 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

1546 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any

1547 offense under Subsection (2)(c);

1548 (d) has been booked:

1549 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,

1550 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

1551 (ii) on or after January 1, 2015, for any felony offense; or

1552 (e) is a minor under Subsection (3).

1553 (2) Offenses referred to in Subsection (1) are:

1554 (a) any felony or class A misdemeanor under the Utah Code;

1555 (b) any offense under Subsection (2)(a):

1556 (i) for which the court enters a judgment for conviction to a lower degree of offense

1557 under Section 76-3-402; or

1558 (ii) regarding which the court allows the defendant to enter a plea in abeyance as

1559 defined in Section 77-2a-1; or

1560 (c) (i) any violent felony as defined in Section 53-10-403.5;

1561 (ii) sale or use of body parts, Section 26-28-116;

1562 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

1563 [~~(iv) driving with any amount of a controlled substance in a person's body and causing~~

1564 ~~serious bodily injury or death, Subsection 58-37-8(2)(g);~~]

1565 (iv) operating a motor vehicle with any amount of a controlled substance in an

1566 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,

1567 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

1568 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

1569 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

1570 [~~(vi)~~] (vii) a felony violation of propelling a substance or object at a correctional

1571 officer, a peace officer, or an employee or a volunteer, including health care providers, Section

1572 76-5-102.6;

1573 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

1574 [~~(vii)~~] (ix) aggravated human trafficking and aggravated human smuggling, Section

1575 76-5-310;

1576 [~~(viii)~~] (x) a felony violation of unlawful sexual activity with a minor, Section  
1577 76-5-401;

1578 [~~(ix)~~] (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

1579 [~~(x)~~] (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

1580 [~~(xi)~~] (xiii) sale of a child, Section 76-7-203;

1581 [~~(xii)~~] (xiv) aggravated escape, Subsection 76-8-309(2);

1582 [~~(xiii)~~] (xv) a felony violation of assault on an elected official, Section 76-8-315;

1583 [~~(xiv)~~] (xvi) influencing, impeding, or retaliating against a judge or member of the  
1584 Board of Pardons and Parole, Section 76-8-316;

1585 [~~(xv)~~] (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

1586 [~~(xvi)~~] (xviii) assembly for advocating criminal syndicalism or sabotage, Section  
1587 76-8-903;

1588 [~~(xvii)~~] (xix) a felony violation of sexual battery, Section 76-9-702.1;

1589 [~~(xviii)~~] (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

1590 [~~(xix)~~] (xxi) a felony violation of abuse or desecration of a dead human body, Section  
1591 76-9-704;

1592 [~~(xx)~~] (xxii) manufacture, possession, sale, or use of a weapon of mass destruction,  
1593 Section 76-10-402;

1594 [~~(xxi)~~] (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass  
1595 destruction, Section 76-10-403;

1596 [~~(xxii)~~] (xxiv) possession of a concealed firearm in the commission of a violent felony,  
1597 Subsection 76-10-504(4);

1598 [~~(xxiii)~~] (xxv) assault with the intent to commit bus hijacking with a dangerous  
1599 weapon, Subsection 76-10-1504(3);

1600 [~~(xxiv)~~] (xxvi) commercial obstruction, Subsection 76-10-2402(2);

1601 [~~(xxv)~~] (xxvii) a felony violation of failure to register as a sex or kidnap offender,  
1602 Section 77-41-107;

1603 [~~(xxvi)~~] (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or  
1604 [~~(xxvii)~~] (xxix) violation of condition for release after arrest under Section 78B-7-802.  
1605 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated  
1606 by the juvenile court due to the commission of any offense described in Subsection (2), and

1607 who:

1608 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile  
1609 court on or after July 1, 2002; or

1610 (b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1,  
1611 2002 for an offense under Subsection (2).

1612 Section 16. Section **58-37-8** is amended to read:

1613 **58-37-8. Prohibited acts -- Penalties.**

1614 (1) Prohibited acts A -- Penalties and reporting:

1615 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and  
1616 intentionally:

1617 (i) produce, manufacture, or dispense, or to possess with intent to produce,  
1618 manufacture, or dispense, a controlled or counterfeit substance;

1619 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or  
1620 arrange to distribute a controlled or counterfeit substance;

1621 (iii) possess a controlled or counterfeit substance with intent to distribute; or

1622 (iv) engage in a continuing criminal enterprise where:

1623 (A) the person participates, directs, or engages in conduct that results in a violation of  
1624 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,  
1625 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance  
1626 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

1627 (B) the violation is a part of a continuing series of two or more violations of Chapter  
1628 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b,  
1629 Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act,  
1630 or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert  
1631 with five or more persons with respect to whom the person occupies a position of organizer,  
1632 supervisor, or any other position of management.

1633 (b) A person convicted of violating Subsection (1)(a) with respect to:

1634 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled  
1635 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second  
1636 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or  
1637 subsequent conviction is guilty of a first degree felony;

1638 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
1639 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and  
1640 upon a second or subsequent conviction is guilty of a second degree felony; or

1641 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a  
1642 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree  
1643 felony.

1644 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may  
1645 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of  
1646 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the  
1647 person or in the person's immediate possession during the commission or in furtherance of the  
1648 offense, the court shall additionally sentence the person convicted for a term of one year to run  
1649 consecutively and not concurrently; and the court may additionally sentence the person  
1650 convicted for an indeterminate term not to exceed five years to run consecutively and not  
1651 concurrently.

1652 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
1653 felony punishable by imprisonment for an indeterminate term of not less than:

1654 (A) seven years and which may be for life; or

1655 (B) 15 years and which may be for life if the trier of fact determined that the defendant  
1656 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)  
1657 was under 18 years old.

1658 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
1659 not eligible for probation.

1660 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the  
1661 offense, was under 18 years old.

1662 (e) The Administrative Office of the Courts shall report to the Division of  
1663 Occupational and Professional Licensing the name, case number, date of conviction, and if  
1664 known, the date of birth of each person convicted of violating Subsection (1)(a).

1665 (2) Prohibited acts B -- Penalties and reporting:

1666 (a) It is unlawful:

1667 (i) for a person knowingly and intentionally to possess or use a controlled substance  
1668 analog or a controlled substance, unless it was obtained under a valid prescription or order,

1669 directly from a practitioner while acting in the course of the person's professional practice, or as  
1670 otherwise authorized by this chapter;

1671 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,  
1672 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied  
1673 by persons unlawfully possessing, using, or distributing controlled substances in any of those  
1674 locations; or

1675 (iii) for a person knowingly and intentionally to possess an altered or forged  
1676 prescription or written order for a controlled substance.

1677 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

1678 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1679 or

1680 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty  
1681 of a class A misdemeanor on a first or second conviction, and on a third or subsequent  
1682 conviction if each prior offense was committed within seven years before the date of the  
1683 offense upon which the current conviction is based is guilty of a third degree felony.

1684 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
1685 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater  
1686 penalty than provided in this Subsection (2).

1687 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled  
1688 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section  
1689 [58-37-4.2](#), or marijuana, is guilty of a class B misdemeanor.

1690 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior  
1691 offense was committed within seven years before the date of the offense upon which the  
1692 current conviction is based.

1693 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony  
1694 if each prior offense was committed within seven years before the date of the offense upon  
1695 which the current conviction is based.

1696 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior  
1697 boundaries of property occupied by a correctional facility as defined in Section [64-13-1](#) or a  
1698 public jail or other place of confinement shall be sentenced to a penalty one degree greater than  
1699 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as

1700 listed in:

1701 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
1702 indeterminate term as provided by law, and:

1703 (A) the court shall additionally sentence the person convicted to a term of one year to  
1704 run consecutively and not concurrently; and

1705 (B) the court may additionally sentence the person convicted for an indeterminate term  
1706 not to exceed five years to run consecutively and not concurrently; and

1707 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
1708 indeterminate term as provided by law, and the court shall additionally sentence the person  
1709 convicted to a term of six months to run consecutively and not concurrently.

1710 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

1711 (i) on a first conviction, guilty of a class B misdemeanor;

1712 (ii) on a second conviction, guilty of a class A misdemeanor; and

1713 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1714 [~~(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not  
1715 amounting to a violation of Section 76-5-207:]~~

1716 [~~(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's  
1717 body any measurable amount of a controlled substance, except for  
1718 11-nor-9-carboxy-tetrahydrocannabinol; and]~~

1719 [~~(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as  
1720 defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in  
1721 Section 76-1-601 or the death of another; or]~~

1722 [~~(B) if the controlled substance is marijuana, operates a motor vehicle as defined in  
1723 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in  
1724 Section 76-1-601 or the death of another.]~~

1725 [~~(h) A person who violates Subsection (2)(g) by having in the person's body:]~~

1726 [~~(i) a controlled substance classified under Schedule I, other than those described in  
1727 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second  
1728 degree felony;]~~

1729 [~~(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols,  
1730 or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in~~



1731 Section ~~58-37-4.2~~ is guilty of a third degree felony; or]

1732 [(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class

1733 A misdemeanor.]

1734 [(i) A person is guilty of a separate offense for each victim suffering serious bodily

1735 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)

1736 whether or not the injuries arise from the same episode of driving.]

1737 [(j)] (g) The Administrative Office of the Courts shall report to the Division of

1738 Occupational and Professional Licensing the name, case number, date of conviction, and if

1739 known, the date of birth of each person convicted of violating Subsection (2)(a).

1740 (3) Prohibited acts C -- Penalties:

1741 (a) It is unlawful for a person knowingly and intentionally:

1742 (i) to use in the course of the manufacture or distribution of a controlled substance a

1743 license number which is fictitious, revoked, suspended, or issued to another person or, for the

1744 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a

1745 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized

1746 person;

1747 (ii) to acquire or obtain possession of, to procure or attempt to procure the

1748 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be

1749 attempting to acquire or obtain possession of, or to procure the administration of a controlled

1750 substance by misrepresentation or failure by the person to disclose receiving a controlled

1751 substance from another source, fraud, forgery, deception, subterfuge, alteration of a

1752 prescription or written order for a controlled substance, or the use of a false name or address;

1753 (iii) to make a false or forged prescription or written order for a controlled substance,

1754 or to utter the same, or to alter a prescription or written order issued or written under the terms

1755 of this chapter; or

1756 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to

1757 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or

1758 device of another or any likeness of any of the foregoing upon any drug or container or labeling

1759 so as to render a drug a counterfeit controlled substance.

1760 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A

1761 misdemeanor.

1762 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third  
1763 degree felony.

1764 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1765 (4) Prohibited acts D -- Penalties:

1766 (a) Notwithstanding other provisions of this section, a person not authorized under this  
1767 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is  
1768 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier  
1769 of fact finds the act is committed:

1770 (i) in a public or private elementary or secondary school or on the grounds of any of  
1771 those schools during the hours of 6 a.m. through 10 p.m.;

1772 (ii) in a public or private vocational school or postsecondary institution or on the  
1773 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1774 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
1775 facility's hours of operation;

1776 (iv) in a public park, amusement park, arcade, or recreation center when the public or  
1777 amusement park, arcade, or recreation center is open to the public;

1778 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1779 (vi) in or on the grounds of a library when the library is open to the public;

1780 (vii) within an area that is within 100 feet of any structure, facility, or grounds included  
1781 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1782 (viii) in the presence of a person younger than 18 years ~~of age~~ old, regardless of  
1783 where the act occurs; or

1784 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or  
1785 distribution of a substance in violation of this section to an inmate or on the grounds of a  
1786 correctional facility as defined in Section 76-8-311.3.

1787 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony  
1788 and shall be imprisoned for a term of not less than five years if the penalty that would  
1789 otherwise have been established but for this Subsection (4) would have been a first degree  
1790 felony.

1791 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
1792 not eligible for probation.

1793 (c) If the classification that would otherwise have been established would have been  
1794 less than a first degree felony but for this Subsection (4), a person convicted under this  
1795 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that  
1796 offense. [~~This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).~~]

1797 (d) (i) If the violation is of Subsection (4)(a)(ix):

1798 (A) the person may be sentenced to imprisonment for an indeterminate term as  
1799 provided by law, and the court shall additionally sentence the person convicted for a term of  
1800 one year to run consecutively and not concurrently; and

1801 (B) the court may additionally sentence the person convicted for an indeterminate term  
1802 not to exceed five years to run consecutively and not concurrently; and

1803 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with  
1804 the mental state required for the commission of an offense, directly or indirectly solicits,  
1805 requests, commands, coerces, encourages, or intentionally aids another person to commit a  
1806 violation of Subsection (4)(a)(ix).

1807 (e) It is not a defense to a prosecution under this Subsection (4) that:

1808 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of  
1809 the offense or was unaware of the individual's true age; or

1810 (ii) the actor mistakenly believed that the location where the act occurred was not as  
1811 described in Subsection (4)(a) or was unaware that the location where the act occurred was as  
1812 described in Subsection (4)(a).

1813 (5) A violation of this chapter for which no penalty is specified is a class B  
1814 misdemeanor.

1815 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
1816 guilty or no contest to a violation or attempted violation of this section or a plea which is held  
1817 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,  
1818 even if the charge has been subsequently reduced or dismissed in accordance with the plea in  
1819 abeyance agreement.

1820 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
1821 conviction that is:

1822 (i) from a separate criminal episode than the current charge; and

1823 (ii) from a conviction that is separate from any other conviction used to enhance the

1824 current charge.

1825 (7) A person may be charged and sentenced for a violation of this section,  
1826 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1827 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu  
1828 of, a civil or administrative penalty or sanction authorized by law.

1829 (b) When a violation of this chapter violates a federal law or the law of another state,  
1830 conviction or acquittal under federal law or the law of another state for the same act is a bar to  
1831 prosecution in this state.

1832 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a  
1833 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
1834 substance or substances, is prima facie evidence that the person or persons did so with  
1835 knowledge of the character of the substance or substances.

1836 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
1837 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or  
1838 administering controlled substances or from causing the substances to be administered by an  
1839 assistant or orderly under the veterinarian's direction and supervision.

1840 (11) Civil or criminal liability may not be imposed under this section on:

1841 (a) a person registered under this chapter who manufactures, distributes, or possesses  
1842 an imitation controlled substance for use as a placebo or investigational new drug by a  
1843 registered practitioner in the ordinary course of professional practice or research; or

1844 (b) a law enforcement officer acting in the course and legitimate scope of the officer's  
1845 employment.

1846 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,  
1847 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide  
1848 traditional ceremonial purposes in connection with the practice of a traditional Indian religion  
1849 as defined in Section 58-37-2.

1850 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
1851 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported  
1852 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a  
1853 traditional Indian religion.

1854 (c) (i) The defendant shall provide written notice of intent to claim an affirmative

1855 defense under this Subsection (12) as soon as practicable, but not later than 10 days before  
1856 trial.

1857 (ii) The notice shall include the specific claims of the affirmative defense.

1858 (iii) The court may waive the notice requirement in the interest of justice for good  
1859 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1860 (d) The defendant shall establish the affirmative defense under this Subsection (12) by  
1861 a preponderance of the evidence. If the defense is established, it is a complete defense to the  
1862 charges.

1863 (13) (a) It is an affirmative defense that the person produced, possessed, or  
1864 administered a controlled substance listed in Section 58-37-4.2 if the person was:

1865 (i) engaged in medical research; and

1866 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

1867 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed  
1868 a controlled substance listed in Section 58-37-4.2.

1869 (14) It is an affirmative defense that the person possessed, in the person's body, a  
1870 controlled substance listed in Section 58-37-4.2 if:

1871 (a) the person was the subject of medical research conducted by a holder of a valid  
1872 license to possess controlled substances under Section 58-37-6; and

1873 (b) the substance was administered to the person by the medical researcher.

1874 (15) The application of any increase in penalty under this section to a violation of  
1875 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This  
1876 Subsection (15) takes precedence over any conflicting provision of this section.

1877 (16) (a) It is an affirmative defense to an allegation of the commission of an offense  
1878 listed in Subsection (16)(b) that the person or bystander:

1879 (i) reasonably believes that the person or another person is experiencing an overdose  
1880 event due to the ingestion, injection, inhalation, or other introduction into the human body of a  
1881 controlled substance or other substance;

1882 (ii) reports, or assists a person who reports, in good faith the overdose event to a  
1883 medical provider, an emergency medical service provider as defined in Section 26-8a-102, a  
1884 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the  
1885 person is the subject of a report made under this Subsection (16);

1886 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
1887 actual location of the overdose event that facilitates responding to the person experiencing the  
1888 overdose event;

1889 (iv) remains at the location of the person experiencing the overdose event until a  
1890 responding law enforcement officer or emergency medical service provider arrives, or remains  
1891 at the medical care facility where the person experiencing an overdose event is located until a  
1892 responding law enforcement officer arrives;

1893 (v) cooperates with the responding medical provider, emergency medical service  
1894 provider, and law enforcement officer, including providing information regarding the person  
1895 experiencing the overdose event and any substances the person may have injected, inhaled, or  
1896 otherwise introduced into the person's body; and

1897 (vi) is alleged to have committed the offense in the same course of events from which  
1898 the reported overdose arose.

1899 (b) The offenses referred to in Subsection (16)(a) are:

1900 (i) the possession or use of less than 16 ounces of marijuana;

1901 (ii) the possession or use of a scheduled or listed controlled substance other than  
1902 marijuana; and

1903 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
1904 Imitation Controlled Substances Act.

1905 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not  
1906 include seeking medical assistance under this section during the course of a law enforcement  
1907 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1908 (17) If any provision of this chapter, or the application of any provision to any person  
1909 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the  
1910 invalid provision or application.

1911 (18) A legislative body of a political subdivision may not enact an ordinance that is  
1912 less restrictive than any provision of this chapter.

1913 (19) If a minor who is under 18 years old is found by a court to have violated this  
1914 section[;] or Subsection [76-5-102.1\(2\)\(b\)](#) or [76-5-207\(2\)\(b\)](#), the court may order the minor to  
1915 complete:

1916 (a) a screening as defined in Section [41-6a-501](#);

1917 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an  
1918 assessment to be appropriate; and

1919 (c) an educational series as defined in Section 41-6a-501 or substance use disorder  
1920 treatment as indicated by an assessment.

1921 Section 17. Section 58-37f-201 is amended to read:

1922 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

1923 (1) There is created within the division a controlled substance database.

1924 (2) The division shall administer and direct the functioning of the database in  
1925 accordance with this chapter.

1926 (3) The division may, under state procurement laws, contract with another state agency  
1927 or a private entity to establish, operate, or maintain the database.

1928 (4) The division shall, in collaboration with the board, determine whether to operate  
1929 the database within the division or contract with another entity to operate the database, based  
1930 on an analysis of costs and benefits.

1931 (5) The purpose of the database is to contain:

1932 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed  
1933 controlled substances;

1934 (b) data reported to the division under Section 26-21-26 regarding poisoning or  
1935 overdose;

1936 (c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b)  
1937 regarding convictions for driving under the influence of a prescribed controlled substance or  
1938 impaired driving; and

1939 (d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)[(f)](g)  
1940 regarding certain violations of the Utah Controlled Substances Act.

1941 (6) The division shall maintain the database in an electronic file or by other means  
1942 established by the division to facilitate use of the database for identification of:

1943 (a) prescribing practices and patterns of prescribing and dispensing controlled  
1944 substances;

1945 (b) practitioners prescribing controlled substances in an unprofessional or unlawful  
1946 manner;

1947 (c) individuals receiving prescriptions for controlled substances from licensed

1948 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet  
1949 in quantities or with a frequency inconsistent with generally recognized standards of dosage for  
1950 that controlled substance;

1951 (d) individuals presenting forged or otherwise false or altered prescriptions for  
1952 controlled substances to a pharmacy;

1953 (e) individuals admitted to a general acute hospital for poisoning or overdose involving  
1954 a prescribed controlled substance; and

1955 (f) individuals convicted for:

1956 (i) driving under the influence of a prescribed controlled substance that renders the  
1957 individual incapable of safely operating a vehicle;

1958 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

1959 (iii) certain violations of the Utah Controlled Substances Act.

1960 Section 18. Section **58-37f-704** is amended to read:

1961 **58-37f-704. Entering certain convictions into the database.**

1962 Beginning October 1, 2016, if the division receives a report from a court under  
1963 Subsection [58-37-8\(1\)\(e\)](#) or [58-37-8\(2\)\(f\)](#)~~(f)~~[\(g\)](#), the division shall daily enter into the database  
1964 the information supplied in the report.

1965 Section 19. Section **75-2-803** is amended to read:

1966 **75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts,**  
1967 **joint assets, life insurance, and beneficiary designations -- Forfeiture -- Revocation.**

1968 (1) As used in this section:

1969 (a) "Disposition or appointment of property" includes a transfer of an item of property  
1970 or any other benefit to a beneficiary designated in a governing instrument.

1971 (b) "Disqualifying homicide" means a homicide established by a preponderance of the  
1972 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,  
1973 Offenses Against the Person, except [~~automobile homicide~~] under Sections [76-5-207](#) and  
1974 [76-5-207.5](#), applying the same principles of culpability and defenses as in Title 76, Utah  
1975 Criminal Code, including but not limited to Chapter 2, Principles of Criminal Responsibility.

1976 (c) "Governing instrument" means a governing instrument executed by the decedent.

1977 (d) "Killer" means a person who commits a disqualifying homicide.

1978 (e) "Revocable," with respect to a disposition, appointment, provision, or nomination,



1979 means one under which the decedent, at the time of or immediately before death, was alone  
1980 empowered, by law or under the governing instrument, to cancel the designation, in favor of  
1981 the killer, whether or not the decedent was then empowered to designate himself in place of his  
1982 killer and whether or not the decedent then had capacity to exercise the power.

1983 (2) An individual who commits a disqualifying homicide of the decedent forfeits all  
1984 benefits under this chapter with respect to the decedent's estate, including an intestate share, an  
1985 elective share, an omitted spouse's or child's share, a homestead allowance, exempt property,  
1986 and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as  
1987 if the killer disclaimed his intestate share.

1988 (3) The killing of the decedent by means of a disqualifying homicide:

1989 (a) revokes any revocable:

1990 (i) disposition or appointment of property made by the decedent to the killer in a  
1991 governing instrument;

1992 (ii) provision in a governing instrument conferring a general or nongeneral power of  
1993 appointment on the killer; and

1994 (iii) nomination of the killer in a governing instrument, nominating or appointing the  
1995 killer to serve in any fiduciary or representative capacity, including a personal representative,  
1996 executor, trustee, or agent; and

1997 (b) severs the interests of the decedent and killer in property held by them at the time of  
1998 the killing as joint tenants with the right of survivorship, transforming the interests of the  
1999 decedent and killer into tenancies in common.

2000 (4) A severance under Subsection (3)(b) does not affect any third-party interest in  
2001 property acquired for value and in good faith reliance on an apparent title by survivorship in the  
2002 killer unless a writing declaring the severance has been noted, registered, filed, or recorded in  
2003 records appropriate to the kind and location of the property which are relied upon, in the  
2004 ordinary course of transactions involving such property, as evidence of ownership.

2005 (5) Provisions of a governing instrument are given effect as if the killer disclaimed all  
2006 provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or  
2007 representative capacity, as if the killer predeceased the decedent.

2008 (6) A wrongful acquisition of property or interest by one who kills another under  
2009 circumstances not covered by this section shall be treated in accordance with the principle that

2010 one who kills cannot profit from his wrong.

2011 (7) The court, upon the petition of an interested person, shall determine whether, under  
2012 the preponderance of evidence standard, the individual has committed a disqualifying homicide  
2013 of the decedent. If the court determines that, under that standard, the individual has committed  
2014 a disqualifying homicide of the decedent, the determination conclusively establishes that  
2015 individual as having committed a disqualifying homicide for purposes of this section, unless  
2016 the court finds that the act of disinheritance would create a manifest injustice. A judgment of  
2017 criminal conviction for a disqualifying homicide of the decedent, after all direct appeals have  
2018 been exhausted, conclusively establishes that the convicted individual has committed the  
2019 disqualifying homicide for purposes of this section.

2020 (8) (a) A payor or other third party is not liable for having made a payment or  
2021 transferred an item of property or any other benefit to a beneficiary designated in a governing  
2022 instrument affected by a disqualifying homicide, or for having taken any other action in good  
2023 faith reliance on the validity of the governing instrument, upon request and satisfactory proof of  
2024 the decedent's death, before the payor or other third party received written notice of a claimed  
2025 forfeiture or revocation under this section. A payor or other third party is liable for a payment  
2026 made or other action taken after the payor or other third party received written notice of a  
2027 claimed forfeiture or revocation under this section.

2028 (b) Written notice of a claimed forfeiture or revocation under Subsection (8)(a) shall be  
2029 mailed to the payor's or other third party's main office or home by registered or certified mail,  
2030 return receipt requested, or served upon the payor or other third party in the same manner as a  
2031 summons in a civil action. Upon receipt of written notice of a claimed forfeiture or revocation  
2032 under this section, a payor or other third party may pay any amount owed or transfer or deposit  
2033 any item of property held by it to or with the court having jurisdiction of the probate  
2034 proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or  
2035 with the court having jurisdiction of probate proceedings relating to the decedent's estates  
2036 located in the county of the decedent's residence. The court shall hold the funds or item of  
2037 property and, upon its determination under this section, shall order disbursement in accordance  
2038 with the determination. Payments, transfers, or deposits made to or with the court discharge  
2039 the payor or other third party from all claims for the value of amounts paid to or items of  
2040 property transferred to or deposited with the court.

2041 (9) (a) A person who purchases property for value and without notice, or who receives  
2042 a payment or other item of property in partial or full satisfaction of a legally enforceable  
2043 obligation, is neither obligated under this section to return the payment, item of property, or  
2044 benefit nor is liable under this section for the amount of the payment or the value of the item of  
2045 property or benefit. But a person who, not for value, receives a payment, item of property, or  
2046 any other benefit to which the person is not entitled under this section is obligated to return the  
2047 payment, item of property, or benefit, or is personally liable for the amount of the payment or  
2048 the value of the item of property or benefit, to the person who is entitled to it under this section.

2049 (b) If this section or any part of this section is preempted by federal law with respect to  
2050 a payment, an item of property, or any other benefit covered by this section, a person who, not  
2051 for value, receives the payment, item of property, or any other benefit to which the person is  
2052 not entitled under this section is obligated to return the payment, item of property, or benefit, or  
2053 is personally liable for the amount of the payment or the value of the item of property or  
2054 benefit, to the person who would have been entitled to it were this section or part of this section  
2055 not preempted.

2056 Section 20. Section **76-5-102.1** is enacted to read:

2057 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

2058 (1) As used in this section:

2059 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2060 (b) "Drug" means the same as that term is defined in Section [76-5-207](#).

2061 (c) "Negligent" or "negligence" means the same as that term is defined in Section  
2062 [76-5-207](#).

2063 (d) "Vehicle" means the same as that term is defined in Section [41-6a-501](#).

2064 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:

2065 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

2066 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test  
2067 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the  
2068 time of the test;

2069 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and  
2070 a drug to a degree that renders the actor incapable of safely operating a vehicle; or

2071 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of

2072 operation; or  
2073 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to  
2074 another; and  
2075 (ii) has in the actor's body any measurable amount of a controlled substance.  
2076 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:  
2077 (a) (i) a class A misdemeanor; or  
2078 (ii) a third degree felony if the bodily injury is serious bodily injury; and  
2079 (b) a separate offense for each victim suffering bodily injury as a result of the actor's  
2080 violation of this section, regardless of whether the injuries arise from the same episode of  
2081 driving.  
2082 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under  
2083 Subsection (2)(b) if:  
2084 (a) the controlled substance was obtained under a valid prescription or order, directly  
2085 from a practitioner while acting in the course of the practitioner's professional practice, or as  
2086 otherwise authorized by Title 58, Occupations and Professions;  
2087 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or  
2088 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
2089 [58-37-4.2](#) if:  
2090 (i) the actor is the subject of medical research conducted by a holder of a valid license  
2091 to possess controlled substances under Section [58-37-6](#); and  
2092 (ii) the substance was administered to the actor by the medical researcher.  
2093 (5) (a) A judge imposing a sentence under this section may consider:  
2094 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);  
2095 (ii) the defendant's history;  
2096 (iii) the facts of the case;  
2097 (iv) aggravating and mitigating factors; or  
2098 (v) any other relevant fact.  
2099 (b) The judge may not impose a lesser sentence than would be required for a conviction  
2100 based on the defendant's history under Section [41-6a-505](#).  
2101 (c) The standards for chemical breath analysis under Section [41-6a-515](#) and the  
2102 provisions for the admissibility of chemical test results under Section [41-6a-516](#) apply to

2103 determination and proof of blood alcohol content under this section.

2104 (d) A calculation of blood or breath alcohol concentration under this section shall be  
2105 made in accordance with Subsection 41-6a-502(2).

2106 (e) Except as provided in Subsection (4), the fact that an actor charged with violating  
2107 this section is or has been legally entitled to use alcohol or a drug is not a defense.

2108 (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
2109 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,  
2110 or the Utah Constitution.

2111 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense  
2112 described in this section may not be held in abeyance.

2113 Section 21. Section **76-5-201** is amended to read:

2114 **76-5-201. Criminal homicide -- Elements -- Designations of offenses -- Exceptions.**

2115 (1) (a) Except as provided in Subsections (3) and (4), a person commits criminal  
2116 homicide if the person intentionally, knowingly, recklessly, with criminal negligence, or acting  
2117 with a mental state otherwise specified in the statute defining the offense, causes the death of  
2118 another human being, including an unborn child at any stage of its development.

2119 (b) There shall be no cause of action for criminal homicide for the death of an unborn  
2120 child caused by an abortion, as defined in Section 76-7-301.

2121 (2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse  
2122 homicide, homicide by assault, negligent homicide, or [~~automobile homicide~~] negligently  
2123 operating a vehicle resulting in death.

2124 (3) A person is not guilty of criminal homicide of an unborn child if the sole reason for  
2125 the death of the unborn child is that the person:

2126 (a) refused to consent to:

2127 (i) medical treatment; or

2128 (ii) a cesarean section; or

2129 (b) failed to follow medical advice.

2130 (4) A woman is not guilty of criminal homicide of her own unborn child if the death of  
2131 her unborn child:

2132 (a) is caused by a criminally negligent act or reckless act of the woman; and

2133 (b) is not caused by an intentional or knowing act of the woman.

2134 Section 22. Section **76-5-207** is amended to read:

2135 **76-5-207. Negligently operating a vehicle resulting in death.**

2136 (1) As used in this section:

2137 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

2138 ~~[(a)]~~ (b) "Drug" ~~[or "drugs"]~~ means:

2139 (i) a controlled substance ~~[as defined in Section 58-37-2]~~;

2140 (ii) a drug as defined in Section ~~[58-17b-102]~~ 58-37-2; or

2141 (iii) ~~[any]~~ a substance that, when knowingly, intentionally, or recklessly taken into the

2142 human body, can impair the ability of a person to safely operate a ~~[motor]~~ vehicle.

2143 ~~[(b) "Motor vehicle" means any self-propelled vehicle and includes any automobile,~~

2144 ~~truck, van, motorcycle, train, engine, watercraft, or aircraft.]~~

2145 ~~[(2)(a) Criminal homicide is automobile homicide, a third degree felony, if the person]~~

2146 (c) "Negligent" or "negligence" means simple negligence, the failure to exercise that

2147 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

2148 (d) "Vehicle" means the same as that term is defined in Section 41-6a-501.

2149 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

2150 (a) (i) operates a ~~[motor]~~ vehicle in a negligent manner causing the death of another

2151 ~~[and:];~~

2152 ~~[(i)]~~ (ii) (A) has sufficient alcohol in ~~[his]~~ the actor's body such that a subsequent

2153 chemical test shows that the ~~[person]~~ actor has a blood or breath alcohol concentration of .05

2154 grams or greater at the time of the test;

2155 ~~[(ii)]~~ (B) is under the influence of alcohol, any drug, or the combined influence of

2156 alcohol and any drug to a degree that renders the ~~[person]~~ actor incapable of safely operating a

2157 vehicle; or

2158 ~~[(iii)]~~ (C) has a blood or breath alcohol concentration of .05 grams or greater at the

2159 time of operation[-]; or

2160 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

2161 (ii) has in the actor's body any measurable amount of a controlled substance.

2162 ~~[(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is~~

2163 ~~subsequent to a conviction as defined in Subsection 41-6a-501(2).]~~

2164 ~~[(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to~~

2165 exercise that degree of care that reasonable and prudent persons exercise under like or similar  
2166 circumstances.]

2167 ~~[(3)(a) Criminal homicide is automobile homicide, a second degree felony, if the~~  
2168 ~~person operates a motor vehicle in a criminally negligent manner causing the death of another~~  
2169 ~~and:]~~

2170 ~~[(i) has sufficient alcohol in his body that a subsequent chemical test shows that the~~  
2171 ~~person has a blood or breath alcohol concentration of .05 grams or greater at the time of the~~  
2172 ~~test;]~~

2173 ~~[(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol~~  
2174 ~~and any drug to a degree that renders the person incapable of safely operating a vehicle; or]~~

2175 ~~[(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of~~  
2176 ~~operation.]~~

2177 ~~[(b) As used in this Subsection (3), "criminally negligent" means criminal negligence~~  
2178 ~~as defined by Subsection [76-2-103\(4\)](#).]~~

2179 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty  
2180 of:

2181 (a) a second degree felony; and

2182 (b) a separate offense for each victim suffering death as a result of the actor's violation  
2183 of this section, regardless of whether the deaths arise from the same episode of driving.

2184 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in  
2185 death under Subsection (2)(b) if:

2186 (a) the controlled substance was obtained under a valid prescription or order, directly  
2187 from a practitioner while acting in the course of the practitioner's professional practice, or as  
2188 otherwise authorized by Title 58, Occupations and Professions;

2189 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

2190 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
2191 [58-37-4.2](#) if:

2192 (i) the actor is the subject of medical research conducted by a holder of a valid license  
2193 to possess controlled substances under Section [58-37-6](#); and

2194 (ii) the substance was administered to the actor by the medical researcher.

2195 (5) (a) A judge imposing a sentence under this section may consider:

- 2196 (i) the sentencing guidelines developed in accordance with Section 63M-7-404;  
2197 (ii) the defendant's history;  
2198 (iii) the facts of the case;  
2199 (iv) aggravating and mitigating factors; or  
2200 (v) any other relevant fact.
- 2201 (b) The judge may not impose a lesser sentence than would be required for a conviction  
2202 based on the defendant's history under Section 41-6a-505.
- 2203 ~~[(4)]~~ (c) The standards for chemical breath analysis as provided by Section 41-6a-515  
2204 and the provisions for the admissibility of chemical test results as provided by Section  
2205 41-6a-516 apply to determination and proof of blood alcohol content under this section.
- 2206 ~~[(5)]~~ (d) ~~[Calculations]~~ A calculation of blood or breath alcohol concentration under  
2207 this section shall be made in accordance with Subsection 41-6a-502~~[(+)]~~(2).
- 2208 ~~[(6)]~~ (e) ~~[The]~~ Except as provided in Subsection (4), the fact that [a person] an actor  
2209 charged with violating this section is or has been legally entitled to use alcohol or a drug is not  
2210 a defense.
- 2211 ~~[(7)]~~ (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
2212 admissible except when prohibited by the Utah Rules of Evidence [or the constitution], the  
2213 United States Constitution, or the Utah Constitution.
- 2214 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense  
2215 described in this section may not be held in abeyance.
- 2216 ~~[(8) A person is guilty of a separate offense for each victim suffering bodily injury or~~  
2217 ~~serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a~~  
2218 ~~result of the person's violation of this section whether or not the injuries arise from the same~~  
2219 ~~episode of driving.]~~
- 2220 Section 23. Section 77-2a-3 is amended to read:
- 2221 **77-2a-3. Manner of entry of plea -- Powers of court.**
- 2222 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be  
2223 done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.
- 2224 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance  
2225 agreement may be entered into without a personal appearance before a magistrate.
- 2226 (2) A plea in abeyance agreement may provide that the court may, upon finding that the



2227 defendant has successfully completed the terms of the agreement:

2228 (a) reduce the degree of the offense and enter judgment of conviction and impose  
2229 sentence for a lower degree of offense; or

2230 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

2231 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in  
2232 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as  
2233 provided in the plea in abeyance agreement or as agreed to by all parties.

2234 (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in  
2235 abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of  
2236 the offense.

2237 (4) The court may require the Department of Corrections to assist in the administration  
2238 of the plea in abeyance agreement as if the defendant were on probation to the court under  
2239 Section 77-18-105.

2240 (5) The terms of a plea in abeyance agreement may include:

2241 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a  
2242 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in  
2243 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a  
2244 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and  
2245 which may not exceed in amount the maximum fine and surcharge which could have been  
2246 imposed upon conviction and sentencing for the same offense;

2247 (b) an order that the defendant pay the costs of any remedial or rehabilitative program  
2248 required by the terms of the agreement; and

2249 (c) an order that the defendant comply with any other conditions that could have been  
2250 imposed as conditions of probation upon conviction and sentencing for the same offense.

2251 (6) (a) The terms of a plea in abeyance shall include an order for a specific amount of  
2252 restitution that the defendant will pay, as agreed to by the defendant and the prosecuting  
2253 attorney, unless the prosecuting attorney certifies that:

2254 (i) the prosecuting attorney has consulted with all victims, including the Utah Office  
2255 for Victims of Crime; and

2256 (ii) the defendant does not owe any restitution.

2257 (b) The court shall collect, receive, process, and distribute payments for restitution to

2258 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

2259 (c) If the defendant does not successfully complete the terms of the plea in abeyance,  
2260 the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime  
2261 Victims Restitution Act, upon entering a sentence for the defendant.

2262 (7) (a) A court may not hold a plea in abeyance without the consent of both the  
2263 prosecuting attorney and the defendant.

2264 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

2265 (8) No plea may be held in abeyance in any case involving:

2266 (a) a sexual offense against a victim who is under 14 years old[-]; or

2267 ~~[(9)]~~ (b) ~~[No plea may be held in abeyance in any case involving]~~ a driving under the  
2268 influence violation under Section [41-6a-502](#), [41-6a-502.5](#), [41-6a-517](#), ~~[or]~~ [41-6a-520](#),  
2269 [76-5-102.1](#), or [76-5-207](#).

2270 Section 24. Section **77-40-102** is amended to read:

2271 **77-40-102. Definitions.**

2272 As used in this chapter:

2273 (1) "Administrative finding" means a decision upon a question of fact reached by an  
2274 administrative agency following an administrative hearing or other procedure satisfying the  
2275 requirements of due process.

2276 (2) "Agency" means a state, county, or local government entity that generates or  
2277 maintains records relating to an investigation, arrest, detention, or conviction for an offense for  
2278 which expungement may be ordered.

2279 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public  
2280 Safety established in Section [53-10-201](#).

2281 (4) "Certificate of eligibility" means a document issued by the bureau stating that the  
2282 criminal record and all records of arrest, investigation, and detention associated with a case that  
2283 is the subject of a petition for expungement is eligible for expungement.

2284 (5) (a) "Clean slate eligible case" means a case:

2285 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

2286 (A) a misdemeanor conviction for possession of a controlled substance in violation of  
2287 Subsection [58-37-8\(2\)\(a\)\(i\)](#);

2288 (B) a class B or class C misdemeanor conviction; or

2289 (C) an infraction conviction;

2290 (ii) that involves an individual:

2291 (A) whose total number of convictions in Utah state courts, not including infractions,

2292 traffic offenses, or minor regulatory offenses, does not exceed the limits described in

2293 Subsections 77-40-105(6) and (7) without taking into consideration the exception in Subsection

2294 77-40-105(9); and

2295 (B) against whom no criminal proceedings are pending in the state; and

2296 (iii) for which the following time periods have elapsed from the day on which the case

2297 is adjudicated:

2298 (A) at least five years for a class C misdemeanor or an infraction;

2299 (B) at least six years for a class B misdemeanor; and

2300 (C) at least seven years for a class A conviction for possession of a controlled

2301 substance in violation of Subsection 58-37-8(2)(a)(i).

2302 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a

2303 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)

2304 if:

2305 (i) except as provided in Subsection (5)(c), each charge within the case is:

2306 (A) a misdemeanor for possession of a controlled substance in violation of Subsection

2307 58-37-8(2)(a)(i);

2308 (B) a class B or class C misdemeanor; or

2309 (C) an infraction;

2310 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

2311 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed

2312 from the day on which the case is dismissed.

2313 (c) "Clean slate eligible case" does not include a case:

2314 (i) where the individual is found not guilty by reason of insanity;

2315 (ii) where the case establishes a criminal accounts receivable, as defined in Section

2316 77-32b-102, that:

2317 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as

2318 those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt

2319 Collection under Section 77-18-114; or

- 2320 (B) has not been satisfied according to court records; or
- 2321 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
- 2322 offenses:
- 2323 (A) any of the offenses listed in Subsection 77-40-105(2)(a);
- 2324 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
- 2325 the Person;
- 2326 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
- 2327 (D) sexual battery in violation of Section 76-9-702.1;
- 2328 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
- 2329 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
- 2330 and Reckless Driving;
- 2331 (G) damage to or interruption of a communication device in violation of Section
- 2332 76-6-108;
- 2333 (H) a domestic violence offense as defined in Section 77-36-1; or
- 2334 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
- 2335 other than a class A misdemeanor conviction for possession of a controlled substance in
- 2336 violation of Subsection 58-37-8(2)(a)(i).
- 2337 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
- 2338 after trial, a plea of guilty, or a plea of nolo contendere.
- 2339 (7) "Department" means the Department of Public Safety established in Section
- 2340 53-1-103.
- 2341 (8) "Drug possession offense" means an offense under:
- 2342 (a) Subsection 58-37-8(2), except:
- 2343 (i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of
- 2344 marijuana[;];
- 2345 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
- 2346 facility; or [~~Subsection 58-37-8(2)(g);~~]
- 2347 (iii) driving with a controlled substance illegally in the person's body and negligently
- 2348 causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah
- 2349 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 2350 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

2351 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

2352 (d) any local ordinance which is substantially similar to any of the offenses described  
2353 in this Subsection (8).

2354 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held  
2355 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

2356 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or  
2357 possession of the United States or any foreign country.

2358 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any  
2359 local ordinance, except:

2360 (a) any drug possession offense;

2361 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

2362 (c) Sections 73-18-13 through 73-18-13.6;

2363 (d) those offenses defined in Title 76, Utah Criminal Code; or

2364 (e) any local ordinance that is substantially similar to those offenses listed in  
2365 Subsections (11)(a) through (d).

2366 (12) "Petitioner" means an individual applying for expungement under this chapter.

2367 (13) (a) "Traffic offense" means:

2368 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,  
2369 Chapter 6a, Traffic Code;

2370 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

2371 (iii) Title 73, Chapter 18, State Boating Act; and

2372 (iv) all local ordinances that are substantially similar to those offenses.

2373 (b) "Traffic offense" does not mean:

2374 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

2375 (ii) Sections 73-18-13 through 73-18-13.6; or

2376 (iii) any local ordinance that is substantially similar to the offenses listed in  
2377 Subsections (13)(b)(i) and (ii).

2378 Section 25. Section 77-40-105 is amended to read:

2379 **77-40-105. Requirements to apply for a certificate of eligibility to expunge**  
2380 **conviction.**

2381 (1) An individual convicted of an offense may apply to the bureau for a certificate of

2382 eligibility to expunge the record of conviction as provided in this section.

2383 (2) Except as provided in Subsection (3), an individual is not eligible to receive a  
2384 certificate of eligibility from the bureau if:

2385 (a) the conviction for which expungement is sought is:

2386 (i) a capital felony;

2387 (ii) a first degree felony;

2388 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

2389 [~~(iv) felony automobile homicide;~~]

2390 [~~(v)~~] (iv) a felony conviction described in Subsection 41-6a-501(2);

2391 [~~(vi)~~] (v) a registerable sex offense as defined in Subsection 77-41-102(17); or

2392 [~~(vii)~~] (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

2393 (b) a criminal proceeding is pending against the petitioner; or

2394 (c) the petitioner intentionally or knowingly provides false or misleading information  
2395 on the application for a certificate of eligibility.

2396 (3) The eligibility limitation described in Subsection (2) does not apply in relation to a  
2397 conviction for a qualifying sexual offense, as defined in Subsection 76-3-209(1), if, at the time  
2398 of the offense, the individual who committed the offense was at least 14 years old, but under 18  
2399 years old, unless the conviction occurred in district court after the individual was:

2400 (a) charged by criminal information under Section 80-6-502 or 80-6-503; and

2401 (b) bound over to district court under Section 80-6-504.

2402 (4) A petitioner seeking to obtain expungement for a record of conviction is not  
2403 eligible to receive a certificate of eligibility from the bureau until all of the following have  
2404 occurred:

2405 (a) the petitioner has paid in full all fines and interest ordered by the court related to the  
2406 conviction for which expungement is sought;

2407 (b) the petitioner has paid in full all restitution ordered by the court under Section  
2408 77-38b-205; and

2409 (c) the following time periods have elapsed from the date the petitioner was convicted  
2410 or released from incarceration, parole, or probation, whichever occurred last, for each  
2411 conviction the petitioner seeks to expunge:

2412 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a

2413 felony conviction of operating a motor vehicle with any amount of a controlled substance in an  
2414 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
2415 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2416 (ii) seven years in the case of a felony;

2417 (iii) five years in the case of any class A misdemeanor or a felony drug possession  
2418 offense;

2419 (iv) four years in the case of a class B misdemeanor; or

2420 (v) three years in the case of any other misdemeanor or infraction.

2421 (5) When determining whether to issue a certificate of eligibility, the bureau may not  
2422 consider:

2423 (a) a petitioner's pending or previous:

2424 (i) infraction;

2425 (ii) traffic offense;

2426 (iii) minor regulatory offense; or

2427 (iv) clean slate eligible case that was automatically expunged in accordance with  
2428 Section 77-40-114; or

2429 (b) a fine or fee related to an offense described in Subsection (5)(a).

2430 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner  
2431 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,  
2432 including previously expunged convictions, contains any of the following, except as provided  
2433 in Subsection (9):

2434 (a) two or more felony convictions other than for drug possession offenses, each of  
2435 which is contained in a separate criminal episode;

2436 (b) any combination of three or more convictions other than for drug possession  
2437 offenses that include two class A misdemeanor convictions, each of which is contained in a  
2438 separate criminal episode;

2439 (c) any combination of four or more convictions other than for drug possession  
2440 offenses that include three class B misdemeanor convictions, each of which is contained in a  
2441 separate criminal episode; or

2442 (d) five or more convictions other than for drug possession offenses of any degree  
2443 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

2444 (7) The bureau may not issue a certificate of eligibility if, at the time the petitioner  
2445 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,  
2446 including previously expunged convictions, contains any of the following:

2447 (a) three or more felony convictions for drug possession offenses, each of which is  
2448 contained in a separate criminal episode; or

2449 (b) any combination of five or more convictions for drug possession offenses, each of  
2450 which is contained in a separate criminal episode.

2451 (8) If the petitioner's criminal history contains convictions for both a drug possession  
2452 offense and a non drug possession offense arising from the same criminal episode, that criminal  
2453 episode shall be counted as provided in Subsection (6) if any non drug possession offense in  
2454 that episode:

2455 (a) is a felony or class A misdemeanor; or

2456 (b) has the same or a longer waiting period under Subsection (4) than any drug  
2457 possession offense in that episode.

2458 (9) If at least 10 years have elapsed from the date the petitioner was convicted or  
2459 released from incarceration, parole, or probation, whichever occurred last, for all convictions,  
2460 then each eligibility limit defined in Subsection (6) shall be increased by one.

2461 (10) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah  
2462 Board of Pardons and Parole, the petitioner is entitled to an expungement order for all  
2463 pardoned crimes pursuant to Section [77-27-5.1](#).

2464 Section 26. Section **78B-9-402** is amended to read:

2465 **78B-9-402. Petition for determination of factual innocence -- Sufficient**  
2466 **allegations -- Notification of victim -- Payment to surviving spouse.**

2467 (1) A person who has been convicted of a felony offense may petition the district court  
2468 in the county in which the person was convicted for a hearing to establish that the person is  
2469 factually innocent of the crime or crimes of which the person was convicted.

2470 (2) (a) The petition shall contain an assertion of factual innocence under oath by the  
2471 petitioner and shall aver, with supporting affidavits or other credible documents, that:

2472 (i) newly discovered material evidence exists that, if credible, establishes that the  
2473 petitioner is factually innocent;

2474 (ii) the specific evidence identified by the petitioner in the petition establishes



2475 innocence;

2476 (iii) the material evidence is not merely cumulative of evidence that was known;

2477 (iv) the material evidence is not merely impeachment evidence; and

2478 (v) viewed with all the other evidence, the newly discovered evidence demonstrates

2479 that the petitioner is factually innocent.

2480 (b) (i) The court shall review the petition in accordance with the procedures in

2481 Subsection (9)(b), and make a finding that the petition has satisfied the requirements of

2482 Subsection (2)(a).

2483 (ii) If the court finds the petition does not meet all the requirements of Subsection

2484 (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to

2485 the petitioner and the attorney general.

2486 (3) (a) The petition shall also contain an averment that:

2487 (i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of

2488 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or

2489 postconviction motion, and the evidence could not have been discovered by the petitioner or

2490 the petitioner's counsel through the exercise of reasonable diligence; or

2491 (ii) a court has found ineffective assistance of counsel for failing to exercise reasonable

2492 diligence in uncovering the evidence.

2493 (b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the

2494 court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

2495 (ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied,

2496 the court may dismiss the petition without prejudice and give notice to the petitioner and the

2497 attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a)

2498 if the court finds the petition should proceed to hearing based upon the strength of the petition,

2499 and that there is other evidence that could have been discovered through the exercise of

2500 reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

2501 (A) was not discovered by the petitioner or the petitioner's counsel;

2502 (B) is material upon the issue of factual innocence; and

2503 (C) has never been presented to a court.

2504 (4) (a) If the conviction for which the petitioner asserts factual innocence was based

2505 upon a plea of guilty, the petition shall contain the specific nature and content of the evidence

2506 that establishes factual innocence.

2507 (b) The court shall review the evidence and may dismiss the petition at any time in the  
2508 course of the proceedings, if the court finds that the evidence of factual innocence relies solely  
2509 upon the recantation of testimony or prior statements made by a witness against the petitioner,  
2510 and the recantation appears to the court to be equivocal or self serving.

2511 (5) A person who has already obtained postconviction relief that vacated or reversed  
2512 the person's conviction or sentence may also file a petition under this part in the same manner  
2513 and form as described above, if no retrial or appeal regarding this offense is pending.

2514 (6) If some or all of the evidence alleged to be exonerating is biological evidence  
2515 subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section  
2516 [78B-9-301](#).

2517 (7) Except as provided in Subsection (9), the petition and all subsequent proceedings  
2518 shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and  
2519 shall include the underlying criminal case number.

2520 (8) After a petition is filed under this section, prosecutors, law enforcement officers,  
2521 and crime laboratory personnel shall cooperate in preserving evidence and in determining the  
2522 sufficiency of the chain of custody of the evidence which is the subject of the petition.

2523 (9) (a) A person who files a petition under this section shall serve notice of the petition  
2524 and a copy of the petition upon the office of the prosecutor who obtained the conviction and  
2525 upon the Utah attorney general.

2526 (b) (i) The assigned judge shall conduct an initial review of the petition.

2527 (ii) If it is apparent to the court that the petitioner is either merely relitigating facts,  
2528 issues, or evidence presented in previous proceedings or presenting issues that appear frivolous  
2529 or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal,  
2530 and serve notice of dismissal upon the petitioner and the attorney general.

2531 (iii) If, upon completion of the initial review, the court does not dismiss the petition,  
2532 the court shall order the attorney general to file a response to the petition.

2533 (iv) The attorney general shall, within 30 days after the day on which the attorney  
2534 general receives the court's order, or within any additional period of time the court allows,  
2535 answer or otherwise respond to all proceedings initiated under this part.

2536 (c) (i) After the time for response by the attorney general under Subsection (9)(b) has

2537 passed, the court shall order a hearing if the court finds the petition meets the requirements of  
2538 Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence  
2539 regarding the charges of which the petitioner was convicted.

2540 (ii) No bona fide and compelling issue of factual innocence exists if the petitioner is  
2541 merely relitigating facts, issues, or evidence presented in a previous proceeding or if the  
2542 petitioner is unable to identify with sufficient specificity the nature and reliability of the newly  
2543 discovered evidence that establishes the petitioner's factual innocence.

2544 (d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually  
2545 innocent, the court may find the petitioner is factually innocent without holding a hearing.

2546 (ii) If the state will not stipulate that the evidence establishes that the petitioner is  
2547 factually innocent, no determination of factual innocence may be made by the court without  
2548 first holding a hearing under this part.

2549 (10) The court may not grant a petition for a hearing under this part during the period  
2550 in which criminal proceedings in the matter are pending before any trial or appellate court,  
2551 unless stipulated to by the parties.

2552 (11) Any victim of a crime that is the subject of a petition under this part, and who has  
2553 elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any  
2554 hearing regarding the petition.

2555 (12) (a) A petition to determine factual innocence under this part, or Part 3,  
2556 Postconviction Testing of DNA, shall be filed separately from any petition for postconviction  
2557 relief under Part 1, General Provisions.

2558 (b) Separate petitions may be filed simultaneously in the same court.

2559 (13) The procedures governing the filing and adjudication of a petition to determine  
2560 factual innocence apply to all petitions currently filed or pending in the district court and any  
2561 new petitions filed on or after June 1, 2012.

2562 (14) (a) As used in this Subsection (14) and in Subsection (15):

2563 (i) "Married" means the legal marital relationship established between two individuals  
2564 and as recognized by the law; and

2565 (ii) "Spouse" means an individual married to the petitioner at the time the petitioner  
2566 was found guilty of the offense regarding which a petition is filed and who has since then been  
2567 continuously married to the petitioner until the petitioner's death.

2568 (b) A claim for determination of factual innocence under this part is not extinguished  
2569 upon the death of the petitioner.

2570 (c) (i) If any payments are already being made to the petitioner under this part at the  
2571 time of the death of the petitioner, or if the finding of factual innocence occurs after the death  
2572 of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with  
2573 Section 78B-9-405 to the petitioner's surviving spouse.

2574 (ii) Payments cease upon the death of the spouse.

2575 (15) The spouse under Subsection (14) forfeits all rights to receive any payment under  
2576 this part if the spouse is charged with a homicide established by a preponderance of the  
2577 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,  
2578 Offenses Against the Person, except [~~automobile homicide~~] negligently operating a vehicle  
2579 resulting in death under Section 76-5-207, applying the same principles of culpability and  
2580 defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of  
2581 Criminal Responsibility.

2582 Section 27. Section 80-6-707 is amended to read:

2583 **80-6-707. Suspension of driving privileges.**

2584 (1) This section applies to a minor who:

2585 (a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age  
2586 eligible for a driver license under Section 53-3-204; and

2587 (b) is found by the juvenile court to be in actual physical control of a motor vehicle  
2588 during the commission of the offense for which the minor is adjudicated.

2589 (2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a  
2590 violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

2591 (i) suspend the minor's driving privileges; and

2592 (ii) take possession of the minor's driver license.

2593 (b) The juvenile court may order any other eligible disposition under Subsection (1),  
2594 except for a disposition under Section 80-6-703 or 80-6-705.

2595 (c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

2596 (i) the juvenile court shall prepare and send the order to the Driver License Division of  
2597 the Department of Public Safety; and

2598 (ii) the minor's license shall be suspended under Section 53-3-219.

- 2599 (3) The juvenile court may reduce a suspension period imposed under Section  
2600 [53-3-219](#) if:
- 2601 (a) (i) the violation is the minor's first violation of:
- 2602 (A) Section [32B-4-409](#);
- 2603 (B) Section [32B-4-410](#);
- 2604 (C) Section [58-37-8](#);
- 2605 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 2606 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; [or]
- 2607 (F) Subsection [76-5-102.1\(2\)\(b\)](#);
- 2608 (G) Subsection [76-5-207\(2\)\(b\)](#); or
- 2609 [~~F~~] (H) Subsection [76-9-701\(1\)](#); and
- 2610 (ii) (A) the minor completes an educational series as defined in Section [41-6a-501](#); or
- 2611 (B) the minor demonstrates substantial progress in substance use disorder treatment; or
- 2612 (b) (i) the violation is the minor's second or subsequent violation of:
- 2613 (A) Section [32B-4-409](#);
- 2614 (B) Section [32B-4-410](#);
- 2615 (C) Section [58-37-8](#);
- 2616 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 2617 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; [or]
- 2618 (F) Subsection [76-5-102.1\(2\)\(b\)](#);
- 2619 (G) Subsection [76-5-207\(2\)\(b\)](#); or
- 2620 [~~F~~] (H) Subsection [76-9-701\(1\)](#);
- 2621 (ii) the minor has completed an educational series as defined in Section [41-6a-501](#) or
- 2622 demonstrated substantial progress in substance use disorder treatment; and
- 2623 (iii) (A) the minor is 18 years old or older and provides a sworn statement to the
- 2624 juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a
- 2625 one-year consecutive period during the suspension period imposed under Section [53-3-219](#); or
- 2626 (B) the minor is under 18 years old and the minor's parent or legal guardian provides an
- 2627 affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's
- 2628 knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year
- 2629 consecutive period during the suspension period imposed under Section [53-3-219](#).

2630 (4) (a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as  
2631 defined in Section 32B-4-411:

2632 (i) the juvenile court may forward a record of adjudication to the Department of Public  
2633 Safety for a first or subsequent violation; and

2634 (ii) the minor's driving privileges will be suspended:

2635 (A) for a period of at least one year under Section 53-3-220 for a first conviction for a  
2636 violation of Section 32B-4-411; or

2637 (B) for a period of two years for a second or subsequent conviction for a violation of  
2638 Section 32B-4-411.

2639 (b) The juvenile court may reduce the suspension period imposed under Subsection  
2640 (4)(a)(ii)(A) if:

2641 (i) the violation is the minor's first violation of Section 32B-4-411; and

2642 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

2643 (B) the minor demonstrates substantial progress in substance use disorder treatment.

2644 (c) The juvenile court may reduce the suspension period imposed under Subsection  
2645 (4)(a)(ii)(B) if:

2646 (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

2647 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or  
2648 demonstrated substantial progress in substance use disorder treatment; and

2649 (iii) (A) the minor is 18 years old or older and provides a sworn statement to the court  
2650 that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive  
2651 period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

2652 (B) the minor is under 18 years old and has the minor's parent or guardian provide an  
2653 affidavit or sworn statement to the court certifying that to the parent or guardian's knowledge  
2654 the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive  
2655 period during the suspension period imposed under Subsection (4)(a)(ii)(B).

2656 (5) When the Department of Public Safety receives the arrest or conviction record of a  
2657 minor for a driving offense committed while the minor's license is suspended under this  
2658 section, the Department of Public Safety shall extend the suspension for a like period of time.

2659 Section 28. Section 80-6-712 is amended to read:

2660 **80-6-712. Time periods for supervision of probation or placement -- Termination**

2661 **of continuing jurisdiction.**

2662 (1) If the juvenile court places a minor on probation under Section 80-6-702, the  
2663 juvenile court shall establish a period of time for supervision for the minor that is:

- 2664 (a) if the minor is placed on intake probation, no more than three months; or
- 2665 (b) if the minor is placed on formal probation, from four to six months, but may not  
2666 exceed six months.

2667 (2) (a) If the juvenile court commits a minor to the division under Section 80-6-703,  
2668 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

- 2669 (i) for a minor placed out of the home, a period of custody from three to six months,  
2670 but may not exceed six months; and
- 2671 (ii) for aftercare services if the minor was placed out of the home, a period of  
2672 supervision from three to four months, but may not exceed four months.

2673 (b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of  
2674 a qualifying relative or guardian, or at an independent living program contracted or operated by  
2675 the division.

2676 (3) If the juvenile court orders a minor to secure care, the authority shall:

- 2677 (a) have jurisdiction over the minor's case; and
- 2678 (b) apply the provisions of Part 8, Commitment and Parole.

2679 (4) (a) In accordance with Section 80-6-711 and Subsections (1) and (2), the juvenile  
2680 court shall terminate continuing jurisdiction over a minor's case at the end of the time period  
2681 described in Subsection (1) for probation, or Subsection (2) for commitment to the division,  
2682 unless:

- 2683 (i) termination would interrupt the completion of the treatment program determined to  
2684 be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
- 2685 (ii) the minor commits a new misdemeanor or felony offense;
- 2686 (iii) community or compensatory service hours have not been completed;
- 2687 (iv) there is an outstanding fine; or
- 2688 (v) there is a failure to pay restitution in full.

2689 (b) The juvenile court shall determine whether a minor has completed a treatment  
2690 program under Subsection (4)(a)(i) by considering:

- 2691 (i) the recommendations of the licensed service provider for the treatment program;

- 2692 (ii) the minor's record in the treatment program; and  
2693 (iii) the minor's completion of the goals of the treatment program.
- 2694 (5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists  
2695 the juvenile court may extend supervision for the time needed to address the specific  
2696 circumstance.
- 2697 (6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court  
2698 may extend supervision for no more than three months.
- 2699 (7) If the juvenile court extends supervision under this section, the grounds for the  
2700 extension and the length of any extension shall be recorded in the court records and tracked in  
2701 the data system used by the Administrative Office of the Courts and the division.
- 2702 (8) For a minor who is under the continuing jurisdiction of the juvenile court and  
2703 whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only  
2704 be extended as intake probation.
- 2705 (9) If a minor leaves supervision without authorization for more than 24 hours, the  
2706 supervision period for the minor shall toll until the minor returns.
- 2707 (10) This section does not apply to any minor adjudicated under this chapter for:
- 2708 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;  
2709 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;  
2710 (c) Section 76-5-203, murder or attempted murder;  
2711 (d) Section 76-5-205, manslaughter;  
2712 (e) Section 76-5-206, negligent homicide;  
2713 (f) Section 76-5-207, [~~automobile homicide~~] negligently operating a vehicle resulting  
2714 in death;
- 2715 (g) Section 76-5-207.5, automobile homicide involving handheld wireless  
2716 communication device;
- 2717 (h) Section 76-5-208, child abuse homicide;  
2718 (i) Section 76-5-209, homicide by assault;  
2719 (j) Section 76-5-302, aggravated kidnapping;  
2720 (k) Section 76-5-405, aggravated sexual assault;  
2721 (l) a felony violation of Section 76-6-103, aggravated arson;  
2722 (m) Section 76-6-203, aggravated burglary;



- 2723 (n) Section 76-6-302, aggravated robbery;
- 2724 (o) Section 76-10-508.1, felony discharge of a firearm;
- 2725 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 2726 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
- 2727 (ii) the minor has been previously adjudicated or convicted of an offense involving the
- 2728 use of a dangerous weapon; or
- 2729 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 2730 the minor has been previously committed to the division for secure care.
- 2731 Section 29. Section 80-6-804 is amended to read:
- 2732 **80-6-804. Review and termination of secure care.**
- 2733 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 2734 offender shall appear before the authority within 45 days after the day on which the juvenile
- 2735 offender is ordered to secure care for review of a treatment plan and to establish parole release
- 2736 guidelines.
- 2737 (2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the
- 2738 authority shall set a presumptive term of commitment for the juvenile offender from three to
- 2739 six months, but the presumptive term may not exceed six months.
- 2740 (b) The authority shall release the juvenile offender on parole at the end of the
- 2741 presumptive term of commitment unless:
- 2742 (i) termination would interrupt the completion of a treatment program determined to be
- 2743 necessary by the results of a validated risk and needs assessment under Section 80-6-606; or
- 2744 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 2745 (c) The authority shall determine whether a juvenile offender has completed a
- 2746 treatment program under Subsection (2)(b)(i) by considering:
- 2747 (i) the recommendations of the licensed service provider for the treatment program;
- 2748 (ii) the juvenile offender's record in the treatment program; and
- 2749 (iii) the juvenile offender's completion of the goals of the treatment program.
- 2750 (d) The authority may extend the length of commitment and delay parole release for the
- 2751 time needed to address the specific circumstance if one of the circumstances under Subsection
- 2752 (2)(b) exists.
- 2753 (e) The authority shall:

- 2754 (i) record the length of the extension and the grounds for the extension; and  
2755 (ii) report annually the length and grounds of extension to the commission.  
2756 (f) Records under Subsection (2)(e) shall be tracked in the data system used by the  
2757 juvenile court and the division.
- 2758 (3) (a) If a juvenile offender is committed to secure care, the authority shall set a  
2759 presumptive term of parole supervision, including aftercare services, from three to four months,  
2760 but the presumptive term may not exceed four months.
- 2761 (b) If the authority determines that a juvenile offender is unable to return home  
2762 immediately upon release, the juvenile offender may serve the term of parole in the home of a  
2763 qualifying relative or guardian or at an independent living program contracted or operated by  
2764 the division.
- 2765 (c) The authority shall release a juvenile offender from parole and terminate the  
2766 authority's jurisdiction at the end of the presumptive term of parole, unless:
- 2767 (i) termination would interrupt the completion of a treatment program that is  
2768 determined to be necessary by the results of a validated risk and needs assessment under  
2769 Section 80-6-606;
- 2770 (ii) the juvenile offender commits a new misdemeanor or felony offense; or  
2771 (iii) restitution has not been completed.
- 2772 (d) The authority shall determine whether a juvenile offender has completed a  
2773 treatment program under Subsection (2)(c)(i) by considering:
- 2774 (i) the recommendations of the licensed service provider;  
2775 (ii) the juvenile offender's record in the treatment program; and  
2776 (iii) the juvenile offender's completion of the goals of the treatment program.
- 2777 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay  
2778 parole release only for the time needed to address the specific circumstance.
- 2779 (f) The authority shall:
- 2780 (i) record the grounds for extension of the presumptive length of parole and the length  
2781 of the extension; and  
2782 (ii) report annually the extension and the length of the extension to the commission.
- 2783 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the  
2784 juvenile court and the division.

2785 (h) If a juvenile offender leaves parole supervision without authorization for more than  
2786 24 hours, the term of parole shall toll until the juvenile offender returns.

2787 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure  
2788 care for:

2789 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

2790 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

2791 (c) Section 76-5-203, murder or attempted murder;

2792 (d) Section 76-5-205, manslaughter;

2793 (e) Section 76-5-206, negligent homicide;

2794 (f) Section 76-5-207, [~~automobile homicide~~] negligently operating a vehicle resulting  
2795 in death;

2796 (g) Section 76-5-207.5, automobile homicide involving a handheld wireless  
2797 communication device;

2798 (h) Section 76-5-208, child abuse homicide;

2799 (i) Section 76-5-209, homicide by assault;

2800 (j) Section 76-5-302, aggravated kidnapping;

2801 (k) Section 76-5-405, aggravated sexual assault;

2802 (l) a felony violation of Section 76-6-103, aggravated arson;

2803 (m) Section 76-6-203, aggravated burglary;

2804 (n) Section 76-6-302, aggravated robbery;

2805 (o) Section 76-10-508.1, felony discharge of a firearm;

2806 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)  
2807 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

2808 (ii) the juvenile offender has been previously adjudicated or convicted of an offense  
2809 involving the use of a dangerous weapon, as defined in Section 76-1-601; or

2810 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the  
2811 juvenile offender has been previously committed to the division for secure care.

2812 (5) (a) The division may continue to have responsibility over a juvenile offender, who  
2813 is discharged under this section from parole, to participate in a specific educational or  
2814 rehabilitative program:

2815 (i) until the juvenile offender is:

- 2816 (A) if the juvenile offender is a youth offender, 21 years old; or  
2817 (B) if the juvenile offender is a serious youth offender, 25 years old; and  
2818 (ii) under an agreement by the division and the juvenile offender that the program has  
2819 certain conditions.
- 2820 (b) The division and the juvenile offender may terminate participation in a program  
2821 under Subsection (5)(a) at any time.
- 2822 (c) The division shall offer an educational or rehabilitative program before a juvenile  
2823 offender's discharge date in accordance with this section.
- 2824 (d) A juvenile offender may request the services described in this Subsection (5), even  
2825 if the offender has been previously declined services or services were terminated for  
2826 noncompliance.
- 2827 (e) Notwithstanding Subsection (5)(c), the division:
- 2828 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the  
2829 services described in this Subsection (5) for up to 365 days after the juvenile offender's  
2830 effective date of discharge, even if the juvenile offender has previously declined services or  
2831 services were terminated for noncompliance; and
- 2832 (ii) may reach an agreement with the juvenile offender to provide the services  
2833 described in this Subsection (5) until the juvenile offender is:
- 2834 (A) if the juvenile offender is a youth offender, 21 years old; or  
2835 (B) if the juvenile offender is a serious youth offender, 25 years old.
- 2836 (f) The division and the juvenile offender may terminate an agreement for services  
2837 under this Subsection (5) at any time.