

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

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 This bill provides a coordination clause.

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 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

65 **Utah Code Sections Affected by Coordination Clause:**

66 [76-5-207](#), as last amended by Laws of Utah 2017, Chapter 283



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

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

70 **[24-4-102](#). Property subject to forfeiture.**

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

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

74 (b) seized proceeds.

75 (2) If seized property is used to facilitate an offense that is a violation of Section
76 [76-10-1204](#), [76-10-1205](#), [76-10-1206](#), or [76-10-1222](#), an agency may not forfeit the property if
77 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights
78 under the First Amendment to the Constitution of the United States or Utah Constitution,
79 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's
80 rights under the First Amendment to the Constitution of the United States or Utah Constitution,
81 Article I, Section 15.

82 (3) If a motor vehicle is used in an offense that is a violation of Section [41-6a-502](#),
83 [41-6a-517](#), a local ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#),
84 Subsection [~~[58-37-8\(2\)\(g\)](#)~~] [76-5-102.1\(2\)\(b\)](#), or Section [76-5-207](#), an agency may not seek
85 forfeiture of the motor vehicle, unless:

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

88 (i) a felony driving under the influence violation under Section [41-6a-502](#) or
89 Subsection [76-5-102.1\(2\)\(a\)](#);
90 (ii) a felony violation under Subsection [~~58-37-8(2)(g)~~, or] [76-5-102.1\(2\)\(b\)](#);
91 (iii) [~~automobile homicide~~] a violation under Section [76-5-207](#); or
92 (iv) operating a motor vehicle with any amount of a controlled substance in an
93 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
94 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#); or
95 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
96 disqualified license and:
97 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
98 was imposed because of a violation under:
99 (A) Section [41-6a-502](#);
100 (B) Section [41-6a-517](#);
101 (C) a local ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#);
102 (D) Section [41-6a-520](#);
103 [~~(E) Subsection [58-37-8\(2\)\(g\)](#);~~]
104 (E) operating a motor vehicle with any amount of a controlled substance in an
105 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
106 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);
107 (F) Section [76-5-102.1](#);
108 [~~(F)~~] (G) Section [76-5-207](#); or
109 [~~(G)~~] (H) a criminal prohibition as a result of a plea bargain after having been
110 originally charged with violating one or more of the sections or ordinances described in
111 Subsections (3)(b)(i)(A) through [~~(F)~~] (G); or
112 (ii) the denial, suspension, revocation, or disqualification described in Subsections
113 (3)(b)(i)(A) through [~~(G)~~] (H):
114 (A) is an extension imposed under Subsection [53-3-220\(2\)](#) of a denial, suspension,
115 revocation, or disqualification; and
116 (B) the original denial, suspension, revocation, or disqualification was imposed
117 because of a violation described in Subsections (3)(b)(i)(A) through [~~(G)~~] (H).
118 (4) If a peace officer seizes property incident to an arrest solely for possession of a

119 controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 53-37-8(2)(b)(i), an
120 agency may not seek to forfeit the property that was seized in accordance with the arrest.

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

122 **41-6a-501. Definitions.**

123 (1) As used in this part:

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

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

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

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

129 (iv) the vehicle is lawfully parked; and

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

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

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

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

137 (B) an educational series; or

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

139 (ii) that is approved by the Division of Substance Abuse and Mental Health in
140 accordance with Section 62A-15-105.

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

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

145 (i) a controlled substance as defined in Section 58-37-2;

146 (ii) a drug as defined in Section 58-17b-102; or

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

149 (e) "Educational series" means an educational series obtained at a substance abuse

150 program that is approved by the Division of Substance Abuse and Mental Health in accordance
151 with Section 62A-15-105.

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

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

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

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

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

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

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

160 (A) an assessment; or

161 (B) an educational series; and

162 (ii) that is approved by the Division of Substance Abuse and Mental Health in
163 accordance with Section 62A-15-105.

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

165 (i) serious permanent disfigurement;

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

167 (iii) a substantial risk of death.

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

171 (k) "Substance abuse treatment program" means a state licensed substance abuse
172 program.

173 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
174 Section 41-6a-102; and

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

176 (A) an off-highway vehicle as defined under Section 41-22-2; and

177 (B) a motorboat as defined in Section 73-18-2.

178 (2) As used in Section 41-6a-503:

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

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

182 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
183 combination of both-related reckless driving under:

184 (I) Section [41-6a-512](#); and

185 (II) Section [41-6a-528](#); or

186 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
187 [41-6a-502.5](#);

188 (iii) driving with any measurable controlled substance that is taken illegally in the body
189 under Section [41-6a-517](#);

190 (iv) local ordinances similar to Section [41-6a-502](#), alcohol, any drug, or a combination
191 of both-related reckless driving, or impaired driving under Section [41-6a-502.5](#) adopted in
192 compliance with Section [41-6a-510](#);

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

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

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

198 (vii) negligently operating a vehicle resulting in injury under Section [76-5-102.1](#);
199 [(vii)] (viii) a violation described in Subsections (2)(a)(i) through [(vi)] (vii), which
200 judgment of conviction is reduced under Section [76-3-402](#);

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

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

207 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
208 through [(ix)] (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
209 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been
210 subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for
211 purposes of:

212 (i) enhancement of penalties under~~[(A)]~~ this Chapter 6a, Part 5, Driving Under the
213 Influence and Reckless Driving; and
214 ~~[(B) automobile homicide under Section 76-5-207; and]~~
215 (ii) expungement under Title 77, Chapter 40, Utah Expungement Act.
216 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
217 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah
218 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

219 (i) this part; ~~[and]~~
220 ~~[(ii) automobile homicide under Section 76-5-207.]~~
221 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and
222 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.
223 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive
224 metabolite of a controlled substance.

225 Section 3. Section 41-6a-503 is amended to read:

226 **41-6a-503. Penalties for driving under the influence violations.**

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

- 228 (a) class B misdemeanor; or
229 (b) class A misdemeanor if the person:

230 ~~[(i) has also inflicted bodily injury upon another as a proximate result of having~~
231 ~~operated the vehicle in a negligent manner;]~~

232 ~~[(ii)]~~ (i) had a passenger under 16 years ~~[of age]~~ old in the vehicle at the time of the
233 offense;

234 ~~[(iii)]~~ (ii) was 21 years ~~[of age]~~ old or older and had a passenger under 18 years ~~[of~~
235 ~~age]~~ old in the vehicle at the time of the offense; or

236 ~~[(iv)]~~ (iii) at the time of the violation of Section 41-6a-502, also violated Section
237 41-6a-712 or 41-6a-714.

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

239 ~~[(a) the person has also inflicted serious bodily injury upon another as a proximate~~
240 ~~result of having operated the vehicle in a negligent manner;]~~

241 ~~[(b)]~~ (a) the person has two or more prior convictions as defined in Subsection
242 41-6a-501(2), each of which is within 10 years of:

- 243 (i) the current conviction under Section 41-6a-502; or
 244 (ii) the commission of the offense upon which the current conviction is based; or
 245 ~~[(c)]~~ (b) the conviction under Section 41-6a-502 is at any time after a conviction of:
 246 (i) ~~[automobile homicide under]~~ a violation of Section 76-5-207 that is committed after
 247 July 1, 2001;
 248 (ii) a felony violation of Section 41-6a-502, 76-5-102.1, or a statute previously in effect
 249 in this state that would constitute a violation of Section 41-6a-502 or 76-5-102.1 that is
 250 committed after July 1, 2001; or
 251 (iii) any conviction described in Subsection (2)~~[(c)]~~(b)(i) or (ii) which judgment of
 252 conviction is reduced under Section 76-3-402.

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

257 ~~[(4)]~~ (3) A person is guilty of a separate offense under Subsection (1)(b)~~[(i)]~~(i) for
 258 each passenger in the vehicle at the time of the offense that is under 16 years old.

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

260 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
 261 **drugs, or a combination of both violations.**

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

268 (a) the court shall:

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

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

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

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

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

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

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

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

282 (B) if the administrative impound fee was paid by a party described in Subsection
283 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
284 reimburse the party;

285 (viii) (A) order the individual to pay the towing and storage fees described in Section
286 72-9-603; or

287 (B) if the towing and storage fees were paid by a party described in Subsection
288 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
289 reimburse the party; or

290 (ix) unless the court determines and states on the record that an ignition interlock
291 system is not necessary for the safety of the community and in the best interest of justice, order
292 the installation of an ignition interlock system as described in Section 41-6a-518; and

293 (b) the court may:

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

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

297 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
298 41-6a-515.5 if the individual is 21 years old or older; or

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

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

303 (b) If an individual described in Subsection (1) fails to successfully complete all of the
304 requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence

305 described in Subsection (2)(a).

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

308 (a) the court shall:

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

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

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

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

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

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

318 (vi) (A) order the individual to pay the administrative impound fee described in Section
319 41-6a-1406; or

320 (B) if the administrative impound fee was paid by a party described in Subsection
321 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
322 reimburse the party; or

323 (vii) (A) order the individual to pay the towing and storage fees described in Section
324 72-9-603; or

325 (B) if the towing and storage fees were paid by a party described in Subsection
326 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
327 reimburse the party; and

328 (b) the court may:

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

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

332 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
333 41-6a-515.5 if the individual is 21 years old or older; or

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

335 (4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety

336 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
337 under Subsection (3)(a).

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

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

348 (a) the court shall:

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

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

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

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

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

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

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

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

363 (vii) order the installation of an ignition interlock system as described in Section
364 41-6a-518;

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

367 (B) if the administrative impound fee was paid by a party described in Subsection
368 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
369 reimburse the party; or

370 (ix) (A) order the individual to pay the towing and storage fees described in Section
371 72-9-603; or

372 (B) if the towing and storage fees were paid by a party described in Subsection
373 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
374 reimburse the party; and

375 (b) the court may:

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

378 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
379 41-6a-515.5 if the individual is 21 years old or older; or

380 (iii) order a combination of Subsections (5)(b)(i) and (ii).

381 (6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety
382 program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed
383 under Subsection (5)(a) after the individual has served a minimum of:

384 (i) five days of the jail sentence for a second offense; or

385 (ii) 10 days of the jail sentence for a third or subsequent offense.

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

389 (7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
390 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
391 offense upon which the current conviction is based and that does not qualify under Subsection
392 (5):

393 (a) the court shall:

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

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

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

429 (9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison
430 sentence and places the defendant on probation where there is admissible evidence that the
431 individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 in
432 addition to any measurable controlled substance, or had a combination of two or more
433 controlled substances in the person's body that were not recommended in accordance with Title
434 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

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

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

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

444 (ii) may impose an order requiring the individual to participate in a 24/7 sobriety
445 program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

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

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

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

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

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

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

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

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

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

472 (b) one or more of the following:

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

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

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

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

480 **41-6a-509. Driver license suspension or revocation for a driving under the**
481 **influence violation.**

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

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

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

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

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

490 (2) The Driver License Division shall, if the person is 19 years [~~of age~~] old or older but

491 under 21 years [~~of age~~] old at the time of arrest:

492 (a) suspend the person's driver license until the person is 21 years [~~of age~~] old or for a
493 period of one year, whichever is longer, if the person is convicted for the first time of a
494 violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) of an offense that was committed
495 on or after July 1, 2011;

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

498 (i) is convicted for the first time of a violation under Section [41-6a-502](#), [76-5-102.1](#), or
499 [76-5-207](#) of an offense committed on or after July 1, 2011; and

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

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

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

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

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

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

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

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

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

514 (a) suspend the person's driver license until the person is 21 years [~~of age~~] old if the
515 person is convicted for the first time of a violation under Section [41-6a-502](#), [76-5-102.1](#), or
516 [76-5-207](#);

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

519 (i) is convicted for the first time of a violation under Section [41-6a-502](#), [76-5-102.1](#), or
520 [76-5-207](#); and

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

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

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

524 (ii) the current violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) is

525 committed within a period of 10 years from the date of the prior violation; or

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

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

529 (ii) the current violation under Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#) is

530 committed within a period of 10 years from the date of the prior violation; and

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

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

534 (5) The Driver License Division shall subtract from any suspension or revocation
535 period the number of days for which a license was previously suspended under Section
536 [53-3-223](#) or [53-3-231](#), if the previous suspension was based on the same occurrence upon
537 which the record of conviction is based.

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

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

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

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

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

550 (b) completes a screening;

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

552 (7)(b);

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

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

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

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

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

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

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

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

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

582 (b) If the court suspends or revokes the person's license under this Subsection (9), the
583 court shall prepare and send to the Driver License Division an order to suspend or revoke that

584 person's driving privileges for a specified period of time.

585 (10) (a) The court shall notify the Driver License Division if a person fails to complete
586 all court ordered:

587 (i) screenings;

588 (ii) assessments;

589 (iii) educational series;

590 (iv) substance abuse treatment; and

591 (v) hours of work in a compensatory-service work program.

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

595 (11) (a) A court that reported a conviction of a violation of Section [41-6a-502](#),
596 [76-5-102.1](#), or [76-5-207](#) to the Driver License Division may shorten the suspension period
597 imposed under Subsection (1) before completion of the suspension period if the person is
598 participating in or has successfully completed a 24-7 sobriety program as defined in Section
599 [41-6a-515.5](#).

600 (b) If the court shortens a person's license suspension period in accordance with the
601 requirements of this Subsection (11), the court shall forward the order shortening the person's
602 suspension period to the Driver License Division in a manner specified by the division.

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

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

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

614 (ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or

615 subsequent offense, the division shall revoke the person's driving privilege for a period of two
616 years from the date of notice.

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

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

623 **41-6a-513. Acceptance of plea of guilty to DUI -- Restrictions -- Verification of**
624 **prior violations -- Prosecutor to examine defendant's record.**

625 (1) An entry of a plea of guilty or no contest to a criminal charge under Section
626 [41-6a-502](#) is invalid unless the prosecutor agrees to the plea:

627 (a) in open court;

628 (b) in writing; or

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

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

634 (i) more than one prior violation within the previous 10 years of any offense that, if the
635 defendant were convicted, would qualify as a conviction as defined in Subsection
636 [41-6a-501\(2\)](#);

637 (ii) a felony violation of:

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

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

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

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

643 (i) approved by:

644 (A) a district attorney;

645 (B) a deputy district attorney;

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

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

653 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
654 **body -- Penalties -- Arrest without warrant.**

655 (1) As used in this section:

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

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

664 (b) Subsection (2)(a) does not apply to a person that has
665 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's
666 body.

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

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

674 (d) otherwise legally ingested.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

709 (9) The Driver License Division shall subtract from any suspension or revocation
710 period the number of days for which a license was previously suspended under Section
711 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon
712 which the record of conviction is based.

713 (10) The Driver License Division shall:

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

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

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

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

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

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

728 (b) completes a screening;

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

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

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

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

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

739 not ordered to probation; and

740 (h) (i) is 18 years [~~of age~~] old or older and provides a sworn statement to the court that
741 the person has not consumed a controlled substance not prescribed by a practitioner for use by
742 the person or unlawfully consumed alcohol during the suspension period imposed under
743 Subsection (7)(a) or (8)(a); or

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

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

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

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

757 (14) The court:

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

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

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

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

769 (c) The court shall notify the Driver License Division, in a manner specified by the

770 division, if a person fails to complete all requirements of a 24-7 sobriety program.

771 (d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first
772 offense, the division shall suspend the person's driving privilege for a period of 120 days from
773 the date of notice.

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

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

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

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

786 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**
787 **interlock system.**

788 (1) As used in this section:

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

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

792 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection
793 41-6a-518(8).

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

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

797 (B) within the last 18 months has been convicted of a violation under Section

798 41-6a-502 [or], Subsection 41-6a-520(7), or Section 76-5-102.1;

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

801 (II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years
802 from the date that one or more prior offenses was committed if the prior offense resulted in a
803 conviction as defined in Subsection 41-6a-501(2);

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

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

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

810 (G) within the last six years has been convicted of a felony violation of Section
811 41-6a-502 [or], Subsection 41-6a-520(7), or Section 76-5-102.1 for an offense that occurred
812 after May 1, 2006; or

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

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

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

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

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

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

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

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

834 (5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

835 (a) the interlock restricted driver operated or was in actual physical control of a vehicle
836 owned by the interlock restricted driver's employer;

837 (b) the interlock restricted driver had given written notice to the employer of the
838 interlock restricted driver's interlock restricted status prior to the operation or actual physical
839 control under Subsection (5)(a);

840 (c) the interlock restricted driver had on the interlock restricted driver's person, or in
841 the vehicle, at the time of operation or physical control employer verification, as defined in
842 Subsection 41-6a-518(1); and

843 (d) the operation or actual physical control described in Subsection (5)(a) was in the
844 scope of the interlock restricted driver's employment.

845 (6) The affirmative defense described in Subsection (5) does not apply to:

846 (a) an employer-owned motor vehicle that is made available to an interlock restricted
847 driver for personal use; or

848 (b) a motor vehicle owned by a business entity that is entirely or partly owned or
849 controlled by the interlock restricted driver.

850 (7) (a) An individual with an ignition interlock restriction may petition the division for
851 removal of the restriction if the individual's offense did not involve alcohol.

852 (b) If the division is able to establish that an individual's offense did not involve
853 alcohol, the division may remove the ignition interlock restriction.

854 Section 9. Section 41-6a-520 is amended to read:

855 **41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of**
856 **tests -- Refusal -- Warning, report.**

857 (1) (a) A person operating a motor vehicle in this state is considered to have given the
858 person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for
859 the purpose of determining whether the person was operating or in actual physical control of a
860 motor vehicle while:

861 (i) having a blood or breath alcohol content statutorily prohibited under Section
862 41-6a-502, 41-6a-530, or 53-3-231;

863 (ii) under the influence of alcohol, any drug, or combination of alcohol and any drug
864 under Section 41-6a-502; or

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

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

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

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

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

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

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

889 (i) has been placed under arrest;

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

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

893 (b) (i) Following the warning under Subsection (2)(a), if the person does not

894 immediately request that the chemical test or tests as offered by a peace officer be
895 administered, a peace officer shall, on behalf of the Driver License Division and within 24
896 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's
897 privilege or license to operate a motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

956 **41-6a-529. Definitions -- Alcohol restricted drivers.**

957 (1) As used in this section and Section [41-6a-530](#), "alcohol restricted driver" means a
958 person who:

959 (a) within the last two years:

960 (i) has been convicted of:

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

962 (B) alcohol, any drug, or a combination of both-related reckless driving under Section
963 [41-6a-512](#);

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

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

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

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

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

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

979 (c) within the last five years:

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

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

985 (iii) has been convicted of a class A misdemeanor violation of Section [41-6a-502](#) or
986 [76-5-102.1](#) committed on or after July 1, 2008;

- 987 (d) within the last 10 years:
- 988 (i) has been convicted of an offense described in Subsection (1)(a)(i) which offense
- 989 was committed within 10 years of the commission of a prior offense described in Subsection
- 990 (1)(a)(i) for which the person was convicted;
- 991 (ii) has been convicted of a felony violation of refusal to submit to a chemical test
- 992 under Subsection [41-6a-520](#)(7); or
- 993 (iii) has had the person's driving privilege revoked for refusal to submit to a chemical
- 994 test and the refusal is within 10 years after:
- 995 (A) a prior refusal to submit to a chemical test under Section [41-6a-520](#); or
- 996 (B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not
- 997 based on the same arrest as the refusal;
- 998 (e) at any time has been convicted of:
- 999 (i) [~~automobile homicide under~~] a violation of Section [76-5-207](#) for an offense that
- 1000 occurred on or after July 1, 2005; or
- 1001 (ii) a felony violation of Section [41-6a-502](#) or [76-5-102.1](#) for an offense that occurred
- 1002 on or after July 1, 2005;
- 1003 (f) at the time of operation of a vehicle is under 21 years [~~of age~~] old; or
- 1004 (g) is a novice learner driver.

1005 (2) For purposes of this section and Section [41-6a-530](#), a plea of guilty or no contest to

1006 a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77,

1007 Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if

1008 the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance

1009 agreement.

1010 Section 11. Section **41-6a-1901** is amended to read:

1011 **41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and**

1012 **records -- Notice to Department of State.**

- 1013 (1) As used in this section, "diplomat" means an individual who:
- 1014 (a) has a driver license issued by the United States Department of State; or
- 1015 (b) claims immunities or privileges under 22 U.S.C. Sections 254a through 258a with
- 1016 respect to:
- 1017 (i) a moving traffic violation under this title or a moving traffic violation of an

1018 ordinance of a local authority; or
1019 (ii) operating a motor vehicle while committing any of the following offenses:
1020 (A) [~~automobile homicide~~] negligently operating a vehicle resulting in death under
1021 Section 76-5-207;
1022 (B) manslaughter under Section 76-5-205;
1023 (C) negligent homicide under Section 76-5-206;
1024 (D) aggravated assault under Section 76-5-103; or
1025 (E) reckless endangerment under Section 76-5-112.
1026 (2) A law enforcement officer who stops a motor vehicle and has probable cause to
1027 believe that the driver is a diplomat that has committed a violation described under Subsection
1028 (1)(b)(i) or (ii) shall:
1029 (a) as soon as practicable, contact the United States Department of State in order to
1030 verify the driver's status and immunity, if any;
1031 (b) record all relevant information from any driver license or identification card,
1032 including a driver license or identification card issued by the United States Department of
1033 State; and
1034 (c) within five working days after the date the officer stops the driver, forward all of
1035 the following to the Department of Public Safety:
1036 (i) if the driver is involved in a vehicle accident, the vehicle accident report;
1037 (ii) if a citation or other charging document was issued to the driver, a copy of the
1038 citation or other charging document; and
1039 (iii) if a citation or other charging document was not issued to the driver, a written
1040 report of the incident.
1041 (3) The Department of Public Safety shall:
1042 (a) file each vehicle accident report, citation or other charging document, and incident
1043 report that the Department of Public Safety receives under this section;
1044 (b) keep convenient records or make suitable notations showing each:
1045 (i) conviction;
1046 (ii) finding of responsibility; and
1047 (iii) vehicle accident; and
1048 (c) within five working days after receipt, send a copy of each document and record

1049 described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign Missions,
1050 of the United States Department of State.

1051 (4) This section does not prohibit or limit the application of any law to a criminal or
1052 motor vehicle violation committed by a diplomat.

1053 Section 12. Section **53-3-220** is amended to read:

1054 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
1055 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
1056 **Limited driving privileges.**

1057 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
1058 6a, Traffic Code, or Section [76-5-303](#), specifically provides for denial, suspension, or
1059 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
1060 receiving a record of the person's conviction for:

1061 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, [~~or~~
1062 ~~automobile homicide under Section [76-5-207](#) or [76-5-207.5](#)~~] negligently operating a vehicle
1063 resulting in death under Section [76-5-207](#), or automobile homicide involving using a handheld
1064 wireless communication device while driving under Section [76-5-207.5](#);

1065 (ii) driving or being in actual physical control of a motor vehicle while under the
1066 influence of alcohol, any drug, or combination of them to a degree that renders the person
1067 incapable of safely driving a motor vehicle as prohibited in Section [41-6a-502](#) or as prohibited
1068 in an ordinance that complies with the requirements of Subsection [41-6a-510\(1\)](#);

1069 (iii) driving or being in actual physical control of a motor vehicle while having a blood
1070 or breath alcohol content as prohibited in Section [41-6a-502](#) or as prohibited in an ordinance
1071 that complies with the requirements of Subsection [41-6a-510\(1\)](#);

1072 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
1073 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
1074 regulating driving on highways;

1075 (v) any felony under the motor vehicle laws of this state;

1076 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

1077 (vii) failure to stop and render aid as required under the laws of this state if a motor
1078 vehicle accident results in the death or personal injury of another;

1079 (viii) two charges of reckless driving, impaired driving, or any combination of reckless

1080 driving and impaired driving committed within a period of 12 months; but if upon a first
1081 conviction of reckless driving or impaired driving the judge or justice recommends suspension
1082 of the convicted person's license, the division may after a hearing suspend the license for a
1083 period of three months;

1084 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
1085 officer as required in Section 41-6a-210;

1086 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
1087 requires disqualification;

1088 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
1089 allowing the discharge of a firearm from a vehicle;

1090 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
1091 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

1092 (xiii) operating or being in actual physical control of a motor vehicle while having any
1093 measurable controlled substance or metabolite of a controlled substance in the person's body in
1094 violation of Section 41-6a-517;

1095 (xiv) operating or being in actual physical control of a motor vehicle while having any
1096 measurable or detectable amount of alcohol in the person's body in violation of Section
1097 41-6a-530;

1098 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
1099 violation of Section 41-6a-606;

1100 (xvi) operating or being in actual physical control of a motor vehicle in this state
1101 without an ignition interlock system in violation of Section 41-6a-518.2; or

1102 (xvii) refusal of a chemical test under Subsection 41-6a-520(7).

1103 (b) The division shall immediately revoke the license of a person upon receiving a
1104 record of an adjudication under Section 80-6-701 for:

1105 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
1106 allowing the discharge of a firearm from a vehicle; or

1107 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
1108 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

1109 (c) Except when action is taken under Section 53-3-219 for the same offense, upon
1110 receiving a record of conviction, the division shall immediately suspend for six months the

1111 license of the convicted person if the person was convicted of one of the following offenses
1112 while the person was an operator of a motor vehicle, and the court finds that a driver license
1113 suspension is likely to reduce recidivism and is in the interest of public safety:

1114 (i) any violation of:

1115 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

1116 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

1117 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

1118 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

1119 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

1120 (ii) any criminal offense that prohibits:

1121 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
1122 that is prohibited under the acts described in Subsection (1)(c)(i); or

1123 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
1124 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

1125 (iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall
1126 reinstate a person's driving privilege before completion of the suspension period imposed under
1127 this Subsection (1)(c) if the reporting court notifies the Driver License Division, in a manner
1128 specified by the division, that the defendant is participating in or has successfully completed a
1129 drug court program as defined in Section [78A-5-201](#).

1130 (iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person
1131 is required to pay the license reinstatement fees under Subsection [53-3-105\(26\)](#).

1132 (v) The court shall notify the division, in a manner specified by the division, if a person
1133 fails to complete all requirements of the drug court program.

1134 (vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall
1135 suspend the person's driving privilege for a period of six months from the date of the notice,
1136 and no days shall be subtracted from the six-month suspension period for which a driving
1137 privilege was previously suspended under this Subsection (1)(c).

1138 (d) (i) The division shall immediately suspend a person's driver license for conviction
1139 of the offense of theft of motor vehicle fuel under Section [76-6-404.7](#) if the division receives:

1140 (A) an order from the sentencing court requiring that the person's driver license be
1141 suspended; and

- 1142 (B) a record of the conviction.
- 1143 (ii) An order of suspension under this section is at the discretion of the sentencing
- 1144 court, and may not be for more than 90 days for each offense.
- 1145 (e) (i) The division shall immediately suspend for one year the license of a person upon
- 1146 receiving a record of:
 - 1147 (A) conviction for the first time for a violation under Section 32B-4-411; or
 - 1148 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.
- 1149 (ii) The division shall immediately suspend for a period of two years the license of a
- 1150 person upon receiving a record of:
 - 1151 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and
 - 1152 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
 - 1153 conviction for a violation under Section 32B-4-411; or
 - 1154 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation
 - 1155 under Section 32B-4-411; and
 - 1156 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
 - 1157 adjudication under Section 80-6-701 for a violation under Section 32B-4-411.
- 1158 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
 - 1159 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
 - 1160 (I) impose a suspension for one year beginning on the date of conviction; or
 - 1161 (II) if the person is under the age of eligibility for a driver license, impose a suspension
 - 1162 that begins on the date of conviction and continues for one year beginning on the date of
 - 1163 eligibility for a driver license; or
 - 1164 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
 - 1165 (I) impose a suspension for a period of two years; or
 - 1166 (II) if the person is under the age of eligibility for a driver license, impose a suspension
 - 1167 that begins on the date of conviction and continues for two years beginning on the date of
 - 1168 eligibility for a driver license.
- 1169 (iv) Upon receipt of the first order suspending a person's driving privileges under
- 1170 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
- 1171 ordered by the court in accordance with Subsection 32B-4-411(3)(a).
- 1172 (v) Upon receipt of the second or subsequent order suspending a person's driving

1173 privileges under Section [32B-4-411](#), the division shall reduce the suspension period under
1174 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection [32B-4-411](#)(3)(b).

1175 (2) The division shall extend the period of the first denial, suspension, revocation, or
1176 disqualification for an additional like period, to a maximum of one year for each subsequent
1177 occurrence, upon receiving:

1178 (a) a record of the conviction of any person on a charge of driving a motor vehicle
1179 while the person's license is denied, suspended, revoked, or disqualified;

1180 (b) a record of a conviction of the person for any violation of the motor vehicle law in
1181 which the person was involved as a driver;

1182 (c) a report of an arrest of the person for any violation of the motor vehicle law in
1183 which the person was involved as a driver; or

1184 (d) a report of an accident in which the person was involved as a driver.

1185 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
1186 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
1187 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
1188 or revocation originally imposed under Section [53-3-221](#).

1189 (4) (a) The division may extend to a person the limited privilege of driving a motor
1190 vehicle to and from the person's place of employment or within other specified limits on
1191 recommendation of the judge in any case where a person is convicted of any of the offenses
1192 referred to in Subsections (1) and (2) except:

1193 [~~(i) automobile homicide under Subsection (1)(a)(i);~~]

1194 [~~(ii)~~] (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii),
1195 (1)(b), and (1)(c); and

1196 [~~(iii)~~] (ii) those offenses referred to in Subsection (2) when the original denial,
1197 suspension, revocation, or disqualification was imposed because of a violation of Section
1198 [41-6a-502](#), [41-6a-517](#), a local ordinance [~~which~~] that complies with the requirements of
1199 Subsection [41-6a-510](#)(1), Section [41-6a-520](#), [76-5-102.1](#), or [~~Section~~] [76-5-207](#), or a criminal
1200 prohibition that the person was charged with violating as a result of a plea bargain after having
1201 been originally charged with violating one or more of these sections or ordinances, unless:

1202 (A) the person has had the period of the first denial, suspension, revocation, or
1203 disqualification extended for a period of at least three years;

1204 (B) the division receives written verification from the person's primary care physician
1205 that:

1206 (I) to the physician's knowledge the person has not used any narcotic drug or other
1207 controlled substance except as prescribed by a licensed medical practitioner within the last
1208 three years; and

1209 (II) the physician is not aware of any physical, emotional, or mental impairment that
1210 would affect the person's ability to operate a motor vehicle safely; and

1211 (C) for a period of one year prior to the date of the request for a limited driving
1212 privilege:

1213 (I) the person has not been convicted of a violation of any motor vehicle law in which
1214 the person was involved as the operator of the vehicle;

1215 (II) the division has not received a report of an arrest for a violation of any motor
1216 vehicle law in which the person was involved as the operator of the vehicle; and

1217 (III) the division has not received a report of an accident in which the person was
1218 involved as an operator of a vehicle.

1219 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
1220 authorized in this Subsection (4):

1221 (A) is limited to when undue hardship would result from a failure to grant the
1222 privilege; and

1223 (B) may be granted only once to any person during any single period of denial,
1224 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
1225 or disqualification.

1226 (ii) The discretionary privilege authorized in Subsection (4)(a)~~(iii)~~(i):

1227 (A) is limited to when the limited privilege is necessary for the person to commute to
1228 school or work; and

1229 (B) may be granted only once to any person during any single period of denial,
1230 suspension, revocation, or disqualification, or extension of that denial, suspension, revocation,
1231 or disqualification.

1232 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
1233 Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or
1234 denied under this chapter.

1235 Section 13. Section **53-3-223** is amended to read:

1236 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
1237 **Hearing and decision -- Suspension and fee -- Judicial review.**

1238 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
1239 violating or has violated Section [41-6a-502](#), [~~prohibiting the operation of a vehicle with a~~
1240 ~~certain blood or breath alcohol concentration and driving under the influence of any drug,~~
1241 ~~alcohol, or combination of a drug and alcohol or while having any measurable controlled~~
1242 ~~substance or metabolite of a controlled substance in the person's body in violation of Section]~~
1243 [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), the peace officer may, in connection with arresting the
1244 person, request that the person submit to a chemical test or tests to be administered in
1245 compliance with the standards under Section [41-6a-520](#).

1246 (b) In this section, a reference to Section [41-6a-502](#) includes any similar local
1247 ordinance adopted in compliance with Subsection [41-6a-510](#)(1).

1248 (2) The peace officer shall advise a person prior to the person's submission to a
1249 chemical test that a test result indicating a violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#),
1250 [76-5-102.1](#), or [76-5-207](#) shall, and the existence of a blood alcohol content sufficient to render
1251 the person incapable of safely driving a motor vehicle may, result in suspension or revocation
1252 of the person's license to drive a motor vehicle.

1253 (3) If the person submits to a chemical test and the test results indicate a blood or
1254 breath alcohol content in violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or
1255 [76-5-207](#), or if a peace officer makes a determination, based on reasonable grounds, that the
1256 person is otherwise in violation of Section [41-6a-502](#), [76-5-102.1](#), or [76-5-207](#), a peace officer
1257 shall, on behalf of the division and within 24 hours of arrest, give notice of the division's
1258 intention to suspend the person's license to drive a motor vehicle.

1259 (4) When a peace officer gives notice on behalf of the division, the peace officer shall
1260 supply to the driver, in a manner specified by the division, basic information regarding how to
1261 obtain a prompt hearing before the division.

1262 (5) As a matter of procedure, a peace officer shall send to the division within 10
1263 calendar days after the day on which notice is provided:

1264 (a) a copy of the citation issued for the offense;

1265 (b) a signed report in a manner specified by the division indicating the chemical test

1266 results, if any; and

1267 (c) any other basis for the peace officer's determination that the person has violated
1268 Section [41-6a-502](#) [or], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#).

1269 (6) (a) Upon request in a manner specified by the division, the division shall grant to
1270 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
1271 heard shall be made within 10 calendar days of the day on which notice is provided under
1272 Subsection (5).

1273 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
1274 division in:

1275 (A) the county in which the arrest occurred; or

1276 (B) a county that is adjacent to the county in which the arrest occurred.

1277 (ii) The division may hold a hearing in some other county if the division and the person
1278 both agree.

1279 (c) The hearing shall be documented and shall cover the issues of:

1280 (i) whether a peace officer had reasonable grounds to believe the person was driving a
1281 motor vehicle in violation of Section [41-6a-502](#) [or], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#);

1282 (ii) whether the person refused to submit to the test; and

1283 (iii) the test results, if any.

1284 (d) (i) In connection with a hearing the division or its authorized agent:

1285 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
1286 the production of relevant books and papers; or

1287 (B) may issue subpoenas for the attendance of necessary peace officers.

1288 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
1289 accordance with the rates established in Section [78B-1-119](#).

1290 (e) The division may designate one or more employees to conduct the hearing.

1291 (f) Any decision made after a hearing before any designated employee is as valid as if
1292 made by the division.

1293 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
1294 grounds to believe that the person was driving a motor vehicle in violation of Section
1295 [41-6a-502](#) [or], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), if the person failed to appear before the
1296 division as required in the notice, or if a hearing is not requested under this section, the division

1297 shall:

1298 (i) if the person is 21 years [~~of age~~] old or older at the time of arrest, suspend the
1299 person's license or permit to operate a motor vehicle for a period of:

1300 (A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

1301 (B) two years beginning on the 45th day after the date of arrest for a second or
1302 subsequent suspension for an offense that occurred within the previous 10 years; or

1303 (ii) if the person is under 21 years [~~of age~~] old at the time of arrest:

1304 (A) suspend the person's license or permit to operate a motor vehicle:

1305 (I) for a period of six months, beginning on the 45th day after the date of arrest for a
1306 first suspension; or

1307 (II) until the person is 21 years [~~of age~~] old or for a period of two years, whichever is
1308 longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension
1309 for an offense that occurred within the previous 10 years; or

1310 (B) deny the person's application for a license or learner's permit:

1311 (I) for a period of six months beginning on the 45th day after the date of the arrest for a
1312 first suspension, if the person has not been issued an operator license; or

1313 (II) until the person is 21 years [~~of age~~] old or for a period of two years, whichever is
1314 longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension
1315 for an offense that occurred within the previous 10 years.

1316 (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
1317 reinstate a person's license prior to completion of the 120 day suspension period imposed under
1318 Subsection (7)(a)(i)(A):

1319 (A) immediately upon receiving written verification of the person's dismissal of a
1320 charge for a violation of Section [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), if the
1321 written verification is received prior to completion of the suspension period; or

1322 (B) no sooner than 60 days beginning on the 45th day after the date of arrest upon
1323 receiving written verification of the person's reduction of a charge for a violation of Section
1324 [41-6a-502](#) [~~or~~], [41-6a-517](#), [76-5-102.1](#), or [76-5-207](#), if the written verification is received prior
1325 to completion of the suspension period.

1326 (ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall
1327 reinstate a person's license prior to completion of the 120-day suspension period imposed under

1328 Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's
1329 conviction of impaired driving under Section 41-6a-502.5 if:

1330 (A) the written verification is received prior to completion of the suspension period;
1331 and

1332 (B) the reporting court notifies the Driver License Division that the defendant is
1333 participating in or has successfully completed the program of a driving under the influence
1334 court as defined in Section 41-6a-501.

1335 (iii) If a person's license is reinstated under this Subsection (7)(b), the person is
1336 required to pay the license reinstatement application fees under Subsections 53-3-105(26) and
1337 (27).

1338 (iv) The driver license reinstatements authorized under this Subsection (7)(b) only
1339 apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

1340 (8) (a) The division shall assess against a person, in addition to any fee imposed under
1341 Subsection 53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover
1342 administrative costs, which shall be paid before the person's driving privilege is reinstated.
1343 This fee shall be cancelled if the person obtains an unappealed division hearing or court
1344 decision that the suspension was not proper.

1345 (b) A person whose license has been suspended by the division under this section
1346 following an administrative hearing may file a petition within 30 days after the suspension for a
1347 hearing on the matter which, if held, is governed by Section 53-3-224.

1348 (9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall
1349 reinstate a person's license before completion of the suspension period imposed under
1350 Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the
1351 defendant is participating in or has successfully completed a 24-7 sobriety program as defined
1352 in Section 41-6a-515.5.

1353 (b) If a person's license is reinstated under Subsection (9)(a), the person is required to
1354 pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

1355 (10) (a) If the division suspends a person's license for an alcohol related offense under
1356 Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition
1357 interlock restricted driver if the person:

1358 (i) has a valid driving privilege, with the exception of the suspension under Subsection

1359 (7)(a)(i)(A);
1360 (ii) completes a risk assessment approved by the division that:
1361 (A) is completed after the date of the arrest for which the person is suspended under
1362 Subsection (7)(a)(i)(A); and
1363 (B) identifies the person as a low risk offender;
1364 (iii) installs an ignition interlock device in any vehicle owned or driven by the person
1365 in accordance with Section 53-3-1007; and
1366 (iv) pays the license reinstatement application fees described in Subsections
1367 53-3-105(26) and (27).

1368 (b) The person shall remain an ignition interlock restricted driver for a period of 120
1369 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the
1370 person removes an ignition interlock device from a vehicle owned or driven by the person prior
1371 to the expiration of the 120 day ignition interlock restriction period:

1372 (i) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the
1373 remainder of the 120 day ignition interlock restriction period;

1374 (ii) the person is required to pay the license reinstatement application fee under
1375 Subsection 53-3-105(26); and

1376 (iii) the person may not elect to become an ignition interlock restricted driver under
1377 this section.

1378 (c) If a person elects to become an ignition interlock restricted driver under Subsection
1379 (10)(a), the provisions under Subsection (7)(b) do not apply.

1380 Section 14. Section 53-3-414 is amended to read:

1381 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**
1382 **Procedure.**

1383 (1) (a) An individual who holds or is required to hold a CDL is disqualified from
1384 driving a commercial motor vehicle for a period of not less than one year effective seven days
1385 from the date of notice to the driver if convicted of a first offense of:

1386 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled
1387 substance, or more than one of these;

1388 (ii) driving a commercial motor vehicle while the concentration of alcohol in the
1389 person's blood, breath, or urine is .04 grams or more;

1390 (iii) leaving the scene of an accident involving a motor vehicle the person was driving;

1391 (iv) failing to provide reasonable assistance or identification when involved in an

1392 accident resulting in:

1393 (A) death in accordance with Section 41-6a-401.5; or

1394 (B) personal injury in accordance with Section 41-6a-401.3;

1395 (v) using a motor vehicle in the commission of a felony;

1396 (vi) refusal to submit to a test to determine the concentration of alcohol in the person's
1397 blood, breath, or urine;

1398 (vii) driving a commercial motor vehicle while the person's commercial driver license
1399 is disqualified in accordance with the provisions of this section for violating an offense

1400 described in this section; or

1401 (viii) operating a commercial motor vehicle in a negligent manner causing the death of
1402 another including the offenses of [~~automobile homicide under Section 76-5-207,~~] manslaughter
1403 under Section 76-5-205, [~~or~~] negligent homicide under Section 76-5-206, or negligently
1404 operating a vehicle resulting in death under Section 76-5-207.

1405 (b) The division shall subtract from any disqualification period under Subsection
1406 (1)(a)(i) the number of days for which a license was previously disqualified under Subsection
1407 (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which
1408 the record of conviction is based.

1409 (2) If any of the violations under Subsection (1) occur while the driver is transporting a
1410 hazardous material required to be placarded, the driver is disqualified for not less than three
1411 years.

1412 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds
1413 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if
1414 convicted of or administrative action is taken for two or more of any of the offenses under
1415 Subsection (1), (5), or (14) arising from two or more separate incidents.

1416 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

1417 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
1418 this section may apply to the division for reinstatement of the driver's CDL if the driver:

1419 (i) has both voluntarily enrolled in and successfully completed an appropriate
1420 rehabilitation program that:

1421 (A) meets the standards of the division; and

1422 (B) complies with 49 C.F.R. Sec. 383.51;

1423 (ii) has served a minimum disqualification period of 10 years; and

1424 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving

1425 privileges established by rule of the division.

1426 (b) If a reinstated driver is subsequently convicted of another disqualifying offense

1427 under this section, the driver is permanently disqualified for life and is ineligible to again apply

1428 for a reduction of the lifetime disqualification.

1429 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified

1430 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the

1431 commission of any felony involving the manufacturing, distributing, or dispensing of a

1432 controlled substance, or possession with intent to manufacture, distribute, or dispense a

1433 controlled substance and is ineligible to apply for a reduction of the lifetime disqualification

1434 under Subsection (4).

1435 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds

1436 or is required to hold a CDL is disqualified for not less than:

1437 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two

1438 serious traffic violations; and

1439 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

1440 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic

1441 violations:

1442 (i) occur within three years of each other;

1443 (ii) arise from separate incidents; and

1444 (iii) involve the use or operation of a commercial motor vehicle.

1445 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is

1446 disqualified from driving a commercial motor vehicle and the division receives notice of a

1447 subsequent conviction for a serious traffic violation that results in an additional disqualification

1448 period under this Subsection (6), the subsequent disqualification period is effective beginning

1449 on the ending date of the current serious traffic violation disqualification period.

1450 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an

1451 out-of-service order while driving a commercial motor vehicle is disqualified from driving a

1452 commercial motor vehicle for a period not less than:

1453 (i) 180 days if the driver is convicted of a first violation;

1454 (ii) two years if, during any 10 year period, the driver is convicted of two violations of
1455 out-of-service orders in separate incidents;

1456 (iii) three years but not more than five years if, during any 10 year period, the driver is
1457 convicted of three or more violations of out-of-service orders in separate incidents;

1458 (iv) 180 days but not more than two years if the driver is convicted of a first violation
1459 of an out-of-service order while transporting hazardous materials required to be placarded or
1460 while operating a motor vehicle designed to transport 16 or more passengers, including the
1461 driver; or

1462 (v) three years but not more than five years if, during any 10 year period, the driver is
1463 convicted of two or more violations, in separate incidents, of an out-of-service order while
1464 transporting hazardous materials required to be placarded or while operating a motor vehicle
1465 designed to transport 16 or more passengers, including the driver.

1466 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an
1467 out-of-service order is subject to a civil penalty of not less than \$2,500.

1468 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent
1469 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

1470 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
1471 disqualified for not less than 60 days if the division determines, in its check of the driver's
1472 driver license status, application, and record prior to issuing a CDL or at any time after the
1473 CDL is issued, that the driver has falsified information required to apply for a CDL in this
1474 state.

1475 (9) A driver of a commercial motor vehicle who is convicted of violating a
1476 railroad-highway grade crossing provision under Section [41-6a-1205](#), while driving a
1477 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period
1478 not less than:

1479 (a) 60 days if the driver is convicted of a first violation;

1480 (b) 120 days if, during any three-year period, the driver is convicted of a second
1481 violation in separate incidents; or

1482 (c) one year if, during any three-year period, the driver is convicted of three or more

1483 violations in separate incidents.

1484 (10) (a) The division shall update its records and notify the CDLIS within 10 days of
1485 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

1486 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,
1487 the division shall notify the licensing authority of the issuing state or other jurisdiction and the
1488 CDLIS within 10 days after the action is taken.

1489 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this
1490 state, the division shall notify the CDLIS within 10 days after the action is taken.

1491 (11) (a) The division may immediately suspend or disqualify the CDL of a driver
1492 without a hearing or receiving a record of the driver's conviction when the division has reason
1493 to believe that the:

1494 (i) CDL was issued by the division through error or fraud;

1495 (ii) applicant provided incorrect or incomplete information to the division;

1496 (iii) applicant cheated on any part of a CDL examination;

1497 (iv) driver no longer meets the fitness standards required to obtain a CDL; or

1498 (v) driver poses an imminent hazard.

1499 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with
1500 Section [53-3-221](#).

1501 (c) If a hearing is held under Section [53-3-221](#), the division shall then rescind the
1502 suspension order or cancel the CDL.

1503 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is
1504 required to hold a CDL is disqualified for not less than:

1505 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
1506 serious traffic violations; and

1507 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

1508 (b) The disqualifications under Subsection (12)(a) are effective only if the serious
1509 traffic violations:

1510 (i) occur within three years of each other;

1511 (ii) arise from separate incidents; and

1512 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving
1513 privilege from at least one of the violations.

1514 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified
1515 from driving a commercial motor vehicle and the division receives notice of a subsequent
1516 conviction for a serious traffic violation that results in an additional disqualification period
1517 under this Subsection (12), the subsequent disqualification period is effective beginning on the
1518 ending date of the current serious traffic violation disqualification period.

1519 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no
1520 contest to a violation of a disqualifying offense described in this section which plea is held in
1521 abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend,
1522 cancel, or revoke the person's CDL for the period required under this section for a conviction of
1523 that disqualifying offense, even if the charge has been subsequently reduced or dismissed in
1524 accordance with the plea in abeyance agreement.

1525 (b) The division shall report the plea in abeyance to the CDLIS within 10 days of
1526 taking the action under Subsection (13)(a).

1527 (c) A plea which is held in abeyance may not be removed from a person's driving
1528 record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

1529 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or

1530 (ii) expunged under Title 77, Chapter 40, Utah Expungement Act.

1531 (14) The division shall disqualify the CDL of a driver for an arrest of a violation of
1532 Section 41-6a-502 when administrative action is taken against the operator's driving privilege
1533 pursuant to Section 53-3-223 for a period of:

1534 (a) one year; or

1535 (b) three years if the violation occurred while transporting hazardous materials.

1536 (15) The division may concurrently impose any disqualification periods that arise
1537 under this section while a driver is disqualified by the Secretary of the United States
1538 Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

1539 Section 15. Section 53-10-403 is amended to read:

1540 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

1541 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to
1542 any person who:

1543 (a) has pled guilty to or has been convicted of any of the offenses under Subsection

1544 (2)(a) or (b) on or after July 1, 2002;

- 1545 (b) has pled guilty to or has been convicted by any other state or by the United States
1546 government of an offense which if committed in this state would be punishable as one or more
1547 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;
- 1548 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
1549 offense under Subsection (2)(c);
- 1550 (d) has been booked:
- 1551 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
1552 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or
- 1553 (ii) on or after January 1, 2015, for any felony offense; or
- 1554 (e) is a minor under Subsection (3).
- 1555 (2) Offenses referred to in Subsection (1) are:
- 1556 (a) any felony or class A misdemeanor under the Utah Code;
- 1557 (b) any offense under Subsection (2)(a):
- 1558 (i) for which the court enters a judgment for conviction to a lower degree of offense
1559 under Section 76-3-402; or
- 1560 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
1561 defined in Section 77-2a-1; or
- 1562 (c) (i) any violent felony as defined in Section 53-10-403.5;
- 1563 (ii) sale or use of body parts, Section 26-28-116;
- 1564 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 1565 [~~(iv) driving with any amount of a controlled substance in a person's body and causing~~
1566 ~~serious bodily injury or death, Subsection 58-37-8(2)(g);]~~
- 1567 (iv) operating a motor vehicle with any amount of a controlled substance in an
1568 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
1569 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8-(2)(g);
- 1570 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- 1571 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 1572 [~~(vi)] (vii) a felony violation of propelling a substance or object at a correctional
1573 officer, a peace officer, or an employee or a volunteer, including health care providers, Section
1574 76-5-102.6;~~
- 1575 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

1576 [~~(vii)~~] (ix) aggravated human trafficking and aggravated human smuggling, Section
1577 76-5-310;

1578 [~~(viii)~~] (x) a felony violation of unlawful sexual activity with a minor, Section
1579 76-5-401;

1580 [~~(ix)~~] (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

1581 [~~(x)~~] (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

1582 [~~(xi)~~] (xiii) sale of a child, Section 76-7-203;

1583 [~~(xii)~~] (xiv) aggravated escape, Subsection 76-8-309(2);

1584 [~~(xiii)~~] (xv) a felony violation of assault on an elected official, Section 76-8-315;

1585 [~~(xiv)~~] (xvi) influencing, impeding, or retaliating against a judge or member of the
1586 Board of Pardons and Parole, Section 76-8-316;

1587 [~~(xv)~~] (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

1588 [~~(xvi)~~] (xviii) assembly for advocating criminal syndicalism or sabotage, Section
1589 76-8-903;

1590 [~~(xvii)~~] (xix) a felony violation of sexual battery, Section 76-9-702.1;

1591 [~~(xviii)~~] (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

1592 [~~(xix)~~] (xxi) a felony violation of abuse or desecration of a dead human body, Section
1593 76-9-704;

1594 [~~(xx)~~] (xxii) manufacture, possession, sale, or use of a weapon of mass destruction,
1595 Section 76-10-402;

1596 [~~(xxi)~~] (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass
1597 destruction, Section 76-10-403;

1598 [~~(xxii)~~] (xxiv) possession of a concealed firearm in the commission of a violent felony,
1599 Subsection 76-10-504(4);

1600 [~~(xxiii)~~] (xxv) assault with the intent to commit bus hijacking with a dangerous
1601 weapon, Subsection 76-10-1504(3);

1602 [~~(xxiv)~~] (xxvi) commercial obstruction, Subsection 76-10-2402(2);

1603 [~~(xxv)~~] (xxvii) a felony violation of failure to register as a sex or kidnap offender,
1604 Section 77-41-107;

1605 [~~(xxvi)~~] (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or
1606 [~~(xxvii)~~] (xxix) violation of condition for release after arrest under Section 78B-7-802.

1607 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated
1608 by the juvenile court due to the commission of any offense described in Subsection (2), and
1609 who:

1610 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
1611 court on or after July 1, 2002; or

1612 (b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1,
1613 2002 for an offense under Subsection (2).

1614 Section 16. Section **58-37-8** is amended to read:

1615 **58-37-8. Prohibited acts -- Penalties.**

1616 (1) Prohibited acts A -- Penalties and reporting:

1617 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
1618 intentionally:

1619 (i) produce, manufacture, or dispense, or to possess with intent to produce,
1620 manufacture, or dispense, a controlled or counterfeit substance;

1621 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
1622 arrange to distribute a controlled or counterfeit substance;

1623 (iii) possess a controlled or counterfeit substance with intent to distribute; or

1624 (iv) engage in a continuing criminal enterprise where:

1625 (A) the person participates, directs, or engages in conduct that results in a violation of
1626 Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act,
1627 Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance
1628 Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

1629 (B) the violation is a part of a continuing series of two or more violations of Chapter
1630 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b,
1631 Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act,
1632 or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert
1633 with five or more persons with respect to whom the person occupies a position of organizer,
1634 supervisor, or any other position of management.

1635 (b) A person convicted of violating Subsection (1)(a) with respect to:

1636 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
1637 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second

1638 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
1639 subsequent conviction is guilty of a first degree felony;

1640 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
1641 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
1642 upon a second or subsequent conviction is guilty of a second degree felony; or

1643 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
1644 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1645 felony.

1646 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
1647 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
1648 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
1649 person or in the person's immediate possession during the commission or in furtherance of the
1650 offense, the court shall additionally sentence the person convicted for a term of one year to run
1651 consecutively and not concurrently; and the court may additionally sentence the person
1652 convicted for an indeterminate term not to exceed five years to run consecutively and not
1653 concurrently.

1654 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1655 felony punishable by imprisonment for an indeterminate term of not less than:

1656 (A) seven years and which may be for life; or

1657 (B) 15 years and which may be for life if the trier of fact determined that the defendant
1658 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
1659 was under 18 years old.

1660 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1661 not eligible for probation.

1662 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
1663 offense, was under 18 years old.

1664 (e) The Administrative Office of the Courts shall report to the Division of
1665 Occupational and Professional Licensing the name, case number, date of conviction, and if
1666 known, the date of birth of each person convicted of violating Subsection (1)(a).

1667 (2) Prohibited acts B -- Penalties and reporting:

1668 (a) It is unlawful:

1669 (i) for a person knowingly and intentionally to possess or use a controlled substance
1670 analog or a controlled substance, unless it was obtained under a valid prescription or order,
1671 directly from a practitioner while acting in the course of the person's professional practice, or as
1672 otherwise authorized by this chapter;

1673 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
1674 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
1675 by persons unlawfully possessing, using, or distributing controlled substances in any of those
1676 locations; or

1677 (iii) for a person knowingly and intentionally to possess an altered or forged
1678 prescription or written order for a controlled substance.

1679 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

1680 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

1681 or

1682 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
1683 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
1684 conviction if each prior offense was committed within seven years before the date of the
1685 offense upon which the current conviction is based is guilty of a third degree felony.

1686 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
1687 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
1688 penalty than provided in this Subsection (2).

1689 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
1690 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
1691 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

1692 (i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior
1693 offense was committed within seven years before the date of the offense upon which the
1694 current conviction is based.

1695 (ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony
1696 if each prior offense was committed within seven years before the date of the offense upon
1697 which the current conviction is based.

1698 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
1699 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a

1700 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
1701 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
1702 listed in:

1703 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
1704 indeterminate term as provided by law, and:

1705 (A) the court shall additionally sentence the person convicted to a term of one year to
1706 run consecutively and not concurrently; and

1707 (B) the court may additionally sentence the person convicted for an indeterminate term
1708 not to exceed five years to run consecutively and not concurrently; and

1709 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
1710 indeterminate term as provided by law, and the court shall additionally sentence the person
1711 convicted to a term of six months to run consecutively and not concurrently.

1712 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

1713 (i) on a first conviction, guilty of a class B misdemeanor;

1714 (ii) on a second conviction, guilty of a class A misdemeanor; and

1715 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1716 ~~[(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1717 amounting to a violation of Section 76-5-207:]~~

1718 ~~[(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1719 body any measurable amount of a controlled substance, except for
1720 11-nor-9-carboxy-tetrahydrocannabinol; and]~~

1721 ~~[(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as
1722 defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in
1723 Section 76-1-601 or the death of another; or]~~

1724 ~~[(B) if the controlled substance is marijuana, operates a motor vehicle as defined in
1725 Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in
1726 Section 76-1-601 or the death of another.]~~

1727 ~~[(h) A person who violates Subsection (2)(g) by having in the person's body:]~~

1728 ~~[(i) a controlled substance classified under Schedule I, other than those described in
1729 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1730 degree felony;]~~

1731 ~~[(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols,~~
1732 ~~or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in~~
1733 ~~Section 58-37-4.2 is guilty of a third degree felony; or]~~

1734 ~~[(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class~~
1735 ~~A misdemeanor.]~~

1736 ~~[(i) A person is guilty of a separate offense for each victim suffering serious bodily~~
1737 ~~injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)~~
1738 ~~whether or not the injuries arise from the same episode of driving.]~~

1739 ~~[(j)] (g) The Administrative Office of the Courts shall report to the Division of~~
1740 ~~Occupational and Professional Licensing the name, case number, date of conviction, and if~~
1741 ~~known, the date of birth of each person convicted of violating Subsection (2)(a).~~

1742 (3) Prohibited acts C -- Penalties:

1743 (a) It is unlawful for a person knowingly and intentionally:

1744 (i) to use in the course of the manufacture or distribution of a controlled substance a
1745 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1746 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1747 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1748 person;

1749 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1750 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
1751 attempting to acquire or obtain possession of, or to procure the administration of a controlled
1752 substance by misrepresentation or failure by the person to disclose receiving a controlled
1753 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1754 prescription or written order for a controlled substance, or the use of a false name or address;

1755 (iii) to make a false or forged prescription or written order for a controlled substance,
1756 or to utter the same, or to alter a prescription or written order issued or written under the terms
1757 of this chapter; or

1758 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
1759 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1760 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1761 so as to render a drug a counterfeit controlled substance.

1762 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
1763 misdemeanor.

1764 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
1765 degree felony.

1766 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1767 (4) Prohibited acts D -- Penalties:

1768 (a) Notwithstanding other provisions of this section, a person not authorized under this
1769 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
1770 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
1771 of fact finds the act is committed:

1772 (i) in a public or private elementary or secondary school or on the grounds of any of
1773 those schools during the hours of 6 a.m. through 10 p.m.;

1774 (ii) in a public or private vocational school or postsecondary institution or on the
1775 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1776 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
1777 facility's hours of operation;

1778 (iv) in a public park, amusement park, arcade, or recreation center when the public or
1779 amusement park, arcade, or recreation center is open to the public;

1780 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1781 (vi) in or on the grounds of a library when the library is open to the public;

1782 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
1783 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1784 (viii) in the presence of a person younger than 18 years [~~of age~~] old, regardless of
1785 where the act occurs; or

1786 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1787 distribution of a substance in violation of this section to an inmate or on the grounds of a
1788 correctional facility as defined in Section 76-8-311.3.

1789 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1790 and shall be imprisoned for a term of not less than five years if the penalty that would
1791 otherwise have been established but for this Subsection (4) would have been a first degree
1792 felony.

1793 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1794 not eligible for probation.

1795 (c) If the classification that would otherwise have been established would have been
1796 less than a first degree felony but for this Subsection (4), a person convicted under this
1797 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1798 offense. [~~This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).~~]

1799 (d) (i) If the violation is of Subsection (4)(a)(ix):

1800 (A) the person may be sentenced to imprisonment for an indeterminate term as
1801 provided by law, and the court shall additionally sentence the person convicted for a term of
1802 one year to run consecutively and not concurrently; and

1803 (B) the court may additionally sentence the person convicted for an indeterminate term
1804 not to exceed five years to run consecutively and not concurrently; and

1805 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
1806 the mental state required for the commission of an offense, directly or indirectly solicits,
1807 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1808 violation of Subsection (4)(a)(ix).

1809 (e) It is not a defense to a prosecution under this Subsection (4) that:

1810 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
1811 the offense or was unaware of the individual's true age; or

1812 (ii) the actor mistakenly believed that the location where the act occurred was not as
1813 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
1814 described in Subsection (4)(a).

1815 (5) A violation of this chapter for which no penalty is specified is a class B
1816 misdemeanor.

1817 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1818 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1819 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1820 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1821 abeyance agreement.

1822 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1823 conviction that is:

1824 (i) from a separate criminal episode than the current charge; and
1825 (ii) from a conviction that is separate from any other conviction used to enhance the
1826 current charge.

1827 (7) A person may be charged and sentenced for a violation of this section,
1828 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1829 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
1830 of, a civil or administrative penalty or sanction authorized by law.

1831 (b) When a violation of this chapter violates a federal law or the law of another state,
1832 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1833 prosecution in this state.

1834 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1835 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1836 substance or substances, is prima facie evidence that the person or persons did so with
1837 knowledge of the character of the substance or substances.

1838 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1839 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1840 administering controlled substances or from causing the substances to be administered by an
1841 assistant or orderly under the veterinarian's direction and supervision.

1842 (11) Civil or criminal liability may not be imposed under this section on:

1843 (a) a person registered under this chapter who manufactures, distributes, or possesses
1844 an imitation controlled substance for use as a placebo or investigational new drug by a
1845 registered practitioner in the ordinary course of professional practice or research; or

1846 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
1847 employment.

1848 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1849 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
1850 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1851 as defined in Section 58-37-2.

1852 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1853 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
1854 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a

1855 traditional Indian religion.

1856 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1857 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
1858 trial.

1859 (ii) The notice shall include the specific claims of the affirmative defense.

1860 (iii) The court may waive the notice requirement in the interest of justice for good
1861 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1862 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1863 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1864 charges.

1865 (13) (a) It is an affirmative defense that the person produced, possessed, or
1866 administered a controlled substance listed in Section 58-37-4.2 if the person was:

1867 (i) engaged in medical research; and

1868 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

1869 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1870 a controlled substance listed in Section 58-37-4.2.

1871 (14) It is an affirmative defense that the person possessed, in the person's body, a
1872 controlled substance listed in Section 58-37-4.2 if:

1873 (a) the person was the subject of medical research conducted by a holder of a valid
1874 license to possess controlled substances under Section 58-37-6; and

1875 (b) the substance was administered to the person by the medical researcher.

1876 (15) The application of any increase in penalty under this section to a violation of
1877 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1878 Subsection (15) takes precedence over any conflicting provision of this section.

1879 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1880 listed in Subsection (16)(b) that the person or bystander:

1881 (i) reasonably believes that the person or another person is experiencing an overdose
1882 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1883 controlled substance or other substance;

1884 (ii) reports, or assists a person who reports, in good faith the overdose event to a
1885 medical provider, an emergency medical service provider as defined in Section 26-8a-102, a

1886 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
1887 person is the subject of a report made under this Subsection (16);

1888 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
1889 actual location of the overdose event that facilitates responding to the person experiencing the
1890 overdose event;

1891 (iv) remains at the location of the person experiencing the overdose event until a
1892 responding law enforcement officer or emergency medical service provider arrives, or remains
1893 at the medical care facility where the person experiencing an overdose event is located until a
1894 responding law enforcement officer arrives;

1895 (v) cooperates with the responding medical provider, emergency medical service
1896 provider, and law enforcement officer, including providing information regarding the person
1897 experiencing the overdose event and any substances the person may have injected, inhaled, or
1898 otherwise introduced into the person's body; and

1899 (vi) is alleged to have committed the offense in the same course of events from which
1900 the reported overdose arose.

1901 (b) The offenses referred to in Subsection (16)(a) are:

1902 (i) the possession or use of less than 16 ounces of marijuana;

1903 (ii) the possession or use of a scheduled or listed controlled substance other than
1904 marijuana; and

1905 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1906 Imitation Controlled Substances Act.

1907 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
1908 include seeking medical assistance under this section during the course of a law enforcement
1909 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1910 (17) If any provision of this chapter, or the application of any provision to any person
1911 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1912 invalid provision or application.

1913 (18) A legislative body of a political subdivision may not enact an ordinance that is
1914 less restrictive than any provision of this chapter.

1915 (19) If a minor who is under 18 years old is found by a court to have violated this
1916 section[;] or [Subsection 76-5-102.1\(2\)\(b\)](#) or [76-5-207\(2\)\(b\)](#), the court may order the minor to

1917 complete:

1918 (a) a screening as defined in Section 41-6a-501;

1919 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
1920 assessment to be appropriate; and

1921 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
1922 treatment as indicated by an assessment.

1923 Section 17. Section 58-37f-201 is amended to read:

1924 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

1925 (1) There is created within the division a controlled substance database.

1926 (2) The division shall administer and direct the functioning of the database in
1927 accordance with this chapter.

1928 (3) The division may, under state procurement laws, contract with another state agency
1929 or a private entity to establish, operate, or maintain the database.

1930 (4) The division shall, in collaboration with the board, determine whether to operate
1931 the database within the division or contract with another entity to operate the database, based
1932 on an analysis of costs and benefits.

1933 (5) The purpose of the database is to contain:

1934 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed
1935 controlled substances;

1936 (b) data reported to the division under Section 26-21-26 regarding poisoning or
1937 overdose;

1938 (c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b)
1939 regarding convictions for driving under the influence of a prescribed controlled substance or
1940 impaired driving; and

1941 (d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)(f)(g)
1942 regarding certain violations of the Utah Controlled Substances Act.

1943 (6) The division shall maintain the database in an electronic file or by other means
1944 established by the division to facilitate use of the database for identification of:

1945 (a) prescribing practices and patterns of prescribing and dispensing controlled
1946 substances;

1947 (b) practitioners prescribing controlled substances in an unprofessional or unlawful

1948 manner;

1949 (c) individuals receiving prescriptions for controlled substances from licensed
1950 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
1951 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
1952 that controlled substance;

1953 (d) individuals presenting forged or otherwise false or altered prescriptions for
1954 controlled substances to a pharmacy;

1955 (e) individuals admitted to a general acute hospital for poisoning or overdose involving
1956 a prescribed controlled substance; and

1957 (f) individuals convicted for:

1958 (i) driving under the influence of a prescribed controlled substance that renders the
1959 individual incapable of safely operating a vehicle;

1960 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

1961 (iii) certain violations of the Utah Controlled Substances Act.

1962 Section 18. Section **58-37f-704** is amended to read:

1963 **58-37f-704. Entering certain convictions into the database.**

1964 Beginning October 1, 2016, if the division receives a report from a court under
1965 Subsection [58-37-8\(1\)\(e\)](#) or [58-37-8\(2\)\(f\)](#)~~(g)~~, the division shall daily enter into the database
1966 the information supplied in the report.

1967 Section 19. Section **75-2-803** is amended to read:

1968 **75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts,**
1969 **joint assets, life insurance, and beneficiary designations -- Forfeiture -- Revocation.**

1970 (1) As used in this section:

1971 (a) "Disposition or appointment of property" includes a transfer of an item of property
1972 or any other benefit to a beneficiary designated in a governing instrument.

1973 (b) "Disqualifying homicide" means a homicide established by a preponderance of the
1974 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,
1975 Offenses Against the Person, except [~~automobile homicide~~] under Sections [76-5-207](#) and
1976 [76-5-207.5](#), applying the same principles of culpability and defenses as in Title 76, Utah
1977 Criminal Code, including but not limited to Chapter 2, Principles of Criminal Responsibility.

1978 (c) "Governing instrument" means a governing instrument executed by the decedent.

1979 (d) "Killer" means a person who commits a disqualifying homicide.

1980 (e) "Revocable," with respect to a disposition, appointment, provision, or nomination,
1981 means one under which the decedent, at the time of or immediately before death, was alone
1982 empowered, by law or under the governing instrument, to cancel the designation, in favor of
1983 the killer, whether or not the decedent was then empowered to designate himself in place of his
1984 killer and whether or not the decedent then had capacity to exercise the power.

1985 (2) An individual who commits a disqualifying homicide of the decedent forfeits all
1986 benefits under this chapter with respect to the decedent's estate, including an intestate share, an
1987 elective share, an omitted spouse's or child's share, a homestead allowance, exempt property,
1988 and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as
1989 if the killer disclaimed his intestate share.

1990 (3) The killing of the decedent by means of a disqualifying homicide:

1991 (a) revokes any revocable:

1992 (i) disposition or appointment of property made by the decedent to the killer in a
1993 governing instrument;

1994 (ii) provision in a governing instrument conferring a general or nongeneral power of
1995 appointment on the killer; and

1996 (iii) nomination of the killer in a governing instrument, nominating or appointing the
1997 killer to serve in any fiduciary or representative capacity, including a personal representative,
1998 executor, trustee, or agent; and

1999 (b) severs the interests of the decedent and killer in property held by them at the time of
2000 the killing as joint tenants with the right of survivorship, transforming the interests of the
2001 decedent and killer into tenancies in common.

2002 (4) A severance under Subsection (3)(b) does not affect any third-party interest in
2003 property acquired for value and in good faith reliance on an apparent title by survivorship in the
2004 killer unless a writing declaring the severance has been noted, registered, filed, or recorded in
2005 records appropriate to the kind and location of the property which are relied upon, in the
2006 ordinary course of transactions involving such property, as evidence of ownership.

2007 (5) Provisions of a governing instrument are given effect as if the killer disclaimed all
2008 provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or
2009 representative capacity, as if the killer predeceased the decedent.

2010 (6) A wrongful acquisition of property or interest by one who kills another under
2011 circumstances not covered by this section shall be treated in accordance with the principle that
2012 one who kills cannot profit from his wrong.

2013 (7) The court, upon the petition of an interested person, shall determine whether, under
2014 the preponderance of evidence standard, the individual has committed a disqualifying homicide
2015 of the decedent. If the court determines that, under that standard, the individual has committed
2016 a disqualifying homicide of the decedent, the determination conclusively establishes that
2017 individual as having committed a disqualifying homicide for purposes of this section, unless
2018 the court finds that the act of disinheritance would create a manifest injustice. A judgment of
2019 criminal conviction for a disqualifying homicide of the decedent, after all direct appeals have
2020 been exhausted, conclusively establishes that the convicted individual has committed the
2021 disqualifying homicide for purposes of this section.

2022 (8) (a) A payor or other third party is not liable for having made a payment or
2023 transferred an item of property or any other benefit to a beneficiary designated in a governing
2024 instrument affected by a disqualifying homicide, or for having taken any other action in good
2025 faith reliance on the validity of the governing instrument, upon request and satisfactory proof of
2026 the decedent's death, before the payor or other third party received written notice of a claimed
2027 forfeiture or revocation under this section. A payor or other third party is liable for a payment
2028 made or other action taken after the payor or other third party received written notice of a
2029 claimed forfeiture or revocation under this section.

2030 (b) Written notice of a claimed forfeiture or revocation under Subsection (8)(a) shall be
2031 mailed to the payor's or other third party's main office or home by registered or certified mail,
2032 return receipt requested, or served upon the payor or other third party in the same manner as a
2033 summons in a civil action. Upon receipt of written notice of a claimed forfeiture or revocation
2034 under this section, a payor or other third party may pay any amount owed or transfer or deposit
2035 any item of property held by it to or with the court having jurisdiction of the probate
2036 proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or
2037 with the court having jurisdiction of probate proceedings relating to the decedent's estates
2038 located in the county of the decedent's residence. The court shall hold the funds or item of
2039 property and, upon its determination under this section, shall order disbursement in accordance
2040 with the determination. Payments, transfers, or deposits made to or with the court discharge

2041 the payor or other third party from all claims for the value of amounts paid to or items of
2042 property transferred to or deposited with the court.

2043 (9) (a) A person who purchases property for value and without notice, or who receives
2044 a payment or other item of property in partial or full satisfaction of a legally enforceable
2045 obligation, is neither obligated under this section to return the payment, item of property, or
2046 benefit nor is liable under this section for the amount of the payment or the value of the item of
2047 property or benefit. But a person who, not for value, receives a payment, item of property, or
2048 any other benefit to which the person is not entitled under this section is obligated to return the
2049 payment, item of property, or benefit, or is personally liable for the amount of the payment or
2050 the value of the item of property or benefit, to the person who is entitled to it under this section.

2051 (b) If this section or any part of this section is preempted by federal law with respect to
2052 a payment, an item of property, or any other benefit covered by this section, a person who, not
2053 for value, receives the payment, item of property, or any other benefit to which the person is
2054 not entitled under this section is obligated to return the payment, item of property, or benefit, or
2055 is personally liable for the amount of the payment or the value of the item of property or
2056 benefit, to the person who would have been entitled to it were this section or part of this section
2057 not preempted.

2058 Section 20. Section **76-5-102.1** is enacted to read:

2059 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

2060 (1) As used in this section:

2061 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2062 (b) "Drug" means the same as that term is defined in Section [76-5-207](#).

2063 (c) "Negligent" or "negligence" means the same as that term is defined in Section
2064 [76-5-207](#).

2065 (d) "Vehicle" means the same as that term is defined in Section [41-6a-501](#).

2066 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:

2067 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

2068 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
2069 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
2070 time of the test;

2071 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and

2072 a drug to a degree that renders the actor incapable of safely operating a vehicle; or
2073 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
2074 operation; or
2075 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to
2076 another; and
2077 (ii) has in the actor's body any measurable amount of a controlled substance.
2078 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:
2079 (a) (i) a class A misdemeanor; or
2080 (ii) a third degree felony if the bodily injury is serious bodily injury; and
2081 (b) a separate offense for each victim suffering bodily injury as a result of the actor's
2082 violation of this section, regardless of whether the injuries arise from the same episode of
2083 driving.
2084 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under
2085 Subsection (2)(b) if:
2086 (a) the controlled substance was obtained under a valid prescription or order, directly
2087 from a practitioner while acting in the course of the practitioner's professional practice, or as
2088 otherwise authorized by Title 58, Occupations and Professions;
2089 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
2090 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
2091 [58-37-4.2](#) if:
2092 (i) the actor is the subject of medical research conducted by a holder of a valid license
2093 to possess controlled substances under Section [58-37-6](#); and
2094 (ii) the substance was administered to the actor by the medical researcher.
2095 (5) (a) A judge imposing a sentence under this section may consider:
2096 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);
2097 (ii) the defendant's history;
2098 (iii) the facts of the case;
2099 (iv) aggravating and mitigating factors; or
2100 (v) any other relevant fact.
2101 (b) The judge may not impose a lesser sentence than would be required for a conviction
2102 based on the defendant's history under Section [41-6a-505](#).

2103 (c) The standards for chemical breath analysis under Section 41-6a-515 and the
2104 provisions for the admissibility of chemical test results under Section 41-6a-516 apply to
2105 determination and proof of blood alcohol content under this section.

2106 (d) A calculation of blood or breath alcohol concentration under this section shall be
2107 made in accordance with Subsection 41-6a-502(2).

2108 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
2109 this section is or has been legally entitled to use alcohol or a drug is not a defense.

2110 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
2111 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,
2112 or the Utah Constitution.

2113 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
2114 described in this section may not be held in abeyance.

2115 Section 21. Section **76-5-201** is amended to read:

2116 **76-5-201. Criminal homicide -- Elements -- Designations of offenses -- Exceptions.**

2117 (1) (a) Except as provided in Subsections (3) and (4), a person commits criminal
2118 homicide if the person intentionally, knowingly, recklessly, with criminal negligence, or acting
2119 with a mental state otherwise specified in the statute defining the offense, causes the death of
2120 another human being, including an unborn child at any stage of its development.

2121 (b) There shall be no cause of action for criminal homicide for the death of an unborn
2122 child caused by an abortion, as defined in Section 76-7-301.

2123 (2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse
2124 homicide, homicide by assault, negligent homicide, or [~~automobile homicide~~] negligently
2125 operating a vehicle resulting in death.

2126 (3) A person is not guilty of criminal homicide of an unborn child if the sole reason for
2127 the death of the unborn child is that the person:

2128 (a) refused to consent to:

2129 (i) medical treatment; or

2130 (ii) a cesarean section; or

2131 (b) failed to follow medical advice.

2132 (4) A woman is not guilty of criminal homicide of her own unborn child if the death of
2133 her unborn child:

2134 (a) is caused by a criminally negligent act or reckless act of the woman; and

2135 (b) is not caused by an intentional or knowing act of the woman.

2136 Section 22. Section 76-5-207 is amended to read:

2137 **76-5-207. Negligently operating a vehicle resulting in death.**

2138 (1) As used in this section:

2139 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

2140 ~~(a)~~ (b) "Drug" ~~[or "drugs"]~~ means:

2141 (i) a controlled substance ~~[as defined in Section 58-37-2]~~;

2142 (ii) a drug as defined in Section ~~[58-17b-102]~~ 58-37-2; or

2143 (iii) ~~[any]~~ a substance that, when knowingly, intentionally, or recklessly taken into the
2144 human body, can impair the ability of a person to safely operate a ~~[motor]~~ vehicle.

2145 ~~[(b) "Motor vehicle" means any self-propelled vehicle and includes any automobile,
2146 truck, van, motorcycle, train, engine, watercraft, or aircraft.]~~

2147 ~~[(2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person]~~

2148 (c) "Negligent" or "negligence" means simple negligence, the failure to exercise that
2149 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

2150 (d) "Vehicle" means the same as that term is defined in Section 41-6a-501.

2151 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

2152 (a) (i) operates a ~~[motor]~~ vehicle in a negligent manner causing the death of another
2153 ~~[and:]~~;

2154 ~~[(i)]~~ (ii) (A) has sufficient alcohol in ~~[his]~~ the actor's body such that a subsequent
2155 chemical test shows that the ~~[person]~~ actor has a blood or breath alcohol concentration of .05
2156 grams or greater at the time of the test;

2157 ~~[(i)]~~ (B) is under the influence of alcohol, any drug, or the combined influence of
2158 alcohol and any drug to a degree that renders the ~~[person]~~ actor incapable of safely operating a
2159 vehicle; or

2160 ~~[(iii)]~~ (C) has a blood or breath alcohol concentration of .05 grams or greater at the
2161 time of operation~~[-:]~~; or

2162 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

2163 (ii) has in the actor's body any measurable amount of a controlled substance.

2164 ~~[(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is~~

2165 subsequent to a conviction as defined in Subsection ~~41-6a-501(2)~~.]

2166 ~~[(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to~~
2167 ~~exercise that degree of care that reasonable and prudent persons exercise under like or similar~~
2168 ~~circumstances.]~~

2169 ~~[(3)(a) Criminal homicide is automobile homicide, a second degree felony, if the~~
2170 ~~person operates a motor vehicle in a criminally negligent manner causing the death of another~~
2171 ~~and:]~~

2172 ~~[(i) has sufficient alcohol in his body that a subsequent chemical test shows that the~~
2173 ~~person has a blood or breath alcohol concentration of .05 grams or greater at the time of the~~
2174 ~~test;]~~

2175 ~~[(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol~~
2176 ~~and any drug to a degree that renders the person incapable of safely operating a vehicle; or]~~

2177 ~~[(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of~~
2178 ~~operation.]~~

2179 ~~[(b) As used in this Subsection (3), "criminally negligent" means criminal negligence~~
2180 ~~as defined by Subsection 76-2-103(4).]~~

2181 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty
2182 of:

2183 (a) a second degree felony; and

2184 (b) a separate offense for each victim suffering death as a result of the actor's violation
2185 of this section, regardless of whether the deaths arise from the same episode of driving.

2186 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in
2187 death under Subsection (2)(b) if:

2188 (a) the controlled substance was obtained under a valid prescription or order, directly
2189 from a practitioner while acting in the course of the practitioner's professional practice, or as
2190 otherwise authorized by Title 58, Occupations and Professions;

2191 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

2192 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
2193 58-37-4.2 if:

2194 (i) the actor is the subject of medical research conducted by a holder of a valid license
2195 to possess controlled substances under Section 58-37-6; and

- 2196 (ii) the substance was administered to the actor by the medical researcher.
- 2197 (5) (a) A judge imposing a sentence under this section may consider:
- 2198 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);
- 2199 (ii) the defendant's history;
- 2200 (iii) the facts of the case;
- 2201 (iv) aggravating and mitigating factors; or
- 2202 (v) any other relevant fact.
- 2203 (b) The judge may not impose a lesser sentence than would be required for a conviction

2204 based on the defendant's history under Section [41-6a-505](#).

2205 ~~[(4)]~~ (c) The standards for chemical breath analysis as provided by Section [41-6a-515](#)
2206 and the provisions for the admissibility of chemical test results as provided by Section
2207 [41-6a-516](#) apply to determination and proof of blood alcohol content under this section.

2208 ~~[(5)]~~ (d) ~~[Calculations]~~ A calculation of blood or breath alcohol concentration under
2209 this section shall be made in accordance with Subsection [41-6a-502](#)~~[(1)]~~(2).

2210 ~~[(6)]~~ (e) ~~[The]~~ Except as provided in Subsection (4), the fact that ~~[a person]~~ an actor
2211 charged with violating this section is or has been legally entitled to use alcohol or a drug is not
2212 a defense.

2213 ~~[(7)]~~ (f) Evidence of a defendant's blood or breath alcohol content or drug content is
2214 admissible except when prohibited by the Utah Rules of Evidence ~~[or the constitution]~~, the
2215 United States Constitution, or the Utah Constitution.

2216 (g) In accordance with Subsection [77-2a-3](#)(8), a guilty or no contest plea to an offense
2217 described in this section may not be held in abeyance.

2218 ~~[(8) A person is guilty of a separate offense for each victim suffering bodily injury or~~
2219 ~~serious bodily injury as a result of the person's violation of Section [41-6a-502](#) or death as a~~
2220 ~~result of the person's violation of this section whether or not the injuries arise from the same~~
2221 ~~episode of driving.]~~

2222 Section 23. Section [77-2a-3](#) is amended to read:

2223 **[77-2a-3. Manner of entry of plea -- Powers of court.](#)**

2224 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
2225 done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

2226 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance

2227 agreement may be entered into without a personal appearance before a magistrate.

2228 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
2229 defendant has successfully completed the terms of the agreement:

2230 (a) reduce the degree of the offense and enter judgment of conviction and impose
2231 sentence for a lower degree of offense; or

2232 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

2233 (3) (a) Upon finding that a defendant has successfully completed the terms of a plea in
2234 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
2235 provided in the plea in abeyance agreement or as agreed to by all parties.

2236 (b) Upon sentencing a defendant for any lesser offense in accordance with a plea in
2237 abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of
2238 the offense.

2239 (4) The court may require the Department of Corrections to assist in the administration
2240 of the plea in abeyance agreement as if the defendant were on probation to the court under
2241 Section 77-18-105.

2242 (5) The terms of a plea in abeyance agreement may include:

2243 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
2244 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
2245 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
2246 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and
2247 which may not exceed in amount the maximum fine and surcharge which could have been
2248 imposed upon conviction and sentencing for the same offense;

2249 (b) an order that the defendant pay the costs of any remedial or rehabilitative program
2250 required by the terms of the agreement; and

2251 (c) an order that the defendant comply with any other conditions that could have been
2252 imposed as conditions of probation upon conviction and sentencing for the same offense.

2253 (6) (a) The terms of a plea in abeyance shall include an order for a specific amount of
2254 restitution that the defendant will pay, as agreed to by the defendant and the prosecuting
2255 attorney, unless the prosecuting attorney certifies that:

2256 (i) the prosecuting attorney has consulted with all victims, including the Utah Office
2257 for Victims of Crime; and

2258 (ii) the defendant does not owe any restitution.

2259 (b) The court shall collect, receive, process, and distribute payments for restitution to
2260 the victim, unless otherwise provided by law or by the plea in abeyance agreement.

2261 (c) If the defendant does not successfully complete the terms of the plea in abeyance,
2262 the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime
2263 Victims Restitution Act, upon entering a sentence for the defendant.

2264 (7) (a) A court may not hold a plea in abeyance without the consent of both the
2265 prosecuting attorney and the defendant.

2266 (b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

2267 (8) No plea may be held in abeyance in any case involving:

2268 (a) a sexual offense against a victim who is under 14 years old[-]; or

2269 ~~(9)~~ (b) ~~[No plea may be held in abeyance in any case involving]~~ a driving under the
2270 influence violation under Section [41-6a-502](#), [41-6a-502.5](#), [41-6a-517](#), ~~[or]~~ [41-6a-520](#),
2271 [76-5-102.1](#), or [76-5-207](#).

2272 Section 24. Section ~~77-40-102~~ is amended to read:

2273 **77-40-102. Definitions.**

2274 As used in this chapter:

2275 (1) "Administrative finding" means a decision upon a question of fact reached by an
2276 administrative agency following an administrative hearing or other procedure satisfying the
2277 requirements of due process.

2278 (2) "Agency" means a state, county, or local government entity that generates or
2279 maintains records relating to an investigation, arrest, detention, or conviction for an offense for
2280 which expungement may be ordered.

2281 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
2282 Safety established in Section [53-10-201](#).

2283 (4) "Certificate of eligibility" means a document issued by the bureau stating that the
2284 criminal record and all records of arrest, investigation, and detention associated with a case that
2285 is the subject of a petition for expungement is eligible for expungement.

2286 (5) (a) "Clean slate eligible case" means a case:

2287 (i) where, except as provided in Subsection (5)(c), each conviction within the case is:

2288 (A) a misdemeanor conviction for possession of a controlled substance in violation of

2289 Subsection 58-37-8(2)(a)(i);
2290 (B) a class B or class C misdemeanor conviction; or
2291 (C) an infraction conviction;
2292 (ii) that involves an individual:
2293 (A) whose total number of convictions in Utah state courts, not including infractions,
2294 traffic offenses, or minor regulatory offenses, does not exceed the limits described in
2295 Subsections 77-40-105(6) and (7) without taking into consideration the exception in Subsection
2296 77-40-105(9); and
2297 (B) against whom no criminal proceedings are pending in the state; and
2298 (iii) for which the following time periods have elapsed from the day on which the case
2299 is adjudicated:
2300 (A) at least five years for a class C misdemeanor or an infraction;
2301 (B) at least six years for a class B misdemeanor; and
2302 (C) at least seven years for a class A conviction for possession of a controlled
2303 substance in violation of Subsection 58-37-8(2)(a)(i).
2304 (b) "Clean slate eligible case" includes a case that is dismissed as a result of a
2305 successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b)
2306 if:
2307 (i) except as provided in Subsection (5)(c), each charge within the case is:
2308 (A) a misdemeanor for possession of a controlled substance in violation of Subsection
2309 58-37-8(2)(a)(i);
2310 (B) a class B or class C misdemeanor; or
2311 (C) an infraction;
2312 (ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and
2313 (iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed
2314 from the day on which the case is dismissed.
2315 (c) "Clean slate eligible case" does not include a case:
2316 (i) where the individual is found not guilty by reason of insanity;
2317 (ii) where the case establishes a criminal accounts receivable, as defined in Section
2318 77-32b-102, that:
2319 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as

2320 those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt
2321 Collection under Section 77-18-114; or
2322 (B) has not been satisfied according to court records; or
2323 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
2324 offenses:
2325 (A) any of the offenses listed in Subsection 77-40-105(2)(a);
2326 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
2327 the Person;
2328 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;
2329 (D) sexual battery in violation of Section 76-9-702.1;
2330 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;
2331 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
2332 and Reckless Driving;
2333 (G) damage to or interruption of a communication device in violation of Section
2334 76-6-108;
2335 (H) a domestic violence offense as defined in Section 77-36-1; or
2336 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
2337 other than a class A misdemeanor conviction for possession of a controlled substance in
2338 violation of Subsection 58-37-8(2)(a)(i).
2339 (6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
2340 after trial, a plea of guilty, or a plea of nolo contendere.
2341 (7) "Department" means the Department of Public Safety established in Section
2342 53-1-103.
2343 (8) "Drug possession offense" means an offense under:
2344 (a) Subsection 58-37-8(2), except:
2345 (i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of
2346 marijuana[;];
2347 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
2348 facility; or [Subsection 58-37-8(2)(g);]
2349 (iii) driving with a controlled substance illegally in the person's body and negligently
2350 causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah

2351 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2352 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

2353 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

2354 (d) any local ordinance which is substantially similar to any of the offenses described

2355 in this Subsection (8).

2356 (9) "Expunge" means to seal or otherwise restrict access to the individual's record held
2357 by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

2358 (10) "Jurisdiction" means a state, district, province, political subdivision, territory, or
2359 possession of the United States or any foreign country.

2360 (11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any
2361 local ordinance, except:

2362 (a) any drug possession offense;

2363 (b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

2364 (c) Sections 73-18-13 through 73-18-13.6;

2365 (d) those offenses defined in Title 76, Utah Criminal Code; or

2366 (e) any local ordinance that is substantially similar to those offenses listed in

2367 Subsections (11)(a) through (d).

2368 (12) "Petitioner" means an individual applying for expungement under this chapter.

2369 (13) (a) "Traffic offense" means:

2370 (i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41,

2371 Chapter 6a, Traffic Code;

2372 (ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

2373 (iii) Title 73, Chapter 18, State Boating Act; and

2374 (iv) all local ordinances that are substantially similar to those offenses.

2375 (b) "Traffic offense" does not mean:

2376 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

2377 (ii) Sections 73-18-13 through 73-18-13.6; or

2378 (iii) any local ordinance that is substantially similar to the offenses listed in

2379 Subsections (13)(b)(i) and (ii).

2380 Section 25. Section 77-40-105 is amended to read:

2381 **77-40-105. Requirements to apply for a certificate of eligibility to expunge**

2382 **conviction.**

2383 (1) An individual convicted of an offense may apply to the bureau for a certificate of
2384 eligibility to expunge the record of conviction as provided in this section.

2385 (2) Except as provided in Subsection (3), an individual is not eligible to receive a
2386 certificate of eligibility from the bureau if:

2387 (a) the conviction for which expungement is sought is:

2388 (i) a capital felony;

2389 (ii) a first degree felony;

2390 (iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

2391 [~~(iv) felony automobile homicide;~~]

2392 [~~(v)~~] (iv) a felony conviction described in Subsection 41-6a-501(2);

2393 [~~(vi)~~] (v) a registerable sex offense as defined in Subsection 77-41-102(17); or

2394 [~~(vii)~~] (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

2395 (b) a criminal proceeding is pending against the petitioner; or

2396 (c) the petitioner intentionally or knowingly provides false or misleading information
2397 on the application for a certificate of eligibility.

2398 (3) The eligibility limitation described in Subsection (2) does not apply in relation to a
2399 conviction for a qualifying sexual offense, as defined in Subsection 76-3-209(1), if, at the time
2400 of the offense, the individual who committed the offense was at least 14 years old, but under 18
2401 years old, unless the conviction occurred in district court after the individual was:

2402 (a) charged by criminal information under Section 80-6-502 or 80-6-503; and

2403 (b) bound over to district court under Section 80-6-504.

2404 (4) A petitioner seeking to obtain expungement for a record of conviction is not
2405 eligible to receive a certificate of eligibility from the bureau until all of the following have
2406 occurred:

2407 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
2408 conviction for which expungement is sought;

2409 (b) the petitioner has paid in full all restitution ordered by the court under Section
2410 77-38b-205; and

2411 (c) the following time periods have elapsed from the date the petitioner was convicted
2412 or released from incarceration, parole, or probation, whichever occurred last, for each

2413 conviction the petitioner seeks to expunge:

2414 (i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a
2415 felony conviction of operating a motor vehicle with any amount of a controlled substance in an
2416 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,

2417 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

2418 (ii) seven years in the case of a felony;

2419 (iii) five years in the case of any class A misdemeanor or a felony drug possession
2420 offense;

2421 (iv) four years in the case of a class B misdemeanor; or

2422 (v) three years in the case of any other misdemeanor or infraction.

2423 (5) When determining whether to issue a certificate of eligibility, the bureau may not
2424 consider:

2425 (a) a petitioner's pending or previous:

2426 (i) infraction;

2427 (ii) traffic offense;

2428 (iii) minor regulatory offense; or

2429 (iv) clean slate eligible case that was automatically expunged in accordance with
2430 Section 77-40-114; or

2431 (b) a fine or fee related to an offense described in Subsection (5)(a).

2432 (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner
2433 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
2434 including previously expunged convictions, contains any of the following, except as provided
2435 in Subsection (9):

2436 (a) two or more felony convictions other than for drug possession offenses, each of
2437 which is contained in a separate criminal episode;

2438 (b) any combination of three or more convictions other than for drug possession
2439 offenses that include two class A misdemeanor convictions, each of which is contained in a
2440 separate criminal episode;

2441 (c) any combination of four or more convictions other than for drug possession
2442 offenses that include three class B misdemeanor convictions, each of which is contained in a
2443 separate criminal episode; or

2444 (d) five or more convictions other than for drug possession offenses of any degree
2445 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

2446 (7) The bureau may not issue a certificate of eligibility if, at the time the petitioner
2447 seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history,
2448 including previously expunged convictions, contains any of the following:

2449 (a) three or more felony convictions for drug possession offenses, each of which is
2450 contained in a separate criminal episode; or

2451 (b) any combination of five or more convictions for drug possession offenses, each of
2452 which is contained in a separate criminal episode.

2453 (8) If the petitioner's criminal history contains convictions for both a drug possession
2454 offense and a non drug possession offense arising from the same criminal episode, that criminal
2455 episode shall be counted as provided in Subsection (6) if any non drug possession offense in
2456 that episode:

2457 (a) is a felony or class A misdemeanor; or

2458 (b) has the same or a longer waiting period under Subsection (4) than any drug
2459 possession offense in that episode.

2460 (9) If at least 10 years have elapsed from the date the petitioner was convicted or
2461 released from incarceration, parole, or probation, whichever occurred last, for all convictions,
2462 then each eligibility limit defined in Subsection (6) shall be increased by one.

2463 (10) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah
2464 Board of Pardons and Parole, the petitioner is entitled to an expungement order for all
2465 pardoned crimes pursuant to Section [77-27-5.1](#).

2466 Section 26. Section **78B-9-402** is amended to read:

2467 **78B-9-402. Petition for determination of factual innocence -- Sufficient**
2468 **allegations -- Notification of victim -- Payment to surviving spouse.**

2469 (1) A person who has been convicted of a felony offense may petition the district court
2470 in the county in which the person was convicted for a hearing to establish that the person is
2471 factually innocent of the crime or crimes of which the person was convicted.

2472 (2) (a) The petition shall contain an assertion of factual innocence under oath by the
2473 petitioner and shall aver, with supporting affidavits or other credible documents, that:

2474 (i) newly discovered material evidence exists that, if credible, establishes that the

2475 petitioner is factually innocent;

2476 (ii) the specific evidence identified by the petitioner in the petition establishes
2477 innocence;

2478 (iii) the material evidence is not merely cumulative of evidence that was known;

2479 (iv) the material evidence is not merely impeachment evidence; and

2480 (v) viewed with all the other evidence, the newly discovered evidence demonstrates
2481 that the petitioner is factually innocent.

2482 (b) (i) The court shall review the petition in accordance with the procedures in
2483 Subsection (9)(b), and make a finding that the petition has satisfied the requirements of
2484 Subsection (2)(a).

2485 (ii) If the court finds the petition does not meet all the requirements of Subsection
2486 (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to
2487 the petitioner and the attorney general.

2488 (3) (a) The petition shall also contain an averment that:

2489 (i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of
2490 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
2491 postconviction motion, and the evidence could not have been discovered by the petitioner or
2492 the petitioner's counsel through the exercise of reasonable diligence; or

2493 (ii) a court has found ineffective assistance of counsel for failing to exercise reasonable
2494 diligence in uncovering the evidence.

2495 (b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the
2496 court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

2497 (ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied,
2498 the court may dismiss the petition without prejudice and give notice to the petitioner and the
2499 attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a)
2500 if the court finds the petition should proceed to hearing based upon the strength of the petition,
2501 and that there is other evidence that could have been discovered through the exercise of
2502 reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

2503 (A) was not discovered by the petitioner or the petitioner's counsel;

2504 (B) is material upon the issue of factual innocence; and

2505 (C) has never been presented to a court.

2506 (4) (a) If the conviction for which the petitioner asserts factual innocence was based
2507 upon a plea of guilty, the petition shall contain the specific nature and content of the evidence
2508 that establishes factual innocence.

2509 (b) The court shall review the evidence and may dismiss the petition at any time in the
2510 course of the proceedings, if the court finds that the evidence of factual innocence relies solely
2511 upon the recantation of testimony or prior statements made by a witness against the petitioner,
2512 and the recantation appears to the court to be equivocal or self serving.

2513 (5) A person who has already obtained postconviction relief that vacated or reversed
2514 the person's conviction or sentence may also file a petition under this part in the same manner
2515 and form as described above, if no retrial or appeal regarding this offense is pending.

2516 (6) If some or all of the evidence alleged to be exonerating is biological evidence
2517 subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section
2518 [78B-9-301](#).

2519 (7) Except as provided in Subsection (9), the petition and all subsequent proceedings
2520 shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and
2521 shall include the underlying criminal case number.

2522 (8) After a petition is filed under this section, prosecutors, law enforcement officers,
2523 and crime laboratory personnel shall cooperate in preserving evidence and in determining the
2524 sufficiency of the chain of custody of the evidence which is the subject of the petition.

2525 (9) (a) A person who files a petition under this section shall serve notice of the petition
2526 and a copy of the petition upon the office of the prosecutor who obtained the conviction and
2527 upon the Utah attorney general.

2528 (b) (i) The assigned judge shall conduct an initial review of the petition.

2529 (ii) If it is apparent to the court that the petitioner is either merely relitigating facts,
2530 issues, or evidence presented in previous proceedings or presenting issues that appear frivolous
2531 or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal,
2532 and serve notice of dismissal upon the petitioner and the attorney general.

2533 (iii) If, upon completion of the initial review, the court does not dismiss the petition,
2534 the court shall order the attorney general to file a response to the petition.

2535 (iv) The attorney general shall, within 30 days after the day on which the attorney
2536 general receives the court's order, or within any additional period of time the court allows,

2537 answer or otherwise respond to all proceedings initiated under this part.

2538 (c) (i) After the time for response by the attorney general under Subsection (9)(b) has
2539 passed, the court shall order a hearing if the court finds the petition meets the requirements of
2540 Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence
2541 regarding the charges of which the petitioner was convicted.

2542 (ii) No bona fide and compelling issue of factual innocence exists if the petitioner is
2543 merely relitigating facts, issues, or evidence presented in a previous proceeding or if the
2544 petitioner is unable to identify with sufficient specificity the nature and reliability of the newly
2545 discovered evidence that establishes the petitioner's factual innocence.

2546 (d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually
2547 innocent, the court may find the petitioner is factually innocent without holding a hearing.

2548 (ii) If the state will not stipulate that the evidence establishes that the petitioner is
2549 factually innocent, no determination of factual innocence may be made by the court without
2550 first holding a hearing under this part.

2551 (10) The court may not grant a petition for a hearing under this part during the period
2552 in which criminal proceedings in the matter are pending before any trial or appellate court,
2553 unless stipulated to by the parties.

2554 (11) Any victim of a crime that is the subject of a petition under this part, and who has
2555 elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any
2556 hearing regarding the petition.

2557 (12) (a) A petition to determine factual innocence under this part, or Part 3,
2558 Postconviction Testing of DNA, shall be filed separately from any petition for postconviction
2559 relief under Part 1, General Provisions.

2560 (b) Separate petitions may be filed simultaneously in the same court.

2561 (13) The procedures governing the filing and adjudication of a petition to determine
2562 factual innocence apply to all petitions currently filed or pending in the district court and any
2563 new petitions filed on or after June 1, 2012.

2564 (14) (a) As used in this Subsection (14) and in Subsection (15):

2565 (i) "Married" means the legal marital relationship established between two individuals
2566 and as recognized by the law; and

2567 (ii) "Spouse" means an individual married to the petitioner at the time the petitioner

2568 was found guilty of the offense regarding which a petition is filed and who has since then been
2569 continuously married to the petitioner until the petitioner's death.

2570 (b) A claim for determination of factual innocence under this part is not extinguished
2571 upon the death of the petitioner.

2572 (c) (i) If any payments are already being made to the petitioner under this part at the
2573 time of the death of the petitioner, or if the finding of factual innocence occurs after the death
2574 of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with
2575 Section 78B-9-405 to the petitioner's surviving spouse.

2576 (ii) Payments cease upon the death of the spouse.

2577 (15) The spouse under Subsection (14) forfeits all rights to receive any payment under
2578 this part if the spouse is charged with a homicide established by a preponderance of the
2579 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,
2580 Offenses Against the Person, except [~~automobile homicide~~] negligently operating a vehicle
2581 resulting in death under Section 76-5-207, applying the same principles of culpability and
2582 defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of
2583 Criminal Responsibility.

2584 Section 27. Section 80-6-707 is amended to read:

2585 **80-6-707. Suspension of driving privileges.**

2586 (1) This section applies to a minor who:

2587 (a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age
2588 eligible for a driver license under Section 53-3-204; and

2589 (b) is found by the juvenile court to be in actual physical control of a motor vehicle
2590 during the commission of the offense for which the minor is adjudicated.

2591 (2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a
2592 violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

2593 (i) suspend the minor's driving privileges; and

2594 (ii) take possession of the minor's driver license.

2595 (b) The juvenile court may order any other eligible disposition under Subsection (1),
2596 except for a disposition under Section 80-6-703 or 80-6-705.

2597 (c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

2598 (i) the juvenile court shall prepare and send the order to the Driver License Division of

2599 the Department of Public Safety; and

2600 (ii) the minor's license shall be suspended under Section 53-3-219.

2601 (3) The juvenile court may reduce a suspension period imposed under Section
2602 53-3-219 if:

2603 (a) (i) the violation is the minor's first violation of:

2604 (A) Section 32B-4-409;

2605 (B) Section 32B-4-410;

2606 (C) Section 58-37-8;

2607 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

2608 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; [or]

2609 (F) Subsection 76-5-102.1(2)(b);

2610 (G) Subsection 76-5-207(2)(b); or

2611 [~~F~~] (H) Subsection 76-9-701(1); and

2612 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

2613 (B) the minor demonstrates substantial progress in substance use disorder treatment; or

2614 (b) (i) the violation is the minor's second or subsequent violation of:

2615 (A) Section 32B-4-409;

2616 (B) Section 32B-4-410;

2617 (C) Section 58-37-8;

2618 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

2619 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; [or]

2620 (F) Subsection 76-5-102.1(2)(b);

2621 (G) Subsection 76-5-207(2)(b); or

2622 [~~F~~] (H) Subsection 76-9-701(1);

2623 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
2624 demonstrated substantial progress in substance use disorder treatment; and

2625 (iii) (A) the minor is 18 years old or older and provides a sworn statement to the
2626 juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a
2627 one-year consecutive period during the suspension period imposed under Section 53-3-219; or

2628 (B) the minor is under 18 years old and the minor's parent or legal guardian provides an
2629 affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's

2630 knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year
2631 consecutive period during the suspension period imposed under Section 53-3-219.

2632 (4) (a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as
2633 defined in Section 32B-4-411:

2634 (i) the juvenile court may forward a record of adjudication to the Department of Public
2635 Safety for a first or subsequent violation; and

2636 (ii) the minor's driving privileges will be suspended:

2637 (A) for a period of at least one year under Section 53-3-220 for a first conviction for a
2638 violation of Section 32B-4-411; or

2639 (B) for a period of two years for a second or subsequent conviction for a violation of
2640 Section 32B-4-411.

2641 (b) The juvenile court may reduce the suspension period imposed under Subsection

2642 (4)(a)(ii)(A) if:

2643 (i) the violation is the minor's first violation of Section 32B-4-411; and

2644 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

2645 (B) the minor demonstrates substantial progress in substance use disorder treatment.

2646 (c) The juvenile court may reduce the suspension period imposed under Subsection

2647 (4)(a)(ii)(B) if:

2648 (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

2649 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
2650 demonstrated substantial progress in substance use disorder treatment; and

2651 (iii) (A) the minor is 18 years old or older and provides a sworn statement to the court
2652 that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive
2653 period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

2654 (B) the minor is under 18 years old and has the minor's parent or guardian provide an
2655 affidavit or sworn statement to the court certifying that to the parent or guardian's knowledge
2656 the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive
2657 period during the suspension period imposed under Subsection (4)(a)(ii)(B).

2658 (5) When the Department of Public Safety receives the arrest or conviction record of a
2659 minor for a driving offense committed while the minor's license is suspended under this
2660 section, the Department of Public Safety shall extend the suspension for a like period of time.

2661 Section 28. Section **80-6-712** is amended to read:

2662 **80-6-712. Time periods for supervision of probation or placement -- Termination**
2663 **of continuing jurisdiction.**

2664 (1) If the juvenile court places a minor on probation under Section **80-6-702**, the
2665 juvenile court shall establish a period of time for supervision for the minor that is:

2666 (a) if the minor is placed on intake probation, no more than three months; or

2667 (b) if the minor is placed on formal probation, from four to six months, but may not
2668 exceed six months.

2669 (2) (a) If the juvenile court commits a minor to the division under Section **80-6-703**,
2670 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

2671 (i) for a minor placed out of the home, a period of custody from three to six months,
2672 but may not exceed six months; and

2673 (ii) for aftercare services if the minor was placed out of the home, a period of
2674 supervision from three to four months, but may not exceed four months.

2675 (b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of
2676 a qualifying relative or guardian, or at an independent living program contracted or operated by
2677 the division.

2678 (3) If the juvenile court orders a minor to secure care, the authority shall:

2679 (a) have jurisdiction over the minor's case; and

2680 (b) apply the provisions of Part 8, Commitment and Parole.

2681 (4) (a) In accordance with Section **80-6-711** and Subsections (1) and (2), the juvenile
2682 court shall terminate continuing jurisdiction over a minor's case at the end of the time period
2683 described in Subsection (1) for probation, or Subsection (2) for commitment to the division,
2684 unless:

2685 (i) termination would interrupt the completion of the treatment program determined to
2686 be necessary by the results of a validated risk and needs assessment under Section **80-6-606**;

2687 (ii) the minor commits a new misdemeanor or felony offense;

2688 (iii) community or compensatory service hours have not been completed;

2689 (iv) there is an outstanding fine; or

2690 (v) there is a failure to pay restitution in full.

2691 (b) The juvenile court shall determine whether a minor has completed a treatment

2692 program under Subsection (4)(a)(i) by considering:

- 2693 (i) the recommendations of the licensed service provider for the treatment program;
- 2694 (ii) the minor's record in the treatment program; and
- 2695 (iii) the minor's completion of the goals of the treatment program.

2696 (5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists
2697 the juvenile court may extend supervision for the time needed to address the specific
2698 circumstance.

2699 (6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court
2700 may extend supervision for no more than three months.

2701 (7) If the juvenile court extends supervision under this section, the grounds for the
2702 extension and the length of any extension shall be recorded in the court records and tracked in
2703 the data system used by the Administrative Office of the Courts and the division.

2704 (8) For a minor who is under the continuing jurisdiction of the juvenile court and
2705 whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only
2706 be extended as intake probation.

2707 (9) If a minor leaves supervision without authorization for more than 24 hours, the
2708 supervision period for the minor shall toll until the minor returns.

2709 (10) This section does not apply to any minor adjudicated under this chapter for:

- 2710 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 2711 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 2712 (c) Section 76-5-203, murder or attempted murder;
- 2713 (d) Section 76-5-205, manslaughter;
- 2714 (e) Section 76-5-206, negligent homicide;
- 2715 (f) Section 76-5-207, [~~automobile homicide~~] negligently operating a vehicle resulting
2716 in death;
- 2717 (g) Section 76-5-207.5, automobile homicide involving handheld wireless
2718 communication device;
- 2719 (h) Section 76-5-208, child abuse homicide;
- 2720 (i) Section 76-5-209, homicide by assault;
- 2721 (j) Section 76-5-302, aggravated kidnapping;
- 2722 (k) Section 76-5-405, aggravated sexual assault;

- 2723 (l) a felony violation of Section 76-6-103, aggravated arson;
- 2724 (m) Section 76-6-203, aggravated burglary;
- 2725 (n) Section 76-6-302, aggravated robbery;
- 2726 (o) Section 76-10-508.1, felony discharge of a firearm;
- 2727 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 2728 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
- 2729 (ii) the minor has been previously adjudicated or convicted of an offense involving the
- 2730 use of a dangerous weapon; or
- 2731 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 2732 the minor has been previously committed to the division for secure care.
- 2733 Section 29. Section 80-6-804 is amended to read:
- 2734 **80-6-804. Review and termination of secure care.**
- 2735 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 2736 offender shall appear before the authority within 45 days after the day on which the juvenile
- 2737 offender is ordered to secure care for review of a treatment plan and to establish parole release
- 2738 guidelines.
- 2739 (2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the
- 2740 authority shall set a presumptive term of commitment for the juvenile offender from three to
- 2741 six months, but the presumptive term may not exceed six months.
- 2742 (b) The authority shall release the juvenile offender on parole at the end of the
- 2743 presumptive term of commitment unless:
- 2744 (i) termination would interrupt the completion of a treatment program determined to be
- 2745 necessary by the results of a validated risk and needs assessment under Section 80-6-606; or
- 2746 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 2747 (c) The authority shall determine whether a juvenile offender has completed a
- 2748 treatment program under Subsection (2)(b)(i) by considering:
- 2749 (i) the recommendations of the licensed service provider for the treatment program;
- 2750 (ii) the juvenile offender's record in the treatment program; and
- 2751 (iii) the juvenile offender's completion of the goals of the treatment program.
- 2752 (d) The authority may extend the length of commitment and delay parole release for the
- 2753 time needed to address the specific circumstance if one of the circumstances under Subsection

2754 (2)(b) exists.

2755 (e) The authority shall:

2756 (i) record the length of the extension and the grounds for the extension; and

2757 (ii) report annually the length and grounds of extension to the commission.

2758 (f) Records under Subsection (2)(e) shall be tracked in the data system used by the
2759 juvenile court and the division.

2760 (3) (a) If a juvenile offender is committed to secure care, the authority shall set a
2761 presumptive term of parole supervision, including aftercare services, from three to four months,
2762 but the presumptive term may not exceed four months.

2763 (b) If the authority determines that a juvenile offender is unable to return home
2764 immediately upon release, the juvenile offender may serve the term of parole in the home of a
2765 qualifying relative or guardian or at an independent living program contracted or operated by
2766 the division.

2767 (c) The authority shall release a juvenile offender from parole and terminate the
2768 authority's jurisdiction at the end of the presumptive term of parole, unless:

2769 (i) termination would interrupt the completion of a treatment program that is
2770 determined to be necessary by the results of a validated risk and needs assessment under
2771 Section [80-6-606](#);

2772 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

2773 (iii) restitution has not been completed.

2774 (d) The authority shall determine whether a juvenile offender has completed a
2775 treatment program under Subsection (2)(c)(i) by considering:

2776 (i) the recommendations of the licensed service provider;

2777 (ii) the juvenile offender's record in the treatment program; and

2778 (iii) the juvenile offender's completion of the goals of the treatment program.

2779 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
2780 parole release only for the time needed to address the specific circumstance.

2781 (f) The authority shall:

2782 (i) record the grounds for extension of the presumptive length of parole and the length
2783 of the extension; and

2784 (ii) report annually the extension and the length of the extension to the commission.

2785 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
2786 juvenile court and the division.

2787 (h) If a juvenile offender leaves parole supervision without authorization for more than
2788 24 hours, the term of parole shall toll until the juvenile offender returns.

2789 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure
2790 care for:

2791 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

2792 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

2793 (c) Section 76-5-203, murder or attempted murder;

2794 (d) Section 76-5-205, manslaughter;

2795 (e) Section 76-5-206, negligent homicide;

2796 (f) Section 76-5-207, [~~automobile homicide~~] negligently operating a vehicle resulting
2797 in death;

2798 (g) Section 76-5-207.5, automobile homicide involving a handheld wireless
2799 communication device;

2800 (h) Section 76-5-208, child abuse homicide;

2801 (i) Section 76-5-209, homicide by assault;

2802 (j) Section 76-5-302, aggravated kidnapping;

2803 (k) Section 76-5-405, aggravated sexual assault;

2804 (l) a felony violation of Section 76-6-103, aggravated arson;

2805 (m) Section 76-6-203, aggravated burglary;

2806 (n) Section 76-6-302, aggravated robbery;

2807 (o) Section 76-10-508.1, felony discharge of a firearm;

2808 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
2809 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

2810 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
2811 involving the use of a dangerous weapon, as defined in Section 76-1-601; or

2812 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
2813 juvenile offender has been previously committed to the division for secure care.

2814 (5) (a) The division may continue to have responsibility over a juvenile offender, who
2815 is discharged under this section from parole, to participate in a specific educational or

2816 rehabilitative program:

2817 (i) until the juvenile offender is:

2818 (A) if the juvenile offender is a youth offender, 21 years old; or

2819 (B) if the juvenile offender is a serious youth offender, 25 years old; and

2820 (ii) under an agreement by the division and the juvenile offender that the program has
2821 certain conditions.

2822 (b) The division and the juvenile offender may terminate participation in a program
2823 under Subsection (5)(a) at any time.

2824 (c) The division shall offer an educational or rehabilitative program before a juvenile
2825 offender's discharge date in accordance with this section.

2826 (d) A juvenile offender may request the services described in this Subsection (5), even
2827 if the offender has been previously declined services or services were terminated for
2828 noncompliance.

2829 (e) Notwithstanding Subsection (5)(c), the division:

2830 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the
2831 services described in this Subsection (5) for up to 365 days after the juvenile offender's
2832 effective date of discharge, even if the juvenile offender has previously declined services or
2833 services were terminated for noncompliance; and

2834 (ii) may reach an agreement with the juvenile offender to provide the services
2835 described in this Subsection (5) until the juvenile offender is:

2836 (A) if the juvenile offender is a youth offender, 21 years old; or

2837 (B) if the juvenile offender is a serious youth offender, 25 years old.

2838 (f) The division and the juvenile offender may terminate an agreement for services
2839 under this Subsection (5) at any time.

2840 Section 30. **Coordinating H.B. 29 with S.B. 123 -- Substantive and technical**
2841 **amendments.**

2842 If this H.B. 29 and S.B. 123, Criminal Code Recodification, both pass and become law,
2843 it is the intent of the Legislature that the Office of Legislative Research and General Counsel
2844 shall prepare the Utah Code database for publication by making the following changes:

2845 (1) enact a new Subsection 76-5-201(2)(h) to read:

2846 "(h) negligently operating a vehicle resulting in death."; and

2847 (2) modify Section [76-5-207](#) to read:

2848 " [76-5-207](#). **Negligently operating a vehicle resulting in death -- Penalties --**

2849 **Evidence.**

2850 (1) (a) As used in this section:

2851 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2852 (ii) "Criminally negligent" means the same as that term is described in Subsection

2853 [76-2-103\(4\)](#).

2854 [(a)] (iii) "Drug" [~~or "drugs"~~] means:

2855 [(i)] (A) a controlled substance [~~as defined in Section 58-37-2~~];

2856 [(ii)] (B) a drug as defined in Section [~~58-17b-102~~] [58-37-2](#); or

2857 [(iii)] (C) [~~any~~] a substance that, when knowingly, intentionally, or recklessly taken

2858 into the human body, can impair the ability of [~~a person~~] an individual to safely operate a

2859 [~~motor~~] vehicle.

2860 [(b)] "Motor vehicle" means any self-propelled vehicle and includes any automobile,

2861 truck, van, motorcycle, train, engine, watercraft, or aircraft.]

2862 [(2)(a)] ~~Criminal homicide is automobile homicide, a third degree felony, if the person]~~

2863 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that

2864 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

2865 (v) "Vehicle" means the same as that term is defined in Section [41-6a-501](#).

2866 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

2867 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

2868 (a) (i) operates a [~~motor~~] vehicle in a negligent or criminally negligent manner causing

2869 the death of another [~~and:~~] individual;

2870 [(i)] (ii) (A) has sufficient alcohol in [~~his~~] the actor's body such that a subsequent

2871 chemical test shows that the [~~person~~] actor has a blood or breath alcohol concentration of .05

2872 grams or greater at the time of the test;

2873 [(ii)] (B) is under the influence of alcohol, any drug, or the combined influence of

2874 alcohol and any drug to a degree that renders the [~~person~~] actor incapable of safely operating a

2875 vehicle; or

2876 [(iii)] (C) has a blood or breath alcohol concentration of .05 grams or greater at the

2877 time of operation[~~:~~]; or

2878 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and
2879 (ii) has in the actor's body any measurable amount of a controlled substance.

2880 ~~[(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is~~
2881 ~~subsequent to a conviction as defined in Subsection 41-6a-501(2).]~~

2882 ~~[(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to~~
2883 ~~exercise that degree of care that reasonable and prudent persons exercise under like or similar~~
2884 ~~circumstances.]~~

2885 ~~[(3) (a) Criminal homicide is automobile homicide, a second degree felony, if the~~
2886 ~~person operates a motor vehicle in a criminally negligent manner causing the death of another~~
2887 ~~and:]~~

2888 ~~[(i) has sufficient alcohol in his body that a subsequent chemical test shows that the~~
2889 ~~person has a blood or breath alcohol concentration of .05 grams or greater at the time of the~~
2890 ~~test;]~~

2891 ~~[(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol~~
2892 ~~and any drug to a degree that renders the person incapable of safely operating a vehicle; or]~~

2893 ~~[(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of~~
2894 ~~operation.]~~

2895 ~~[(b) As used in this Subsection (3), "criminally negligent" means criminal negligence~~
2896 ~~as defined by Subsection 76-2-103(4).]~~

2897 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty
2898 of:

2899 (a) a second degree felony; and

2900 (b) a separate offense for each victim suffering death as a result of the actor's violation
2901 of this section, regardless of whether the deaths arise from the same episode of driving.

2902 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in
2903 death under Subsection (2)(b) if:

2904 (a) the controlled substance was obtained under a valid prescription or order, directly
2905 from a practitioner while acting in the course of the practitioner's professional practice, or as
2906 otherwise authorized by Title 58, Occupations and Professions;

2907 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

2908 (c) the actor possessed, in the actor's body, a controlled substance listed in Section

2909 [58-37-4.2](#), if:

2910 (i) the actor is the subject of medical research conducted by a holder of a valid license
2911 to possess controlled substances under Section [58-37-6](#); and

2912 (ii) the substance was administered to the actor by the medical researcher.

2913 (5) (a) A judge imposing a sentence under this section may consider:

2914 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);

2915 (ii) the defendant's history;

2916 (iii) the facts of the case;

2917 (iv) aggravating and mitigating factors; or

2918 (v) any other relevant fact.

2919 (b) The judge may not impose a lesser sentence than would be required for a conviction
2920 based on the defendant's history under Section [41-6a-505](#).

2921 ~~[(4)]~~ (c) The standards for chemical breath analysis as provided by Section [41-6a-515](#)
2922 and the provisions for the admissibility of chemical test results as provided by Section
2923 [41-6a-516](#) apply to determination and proof of blood alcohol content under this section.

2924 ~~[(5)]~~ (d) ~~[Calculations]~~ A calculation of blood or breath alcohol concentration under
2925 this section shall be made in accordance with Subsection [41-6a-502](#)~~[(1)]~~(2).

2926 ~~[(6)]~~ (e) ~~[The]~~ Except as provided in Subsection (4), the fact that ~~[a person]~~ an actor
2927 charged with violating this section is or has been legally entitled to use alcohol or a drug is not
2928 a defense.

2929 ~~[(7)]~~ (f) Evidence of a defendant's blood or breath alcohol content or drug content is
2930 admissible except when prohibited by the Utah Rules of Evidence ~~[or the constitution]~~, the
2931 United States Constitution, or the Utah Constitution.

2932 (g) In accordance with Subsection [77-2a-3](#)(8), a guilty or no contest plea to an offense
2933 described in this section may not be held in abeyance.

2934 ~~[(8)]~~ A person is guilty of a separate offense for each victim suffering bodily injury or
2935 serious bodily injury as a result of the person's violation of Section [41-6a-502](#) or death as a
2936 result of the person's violation of this section whether or not the injuries arise from the same
2937 episode of driving.]".