

1 **WIRELESS COMMUNICATION DEVICE USE IN A MOTOR**
2 **VEHICLE**

3 2022 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Chris H. Wilson**

6 House Sponsor: Mike Schultz

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions related to the use of a wireless communication device while
11 operating a motor vehicle.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends definitions;
- 15 ▶ prohibits an individual from using a wireless communication device to view or take
16 a photograph while operating a moving motor vehicle;
- 17 ▶ modifies provisions related to suspending an individual's driver license upon a
18 conviction of using a wireless communication device while operating a moving
19 motor vehicle;
- 20 ▶ modifies the conduct that constitutes automobile homicide involving using a
21 wireless communication device while operating a moving motor vehicle; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **41-6a-1716**, as last amended by Laws of Utah 2021, Chapter 232

- 30 [53-3-218](#), as last amended by Laws of Utah 2021, Chapter 120
- 31 [53-3-402](#), as last amended by Laws of Utah 2015, Chapters 52 and 422
- 32 [76-5-207.5](#), as last amended by Laws of Utah 2012, Chapter 193
- 33 [80-6-712](#), as enacted by Laws of Utah 2021, Chapter 261
- 34 [80-6-804](#), as last amended by Laws of Utah 2021, First Special Session, Chapter 2

35

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

37 Section 1. Section **41-6a-1716** is amended to read:

38 **41-6a-1716. Prohibition on using a wireless communication device while**
39 **operating a motor vehicle -- Exceptions -- Penalties.**

40 (1) As used in this section:

41 ~~[(a) "Handheld wireless communication device" means a handheld device used for the~~
42 ~~transfer of information without the use of electrical conductors or wires.]~~

43 ~~[(b) "Handheld wireless communication device" includes a:]~~

44 ~~[(i) wireless telephone;]~~

45 ~~[(ii) text messaging device;]~~

46 ~~[(iii) laptop; or]~~

47 ~~[(iv) any substantially similar communication device that is readily removable from the~~
48 ~~vehicle and is used to write, send, or read text or data through manual input.]~~

49 ~~[(c) "Handheld wireless communication device" does not include a two-way radio~~
50 ~~device described in 47 C.F.R. Part 90, 95, or 97.]~~

51 (a) "Wireless communication device" means:

52 (i) a cellular phone;

53 (ii) a portable telephone;

54 (iii) a text messaging device;

55 (iv) a personal digital assistant;

56 (v) a stand-alone computer, including a tablet, laptop, or notebook computer;

57 (vi) a global positioning receiver;

58 (vii) a device used to display a video, movie, broadcast television image, or visual
59 image; or

60 (viii) a substantially similar communication device used to initiate or receive
61 communication, information, or data.

62 (b) "Wireless communication device" does not include a two-way radio device
63 described in 47 C.F.R. Part 90, 95, or 97, or a functional equivalent.

64 (2) Except as provided in Subsection (3), ~~[a person]~~ an individual may not use a
65 ~~[handheld]~~ wireless communication device while operating a moving motor vehicle on a
66 highway in this state to manually:

67 ~~[(a) write, send, or read a written communication, including:]~~

68 ~~[(i) a text message;]~~

69 ~~[(ii) an instant message; or]~~

70 ~~[(iii) electronic mail;]~~

71 ~~[(b) dial a phone number;]~~

72 ~~[(c) access the Internet;]~~

73 ~~[(d) view or record video; or]~~

74 ~~[(e) enter data into a handheld wireless communication device.]~~

75 (a) (i) write or send a written communication, including:

76 (A) a text message;

77 (B) an instant message; or

78 (C) electronic mail;

79 (ii) dial a phone number;

80 (iii) access the internet;

81 (iv) record video;

82 (v) take a photograph; or

83 (vi) enter data into a wireless communication device;

84 (b) read a written communication, including:

85 (i) a text message;

86 (ii) an instant message; or

87 (iii) electronic mail; or

88 (c) view a video or photograph.

89 (3) Subsection (2) does not prohibit [~~a person~~] an individual from using a [~~handheld~~]
90 wireless communication device while operating a moving motor vehicle:

91 (a) when using a [~~handheld~~] wireless communication device for voice communication;

92 (b) to view a global positioning or navigation device or a global positioning or
93 navigation application;

94 (c) during a medical emergency;

95 (d) when reporting a safety hazard or requesting assistance relating to a safety hazard;

96 (e) when reporting criminal activity or requesting assistance relating to a criminal
97 activity;

98 (f) when used by a law enforcement officer or emergency service personnel acting
99 within the course and scope of the law enforcement officer's or emergency service personnel's
100 employment; or

101 (g) to operate:

102 (i) hands-free or voice operated technology; or

103 (ii) a system that is physically or electronically integrated into the motor vehicle.

104 (4) [~~A person~~] An individual convicted of a violation of this section is guilty of a:

105 (a) class C misdemeanor with a maximum fine of \$100; or

106 (b) class B misdemeanor if the [~~person~~] individual:

107 (i) has also inflicted serious bodily injury upon another as a proximate result of using a
108 [~~handheld~~] wireless communication device in violation of this section while operating a
109 moving motor vehicle on a highway in this state; or

110 (ii) has a prior conviction under this section, that is within three years of:

111 (A) the current conviction under this section; or

112 (B) the commission of the offense upon which the current conviction is based.

113 Section 2. Section **53-3-218** is amended to read:

114 **53-3-218. Court to report convictions and may recommend suspension of license**
115 **-- Severity of speeding violation defined.**

116 (1) As used in this section, "conviction" means conviction by the court of first
117 impression or final administrative determination in an administrative traffic proceeding.

118 (2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over
119 offenses committed under this chapter or any other law of this state, or under any municipal
120 ordinance regulating driving motor vehicles on highways or driving motorboats on the water,
121 shall forward to the division within five days, an abstract of the court record of the conviction
122 or plea held in abeyance of any person in the court for a reportable traffic or motorboating
123 violation of any laws or ordinances, and may recommend the suspension of the license of the
124 person convicted.

125 (b) When the division receives a court record of a conviction or plea in abeyance for a
126 motorboat violation, the division may only take action against a person's driver license if the
127 motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the
128 Influence and Reckless Driving.

129 (c) A court may not forward to the division an abstract of a court record of a conviction
130 for a violation described in Subsection 53-3-220(1)(c)(i) or (ii), unless the court found that the
131 person convicted of the violation was an operator of a motor vehicle at the time of the
132 violation.

133 (3) (a) A court may not order the division to suspend a person's driver license based
134 solely on the person's failure to pay a penalty accounts receivable.

135 (b) The court may notify the division, and the division may, prior to sentencing,
136 suspend the driver license of a person who fails to appear if the person is charged with:

137 (i) an offense of any level that is a moving traffic violation;

138 (ii) an offense described in Title 41, Chapter 12a, Part 3, Owner's or Operator's
139 Security Requirement; or

140 (iii) an offense described in Subsection 53-3-220(1)(a) or (b).

141 (4) The abstract shall be made in the form prescribed by the division and shall include:

- 142 (a) the name, date of birth, and address of the party charged;
- 143 (b) the license certificate number of the party charged, if any;
- 144 (c) the registration number of the motor vehicle or motorboat involved;
- 145 (d) whether the motor vehicle was a commercial motor vehicle;
- 146 (e) whether the motor vehicle carried hazardous materials;
- 147 (f) whether the motor vehicle carried 16 or more occupants;
- 148 (g) whether the driver presented a commercial driver license;
- 149 (h) the nature of the offense;
- 150 (i) whether the offense involved an accident;
- 151 (j) the driver's blood alcohol content, if applicable;
- 152 (k) if the offense involved a speeding violation:
 - 153 (i) the posted speed limit;
 - 154 (ii) the actual speed; and
 - 155 (iii) whether the speeding violation occurred on a highway that is part of the interstate
- 156 system as defined in Section [72-1-102](#);
- 157 (l) the date of the hearing;
- 158 (m) the plea;
- 159 (n) the judgment or whether bail was forfeited; and
- 160 (o) the severity of the violation, which shall be graded by the court as "minimum,"
- 161 "intermediate," or "maximum" as established in accordance with Subsection [53-3-221](#)(4).
- 162 (5) When a convicted person secures a judgment of acquittal or reversal in any
- 163 appellate court after conviction in the court of first impression, the division shall reinstate the
- 164 convicted person's license immediately upon receipt of a certified copy of the judgment of
- 165 acquittal or reversal.
- 166 (6) Upon a conviction for a violation of the prohibition on using a ~~handheld~~ wireless
- 167 communication device ~~[for text messaging or electronic mail communication]~~ while operating
- 168 a moving motor vehicle under Section [41-6a-1716](#), a judge may order a suspension of the
- 169 convicted person's license for a period of three months.

170 (7) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that
171 causes or results in the death of another person, a judge may order a revocation of the convicted
172 person's license for a period of one year.

173 Section 3. Section 53-3-402 is amended to read:

174 **53-3-402. Definitions.**

175 As used in this part:

176 (1) "Alcohol" means any substance containing any form of alcohol, including ethanol,
177 methanol, propanol, and isopropanol.

178 (2) "Alcohol concentration" means the number of grams of alcohol per:

179 (a) 100 milliliters of blood;

180 (b) 210 liters of breath; or

181 (c) 67 milliliters of urine.

182 (3) "Commercial driver license information system" or "CDLIS" means the
183 information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle
184 Safety Act of 1986, as a clearinghouse for information related to the licensing and
185 identification of commercial motor vehicle drivers.

186 (4) "Controlled substance" means any substance so classified under Section 102(6) of
187 the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the
188 current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to
189 time.

190 (5) "Employee" means any driver of a commercial motor vehicle, including:

191 (a) full-time, regularly employed drivers;

192 (b) casual, intermittent, or occasional drivers;

193 (c) leased drivers; and

194 (d) independent, owner-operator contractors while in the course of driving a
195 commercial motor vehicle who are either directly employed by or under lease to an employer.

196 (6) "Employer" means any individual or person including the United States, a state, or
197 a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an

198 individual to drive a commercial motor vehicle.

199 (7) "Felony" means any offense under state or federal law that is punishable by death or
200 imprisonment for a term of more than one year.

201 (8) "Foreign jurisdiction" means any jurisdiction other than the United States or a state
202 of the United States.

203 (9) "Gross vehicle weight rating" or "GVWR" means the value specified by the
204 manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or
205 articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed
206 units and the loads on those units.

207 (10) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec.
208 383.5.

209 (11) "Imminent hazard" means the existence of a condition, practice, or violation that
210 presents a substantial likelihood that death, serious illness, severe personal injury, or a
211 substantial endangerment to health, property, or the environment is expected to occur
212 immediately, or before the condition, practice, or violation can be abated.

213 (12) "Medical certification status" means the medical certification of a commercial
214 driver license holder or commercial motor vehicle operator in any of the following categories:

215 (a) Non-excepted interstate. A person shall certify that the person:

216 (i) operates or expects to operate in interstate commerce;

217 (ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part
218 391; and

219 (iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

220 (b) Excepted interstate. A person shall certify that the person:

221 (i) operates or expects to operate in interstate commerce, but engages exclusively in
222 transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3
223 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

224 (ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec.
225 391.45.

- 226 (c) Non-excepted intrastate. A person shall certify that the person:
227 (i) operates only in intrastate commerce; and
228 (ii) is subject to state driver qualification requirements under Sections 53-3-303.5,
229 53-3-304, and 53-3-414.
- 230 (d) Excepted intrastate. A person shall certify that the person:
231 (i) operates in intrastate commerce; and
232 (ii) engages exclusively in transportation or operations excepted from all parts of the
233 state driver qualification requirements.
- 234 (13) "NDR" means the National Driver Register.
- 235 (14) "Nonresident CDL" means a commercial driver license issued by a state to an
236 individual who resides in a foreign jurisdiction.
- 237 (15) "Out-of-service order" means a temporary prohibition against driving a
238 commercial motor vehicle.
- 239 (16) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.
- 240 (17) "Serious traffic violation" means a conviction of any of the following:
241 (a) speeding 15 or more miles per hour above the posted speed limit;
242 (b) reckless driving as defined by state or local law;
243 (c) improper or erratic traffic lane changes;
244 (d) following the vehicle ahead too closely;
245 (e) any other motor vehicle traffic law which arises in connection with a fatal traffic
246 accident;
247 (f) operating a commercial motor vehicle without a CDL or a CDIP;
248 (g) operating a commercial motor vehicle without the proper class of CDL or CDL
249 endorsement for the type of vehicle group being operated or for the passengers or cargo being
250 transported;
251 (h) operating a commercial motor vehicle without a CDL or CDIP license certificate in
252 the driver's possession in violation of Section 53-3-404;
253 (i) using a [handheld] wireless communication device in violation of Section

254 [41-6a-1716](#) while operating a commercial motor vehicle; or

255 (j) using a hand-held mobile telephone while operating a commercial motor vehicle in
256 violation of 49 C.F.R. Sec. 392.82.

257 (18) "State" means a state of the United States, the District of Columbia, any province
258 or territory of Canada, or Mexico.

259 (19) "United States" means the 50 states and the District of Columbia.

260 Section 4. Section **76-5-207.5** is amended to read:

261 **76-5-207.5. Automobile homicide involving using a wireless communication**
262 **device while operating a motor vehicle.**

263 (1) As used in this section:

264 (a) "Criminally negligent" means criminal negligence as defined ~~[by]~~ in Subsection
265 [76-2-103\(4\)](#).

266 ~~[(b) "Handheld wireless communication device" has the same meaning as defined in~~
267 ~~Section [41-6a-1716](#).]~~

268 ~~[(c)]~~ (b) "Motor vehicle" means any self-propelled vehicle ~~[and includes any]~~,
269 including an automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

270 ~~[(d)]~~ (c) "Negligent" means ~~[simple negligence,]~~ the failure to exercise ~~[that]~~ the
271 degree of care that a reasonable and prudent ~~[persons exercise under like or]~~ person exercises
272 under similar circumstances.

273 (d) "Wireless communication device" means the same as that term is defined in Section
274 [41-6a-1716](#).

275 (2) Criminal homicide is automobile homicide, a third degree felony, if the person
276 operates a moving motor vehicle in a negligent manner:

277 (a) while using a ~~[handheld]~~ wireless communication device in violation of Section
278 [41-6a-1716](#); and

279 (b) causing the death of another person.

280 (3) Criminal homicide is automobile homicide, a second degree felony, if the person
281 operates a moving motor vehicle in a criminally negligent manner:

282 (a) while using a ~~handheld~~ wireless communication device in violation of Section
283 41-6a-1716; and

284 (b) causing the death of another person.

285 Section 5. Section 80-6-712 is amended to read:

286 **80-6-712. Time periods for supervision of probation or placement -- Termination**
287 **of continuing jurisdiction.**

288 (1) If the juvenile court places a minor on probation under Section 80-6-702, the
289 juvenile court shall establish a period of time for supervision for the minor that is:

290 (a) if the minor is placed on intake probation, no more than three months; or

291 (b) if the minor is placed on formal probation, from four to six months, but may not
292 exceed six months.

293 (2) (a) If the juvenile court commits a minor to the division under Section 80-6-703,
294 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

295 (i) for a minor placed out of the home, a period of custody from three to six months,
296 but may not exceed six months; and

297 (ii) for aftercare services if the minor was placed out of the home, a period of
298 supervision from three to four months, but may not exceed four months.

299 (b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of
300 a qualifying relative or guardian, or at an independent living program contracted or operated by
301 the division.

302 (3) If the juvenile court orders a minor to secure care, the authority shall:

303 (a) have jurisdiction over the minor's case; and

304 (b) apply the provisions of Part 8, Commitment and Parole.

305 (4) (a) In accordance with Section 80-6-711 and Subsections (1) and (2), the juvenile
306 court shall terminate continuing jurisdiction over a minor's case at the end of the time period
307 described in Subsection (1) for probation, or Subsection (2) for commitment to the division,
308 unless:

309 (i) termination would interrupt the completion of the treatment program determined to

310 be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

311 (ii) the minor commits a new misdemeanor or felony offense;

312 (iii) community or compensatory service hours have not been completed;

313 (iv) there is an outstanding fine; or

314 (v) there is a failure to pay restitution in full.

315 (b) The juvenile court shall determine whether a minor has completed a treatment
316 program under Subsection (4)(a)(i) by considering:

317 (i) the recommendations of the licensed service provider for the treatment program;

318 (ii) the minor's record in the treatment program; and

319 (iii) the minor's completion of the goals of the treatment program.

320 (5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists
321 the juvenile court may extend supervision for the time needed to address the specific
322 circumstance.

323 (6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court
324 may extend supervision for no more than three months.

325 (7) If the juvenile court extends supervision under this section, the grounds for the
326 extension and the length of any extension shall be recorded in the court records and tracked in
327 the data system used by the Administrative Office of the Courts and the division.

328 (8) For a minor who is under the continuing jurisdiction of the juvenile court and
329 whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only
330 be extended as intake probation.

331 (9) If a minor leaves supervision without authorization for more than 24 hours, the
332 supervision period for the minor shall toll until the minor returns.

333 (10) This section does not apply to any minor adjudicated under this chapter for:

334 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

335 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

336 (c) Section 76-5-203, murder or attempted murder;

337 (d) Section 76-5-205, manslaughter;

- 338 (e) Section 76-5-206, negligent homicide;
 - 339 (f) Section 76-5-207, automobile homicide;
 - 340 (g) Section 76-5-207.5, automobile homicide involving [~~handheld~~] using a wireless
 - 341 communication device while operating a motor vehicle;
 - 342 (h) Section 76-5-208, child abuse homicide;
 - 343 (i) Section 76-5-209, homicide by assault;
 - 344 (j) Section 76-5-302, aggravated kidnapping;
 - 345 (k) Section 76-5-405, aggravated sexual assault;
 - 346 (l) a felony violation of Section 76-6-103, aggravated arson;
 - 347 (m) Section 76-6-203, aggravated burglary;
 - 348 (n) Section 76-6-302, aggravated robbery;
 - 349 (o) Section 76-10-508.1, felony discharge of a firearm;
 - 350 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
 - 351 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
 - 352 (ii) the minor has been previously adjudicated or convicted of an offense involving the
 - 353 use of a dangerous weapon; or
 - 354 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
 - 355 the minor has been previously committed to the division for secure care.
- 356 Section 6. Section 80-6-804 is amended to read:
- 357 **80-6-804. Review and termination of secure care.**
- 358 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
 - 359 offender shall appear before the authority within 45 days after the day on which the juvenile
 - 360 offender is ordered to secure care for review of a treatment plan and to establish parole release
 - 361 guidelines.
 - 362 (2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the
 - 363 authority shall set a presumptive term of commitment for the juvenile offender from three to
 - 364 six months, but the presumptive term may not exceed six months.
 - 365 (b) The authority shall release the juvenile offender on parole at the end of the

366 presumptive term of commitment unless:

367 (i) termination would interrupt the completion of a treatment program determined to be
368 necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

369 (ii) the juvenile offender commits a new misdemeanor or felony offense.

370 (c) The authority shall determine whether a juvenile offender has completed a
371 treatment program under Subsection (2)(b)(i) by considering:

372 (i) the recommendations of the licensed service provider for the treatment program;

373 (ii) the juvenile offender's record in the treatment program; and

374 (iii) the juvenile offender's completion of the goals of the treatment program.

375 (d) The authority may extend the length of commitment and delay parole release for the
376 time needed to address the specific circumstance if one of the circumstances under Subsection
377 (2)(b) exists.

378 (e) The authority shall:

379 (i) record the length of the extension and the grounds for the extension; and

380 (ii) report annually the length and grounds of extension to the commission.

381 (f) Records under Subsection (2)(e) shall be tracked in the data system used by the
382 juvenile court and the division.

383 (3) (a) If a juvenile offender is committed to secure care, the authority shall set a
384 presumptive term of parole supervision, including aftercare services, from three to four months,
385 but the presumptive term may not exceed four months.

386 (b) If the authority determines that a juvenile offender is unable to return home
387 immediately upon release, the juvenile offender may serve the term of parole in the home of a
388 qualifying relative or guardian or at an independent living program contracted or operated by
389 the division.

390 (c) The authority shall release a juvenile offender from parole and terminate the
391 authority's jurisdiction at the end of the presumptive term of parole, unless:

392 (i) termination would interrupt the completion of a treatment program that is
393 determined to be necessary by the results of a validated risk and needs assessment under

394 Section 80-6-606;

395 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

396 (iii) restitution has not been completed.

397 (d) The authority shall determine whether a juvenile offender has completed a
398 treatment program under Subsection (2)(c)(i) by considering:

399 (i) the recommendations of the licensed service provider;

400 (ii) the juvenile offender's record in the treatment program; and

401 (iii) the juvenile offender's completion of the goals of the treatment program.

402 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
403 parole release only for the time needed to address the specific circumstance.

404 (f) The authority shall:

405 (i) record the grounds for extension of the presumptive length of parole and the length
406 of the extension; and

407 (ii) report annually the extension and the length of the extension to the commission.

408 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
409 juvenile court and the division.

410 (h) If a juvenile offender leaves parole supervision without authorization for more than
411 24 hours, the term of parole shall toll until the juvenile offender returns.

412 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure
413 care for:

414 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

415 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

416 (c) Section 76-5-203, murder or attempted murder;

417 (d) Section 76-5-205, manslaughter;

418 (e) Section 76-5-206, negligent homicide;

419 (f) Section 76-5-207, automobile homicide;

420 (g) Section 76-5-207.5, automobile homicide involving [~~a handheld~~] using a wireless
421 communication device while operating a motor vehicle;

- 422 (h) Section 76-5-208, child abuse homicide;
- 423 (i) Section 76-5-209, homicide by assault;
- 424 (j) Section 76-5-302, aggravated kidnapping;
- 425 (k) Section 76-5-405, aggravated sexual assault;
- 426 (l) a felony violation of Section 76-6-103, aggravated arson;
- 427 (m) Section 76-6-203, aggravated burglary;
- 428 (n) Section 76-6-302, aggravated robbery;
- 429 (o) Section 76-10-508.1, felony discharge of a firearm;
- 430 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
- 431 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
- 432 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
- 433 involving the use of a dangerous weapon, as defined in Section 76-1-601; or
- 434 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
- 435 juvenile offender has been previously committed to the division for secure care.
- 436 (5) (a) The division may continue to have responsibility over a juvenile offender, who
- 437 is discharged under this section from parole, to participate in a specific educational or
- 438 rehabilitative program:
 - 439 (i) until the juvenile offender is:
 - 440 (A) if the juvenile offender is a youth offender, 21 years old; or
 - 441 (B) if the juvenile offender is a serious youth offender, 25 years old; and
 - 442 (ii) under an agreement by the division and the juvenile offender that the program has
 - 443 certain conditions.
- 444 (b) The division and the juvenile offender may terminate participation in a program
- 445 under Subsection (5)(a) at any time.
- 446 (c) The division shall offer an educational or rehabilitative program before a juvenile
- 447 offender's discharge date in accordance with this section.
- 448 (d) A juvenile offender may request the services described in this Subsection (5), even
- 449 if the offender has been previously declined services or services were terminated for

450 noncompliance.

451 (e) Notwithstanding Subsection (5)(c), the division:

452 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the
453 services described in this Subsection (5) for up to 365 days after the juvenile offender's
454 effective date of discharge, even if the juvenile offender has previously declined services or
455 services were terminated for noncompliance; and

456 (ii) may reach an agreement with the juvenile offender to provide the services
457 described in this Subsection (5) until the juvenile offender is:

458 (A) if the juvenile offender is a youth offender, 21 years old; or

459 (B) if the juvenile offender is a serious youth offender, 25 years old.

460 (f) The division and the juvenile offender may terminate an agreement for services
461 under this Subsection (5) at any time.