

1173 injury to an individual.

1174 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
1175 76-5-202, aggravated murder, is a capital felony unless:

1176 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

1177 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting
1178 attorney has not filed a notice to seek the death penalty.

1179 (4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an
1180 individual would not constitute a substantial danger to any other person or the community if:

1181 (a) the court orders the person to participate in an inpatient drug and alcohol treatment
1182 program; or

1183 (b) the court orders the person to participate in home confinement through the use of
1184 electronic monitoring as described in Section 41-6a-506.

1185 Section 12. **Effective date.**

1186 This bill takes effect on July 1, 2024.

1187 Section 13. **Coordinating H.B. 395 with S.B. 200 if S.B. 213 does not pass and**
1188 **become law.**

1189 If H.B. 395, DUI Offense Amendments, and S.B. 200, State Commission on Criminal
1190 and Juvenile Justice Amendments, both pass and become law, and S.B. 213, Criminal Justice
1191 Modifications, does not pass and become law, the Legislature intends that, on July 1, 2024,
1192 Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1193 "63M-7-404.3. Adult sentencing and supervision length guidelines.

1194 (1) The sentencing commission shall establish and maintain adult sentencing and
1195 supervision length guidelines regarding:

1196 (a) the sentencing and release of offenders in order to:

1197 (i) ~~§~~→ [respond to] accept ←~~§~~ public comment;

1198 (ii) relate sentencing practices and correctional resources;

1199 (iii) increase equity in sentencing;

1200 (iv) better define responsibility in sentencing; and

1201 (v) enhance the discretion of the sentencing court while preserving the role of the
1202 Board of Pardons and Parole;

1203 (b) the length of supervision of offenders on probation or parole in order to:

- 1204 (i) ~~§~~ → [respond to] accept ← ~~§~~ public comment;
1205 (ii) increase equity in criminal supervision lengths;
1206 (iii) relate the length of supervision to an offender's progress;
1207 (iv) take into account an offender's risk of offending again;
1208 (v) relate the length of supervision to the amount of time an offender has remained
1209 under supervision in the community; and
1210 (vi) enhance the discretion of the sentencing court while preserving the role of the
1211 Board of Pardons and Parole; and
1212 (c) appropriate, evidence-based probation and parole supervision policies and services
1213 that assist offenders in successfully completing supervision and reduce incarceration rates from
1214 community supervision programs while ensuring public safety, including:
1215 (i) treatment and intervention completion determinations based on individualized case
1216 action plans;
1217 (ii) measured and consistent processes for addressing violations of conditions of
1218 supervision;
1219 (iii) processes that include using positive reinforcement to recognize an offender's
1220 progress in supervision;
1221 (iv) engaging with social services agencies and other stakeholders who provide
1222 services that meet the needs of an offender; and
1223 (v) identifying community violations that may not warrant revocation of probation or
1224 parole.
1225 (2) The sentencing commission shall modify:
1226 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
1227 purposes of protecting the public and ensuring efficient use of state funds; and
1228 (b) the criminal history score in the adult sentencing and supervision length guidelines
1229 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
1230 accurate determination of an individual's risk of offending again.
1231 (3) (a) Before July 1, 2024, the commission shall review and revise the commission's
1232 sentencing guidelines and supervision length guidelines to reflect appropriate penalties for the
1233 following offenses:
1234 (i) an interlock restricted driver operating a vehicle without an ignition interlock