

Senator Chris H. Wilson proposes the following substitute bill:

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

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Mike Schultz

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

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) manually:

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

77 (A) a text message;

78 (B) an instant message; or

79 (C) electronic mail;

80 (ii) dial a phone number;

81 (iii) access the internet;

82 (iv) record video;

83 (v) take a photograph; or

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

85 (b) read a written communication, including:

86 (i) a text message;

87 (ii) an instant message; or

88 (iii) electronic mail; or

89 (c) view a video or photograph.

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

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

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

95 (c) during a medical emergency;

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

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

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

102 (g) to operate:

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

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

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

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

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

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

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

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

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

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

115 **53-3-218. Court to report convictions and may recommend suspension of license**

116 -- **Severity of speeding violation defined.**

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

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

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

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

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

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

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

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

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

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

143 (a) the name, date of birth, and address of the party charged;

144 (b) the license certificate number of the party charged, if any;

145 (c) the registration number of the motor vehicle or motorboat involved;

146 (d) whether the motor vehicle was a commercial motor vehicle;

147 (e) whether the motor vehicle carried hazardous materials;

148 (f) whether the motor vehicle carried 16 or more occupants;

149 (g) whether the driver presented a commercial driver license;

- 150 (h) the nature of the offense;
- 151 (i) whether the offense involved an accident;
- 152 (j) the driver's blood alcohol content, if applicable;
- 153 (k) if the offense involved a speeding violation:
- 154 (i) the posted speed limit;
- 155 (ii) the actual speed; and
- 156 (iii) whether the speeding violation occurred on a highway that is part of the interstate
- 157 system as defined in Section 72-1-102;

- 158 (l) the date of the hearing;
- 159 (m) the plea;
- 160 (n) the judgment or whether bail was forfeited; and
- 161 (o) the severity of the violation, which shall be graded by the court as "minimum,"
- 162 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

163 (5) When a convicted person secures a judgment of acquittal or reversal in any
164 appellate court after conviction in the court of first impression, the division shall reinstate the
165 convicted person's license immediately upon receipt of a certified copy of the judgment of
166 acquittal or reversal.

167 (6) Upon a conviction for a violation of the prohibition on using a [handheld] wireless
168 communication device [~~for text messaging or electronic mail communication~~] while operating
169 a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the
170 convicted person's license for a period of three months.

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

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

175 **53-3-402. Definitions.**

176 As used in this part:

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

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

180 (a) 100 milliliters of blood;

181 (b) 210 liters of breath; or

182 (c) 67 milliliters of urine.

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

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

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

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

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

194 (c) leased drivers; and

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

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

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

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

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

208 (10) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec.
209 383.5.

210 (11) "Imminent hazard" means the existence of a condition, practice, or violation that
211 presents a substantial likelihood that death, serious illness, severe personal injury, or a

212 substantial endangerment to health, property, or the environment is expected to occur
213 immediately, or before the condition, practice, or violation can be abated.

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

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

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

218 (ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part
219 391; and

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

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

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

225 (ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec.
226 391.45.

227 (c) Non-excepted intrastate. A person shall certify that the person:

228 (i) operates only in intrastate commerce; and

229 (ii) is subject to state driver qualification requirements under Sections [53-3-303.5](#),
230 [53-3-304](#), and [53-3-414](#).

231 (d) Excepted intrastate. A person shall certify that the person:

232 (i) operates in intrastate commerce; and

233 (ii) engages exclusively in transportation or operations excepted from all parts of the
234 state driver qualification requirements.

235 (13) "NDR" means the National Driver Register.

236 (14) "Nonresident CDL" means a commercial driver license issued by a state to an
237 individual who resides in a foreign jurisdiction.

238 (15) "Out-of-service order" means a temporary prohibition against driving a
239 commercial motor vehicle.

240 (16) "Port-of-entry agent" has the same meaning as provided in Section [72-1-102](#).

241 (17) "Serious traffic violation" means a conviction of any of the following:

242 (a) speeding 15 or more miles per hour above the posted speed limit;

- 243 (b) reckless driving as defined by state or local law;
- 244 (c) improper or erratic traffic lane changes;
- 245 (d) following the vehicle ahead too closely;
- 246 (e) any other motor vehicle traffic law which arises in connection with a fatal traffic
- 247 accident;
- 248 (f) operating a commercial motor vehicle without a CDL or a CDIP;
- 249 (g) operating a commercial motor vehicle without the proper class of CDL or CDL
- 250 endorsement for the type of vehicle group being operated or for the passengers or cargo being
- 251 transported;
- 252 (h) operating a commercial motor vehicle without a CDL or CDIP license certificate in
- 253 the driver's possession in violation of Section 53-3-404;
- 254 (i) using a [~~handheld~~] wireless communication device in violation of Section
- 255 41-6a-1716 while operating a commercial motor vehicle; or
- 256 (j) using a hand-held mobile telephone while operating a commercial motor vehicle in
- 257 violation of 49 C.F.R. Sec. 392.82.

258 (18) "State" means a state of the United States, the District of Columbia, any province

259 or territory of Canada, or Mexico.

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

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

262 **76-5-207.5. Automobile homicide involving using a wireless communication**

263 **device while operating a motor vehicle.**

264 (1) As used in this section:

265 (a) "Criminally negligent" means criminal negligence as defined [~~by~~] in Subsection

266 76-2-103(4).

267 [~~(b) "Handheld wireless communication device" has the same meaning as defined in~~

268 ~~Section 41-6a-1716.]~~

269 [~~(c)~~] (b) "Motor vehicle" means any self-propelled vehicle [~~and includes any~~],

270 including an automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

271 [~~(d)~~] (c) "Negligent" means [~~simple negligence,~~] the failure to exercise [~~that~~] the

272 degree of care that a reasonable and prudent [~~persons exercise under like or~~] person exercises

273 under similar circumstances.

274 (d) "Wireless communication device" means the same as that term is defined in Section
275 41-6a-1716.

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

278 (a) while using a [handheld] wireless communication device in violation of Section
279 41-6a-1716; and

280 (b) causing the death of another person.

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

283 (a) while using a [handheld] wireless communication device in violation of Section
284 41-6a-1716; and

285 (b) causing the death of another person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

314 (iv) there is an outstanding fine; or

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

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

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

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

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

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

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

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

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

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

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

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

- 336 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
 - 337 (c) Section 76-5-203, murder or attempted murder;
 - 338 (d) Section 76-5-205, manslaughter;
 - 339 (e) Section 76-5-206, negligent homicide;
 - 340 (f) Section 76-5-207, automobile homicide;
 - 341 (g) Section 76-5-207.5, automobile homicide involving [~~handheld~~] using a wireless
 - 342 communication device while operating a motor vehicle;
 - 343 (h) Section 76-5-208, child abuse homicide;
 - 344 (i) Section 76-5-209, homicide by assault;
 - 345 (j) Section 76-5-302, aggravated kidnapping;
 - 346 (k) Section 76-5-405, aggravated sexual assault;
 - 347 (l) a felony violation of Section 76-6-103, aggravated arson;
 - 348 (m) Section 76-6-203, aggravated burglary;
 - 349 (n) Section 76-6-302, aggravated robbery;
 - 350 (o) Section 76-10-508.1, felony discharge of a firearm;
 - 351 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
 - 352 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
 - 353 (ii) the minor has been previously adjudicated or convicted of an offense involving the
 - 354 use of a dangerous weapon; or
 - 355 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
 - 356 the minor has been previously committed to the division for secure care.
- 357 Section 6. Section 80-6-804 is amended to read:
- 358 **80-6-804. Review and termination of secure care.**
- 359 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 360 offender shall appear before the authority within 45 days after the day on which the juvenile
- 361 offender is ordered to secure care for review of a treatment plan and to establish parole release
- 362 guidelines.
- 363 (2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the
- 364 authority shall set a presumptive term of commitment for the juvenile offender from three to
- 365 six months, but the presumptive term may not exceed six months.
- 366 (b) The authority shall release the juvenile offender on parole at the end of the

367 presumptive term of commitment unless:

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

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

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

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

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

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

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

379 (e) The authority shall:

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

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

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

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

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

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

393 (i) termination would interrupt the completion of a treatment program that is
394 determined to be necessary by the results of a validated risk and needs assessment under
395 Section 80-6-606;

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

397 (iii) restitution has not been completed.

- 398 (d) The authority shall determine whether a juvenile offender has completed a
399 treatment program under Subsection (2)(c)(i) by considering:
400 (i) the recommendations of the licensed service provider;
401 (ii) the juvenile offender's record in the treatment program; and
402 (iii) the juvenile offender's completion of the goals of the treatment program.
- 403 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
404 parole release only for the time needed to address the specific circumstance.
- 405 (f) The authority shall:
406 (i) record the grounds for extension of the presumptive length of parole and the length
407 of the extension; and
408 (ii) report annually the extension and the length of the extension to the commission.
- 409 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
410 juvenile court and the division.
- 411 (h) If a juvenile offender leaves parole supervision without authorization for more than
412 24 hours, the term of parole shall toll until the juvenile offender returns.
- 413 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure
414 care for:
415 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
416 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
417 (c) Section 76-5-203, murder or attempted murder;
418 (d) Section 76-5-205, manslaughter;
419 (e) Section 76-5-206, negligent homicide;
420 (f) Section 76-5-207, automobile homicide;
421 (g) Section 76-5-207.5, automobile homicide involving [~~a handheld~~] using a wireless
422 communication device while operating a motor vehicle;
423 (h) Section 76-5-208, child abuse homicide;
424 (i) Section 76-5-209, homicide by assault;
425 (j) Section 76-5-302, aggravated kidnapping;
426 (k) Section 76-5-405, aggravated sexual assault;
427 (l) a felony violation of Section 76-6-103, aggravated arson;
428 (m) Section 76-6-203, aggravated burglary;

- 429 (n) Section 76-6-302, aggravated robbery;
- 430 (o) Section 76-10-508.1, felony discharge of a firearm;
- 431 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
- 432 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
- 433 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
- 434 involving the use of a dangerous weapon, as defined in Section 76-1-601; or
- 435 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
- 436 juvenile offender has been previously committed to the division for secure care.
- 437 (5) (a) The division may continue to have responsibility over a juvenile offender, who
- 438 is discharged under this section from parole, to participate in a specific educational or
- 439 rehabilitative program:
 - 440 (i) until the juvenile offender is:
 - 441 (A) if the juvenile offender is a youth offender, 21 years old; or
 - 442 (B) if the juvenile offender is a serious youth offender, 25 years old; and
 - 443 (ii) under an agreement by the division and the juvenile offender that the program has
 - 444 certain conditions.
- 445 (b) The division and the juvenile offender may terminate participation in a program
- 446 under Subsection (5)(a) at any time.
- 447 (c) The division shall offer an educational or rehabilitative program before a juvenile
- 448 offender's discharge date in accordance with this section.
- 449 (d) A juvenile offender may request the services described in this Subsection (5), even
- 450 if the offender has been previously declined services or services were terminated for
- 451 noncompliance.
- 452 (e) Notwithstanding Subsection (5)(c), the division:
 - 453 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the
 - 454 services described in this Subsection (5) for up to 365 days after the juvenile offender's
 - 455 effective date of discharge, even if the juvenile offender has previously declined services or
 - 456 services were terminated for noncompliance; and
 - 457 (ii) may reach an agreement with the juvenile offender to provide the services
 - 458 described in this Subsection (5) until the juvenile offender is:
 - 459 (A) if the juvenile offender is a youth offender, 21 years old; or

- 460 (B) if the juvenile offender is a serious youth offender, 25 years old.
- 461 (f) The division and the juvenile offender may terminate an agreement for services
- 462 under this Subsection (5) at any time.