

**Representative Ryan D. Wilcox** proposes the following substitute bill:

**DUI TESTING AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ryan D. Wilcox**

Senate Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill amends provisions related to testing of bodily fluids for purposes of an investigation of driving under the influence.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health and Human Services to:
  - test blood and urine samples for both drugs and alcohol;
  - provide the testing results in a timely manner; and
  - provide test results through a secure medium to the Driver License Division and relevant law enforcement agencies;
- ▶ clarifies that the Department of Health and Human Services may disclose the results of a drug and alcohol screening as part of the investigation for driving under the influence;
- ▶ amends a provision allowing the use of a blood and urine test in certain administrative proceedings;
- ▶ enacts provisions regarding permissible uses of a blood and urine test by the Driver License Division;
- ▶ amends provisions related to shortening a driver license suspension, in certain



26 circumstances, for a person participating in a 24-7 sobriety program;

27       ▶ requires the Department of Public Safety to make rules to establish standards for  
28 proper usage and administration of oral fluid and portable breath tests as part of a  
29 field sobriety test;

30       ▶ requires law enforcement agencies to provide training on the use of oral fluid and  
31 portable breath tests as part of a field sobriety test;

32       ▶ allows evidence obtained through oral fluid and portable breath tests to support a  
33 finding of probable cause that a person is guilty of driving under the influence; and

34       ▶ makes technical changes.

35 **Money Appropriated in this Bill:**

36       None

37 **Other Special Clauses:**

38       None

39 **Utah Code Sections Affected:**

40 AMENDS:

41       **26B-1-216**, as renumbered and amended by Laws of Utah 2023, Chapter 305

42       **26B-8-406**, as renumbered and amended by Laws of Utah 2023, Chapter 306

43       **26B-8-407**, as renumbered and amended by Laws of Utah 2023, Chapter 306

44       **26B-8-408**, as renumbered and amended by Laws of Utah 2023, Chapter 306

45       **41-6a-509**, as last amended by Laws of Utah 2023, Chapters 239, 384

46       **41-6a-515.6**, as enacted by Laws of Utah 2017, Chapter 283

47       **53-3-104**, as last amended by Laws of Utah 2021, Chapter 284

48 ENACTS:

49       **53-3-111**, Utah Code Annotated 1953

50       **53-25-102**, Utah Code Annotated 1953



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

53       Section 1. Section **26B-1-216** is amended to read:

54       **26B-1-216. Powers and duties of the department -- Quality and design.**

55       The department shall:

56       (1) monitor and evaluate the quality of services provided by the department including:

- 57 (a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making  
58 recommendations relating to a fatality review;
- 59 (b) overseeing the duties of the child protection ombudsman appointed under Section  
60 [80-2-1104](#); and
- 61 (c) conducting internal evaluations of the quality of services provided by the  
62 department and service providers contracted with the department;
- 63 (2) conduct investigations described in Section [80-2-703](#); [~~and~~]
- 64 (3) develop an integrated human services system and implement a system of care by:
- 65 (a) designing and implementing a comprehensive continuum of services for individuals  
66 who receive services from the department or a service provider contracted with the department;
- 67 (b) establishing and maintaining department contracts with public and private service  
68 providers;
- 69 (c) establishing standards for the use of service providers who contract with the  
70 department;
- 71 (d) coordinating a service provider network to be used within the department to ensure  
72 individuals receive the appropriate type of services;
- 73 (e) centralizing the department's administrative operations; and
- 74 (f) integrating, analyzing, and applying department-wide data and research to monitor  
75 the quality, effectiveness, and outcomes of services provided by the department[~~;~~] ; and
- 76 (4) (a) coordinate with the Driver License Division, the Department of Public Safety,  
77 and any other law enforcement agency to test and provide results of blood and urine samples  
78 submitted to the department as part of an investigation for a driving offense that may have  
79 occurred and there is reason to believe the individual's blood or urine may contain:
- 80 (i) alcohol; or
- 81 (ii) any other drug or substance that could impair an individual or that is illegal for the  
82 individual to possess or consume; and
- 83 (b) ensure that the results of the test described in Subsection (4)(a) are provided  
84 through a secure medium and in a timely manner.

85 Section 2. Section **26B-8-406** is amended to read:

86 **26B-8-406. Disclosure of health data -- Limitations.**

87 The department may not make a disclosure of any identifiable health data unless:

- 88 (1) one of the following persons has consented to the disclosure:  
89 (a) the individual;  
90 (b) the next-of-kin if the individual is deceased;  
91 (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or  
92 (d) a person holding a power of attorney covering such matters on behalf of the  
93 individual;
- 94 (2) the disclosure is to a governmental entity in this or another state or the federal  
95 government, provided that:  
96 (a) the data will be used for a purpose for which they were collected by the department;  
97 and  
98 (b) the recipient enters into a written agreement satisfactory to the department agreeing  
99 to protect such data in accordance with the requirements of this part and department rule and  
100 not permit further disclosure without prior approval of the department;
- 101 (3) the disclosure is to an individual or organization, for a specified period, solely for  
102 bona fide research and statistical purposes, determined in accordance with department rules,  
103 and the department determines that the data are required for the research and statistical  
104 purposes proposed and the requesting individual or organization enters into a written  
105 agreement satisfactory to the department to protect the data in accordance with this part and  
106 department rule and not permit further disclosure without prior approval of the department;
- 107 (4) the disclosure is to a governmental entity for the purpose of conducting an audit,  
108 evaluation, or investigation of the department and such governmental entity agrees not to use  
109 those data for making any determination affecting the rights, benefits, or entitlements of any  
110 individual to whom the health data relates;
- 111 (5) the disclosure is of specific medical or epidemiological information to authorized  
112 personnel within the department, local health departments, public health authorities, official  
113 health agencies in other states, the United States Public Health Service, the Centers for Disease  
114 Control and Prevention (CDC), or agencies responsible to enforce quarantine, when necessary  
115 to continue patient services or to undertake public health efforts to control communicable,  
116 infectious, acute, chronic, or any other disease or health hazard that the department considers to  
117 be dangerous or important or that may affect the public health;
- 118 (6) (a) the disclosure is of specific medical or epidemiological information to a "health

119 care provider" as defined in Section [78B-3-403](#), health care personnel, or public health  
 120 personnel who has a legitimate need to have access to the information in order to assist the  
 121 patient or to protect the health of others closely associated with the patient; and

122 (b) this Subsection (6) does not create a duty to warn third parties;

123 (7) the disclosure is necessary to obtain payment from an insurer or other third-party  
 124 payor in order for the department to obtain payment or to coordinate benefits for a patient; ~~or~~

125 (8) the disclosure is to the subject of the identifiable health data~~[-]~~ ; or

126 (9) the disclosure is limited to the results of a blood or urine test and the disclosure is:

127 (a) to the Driver License Division, for the purposes described in Section [53-3-111](#); or

128 (b) to the relevant law enforcement agency as part of an investigation and pursuant to

129 Subsection [26B-1-216\(4\)](#).

130 Section 3. Section **26B-8-407** is amended to read:

131 **26B-8-407. Disclosure of health data -- Discretion of department -- Exception.**

132 (1) Any disclosure provided for in Section [26B-8-406](#) shall be made at the discretion of  
 133 the department.

134 (2) Notwithstanding Subsection (1), the disclosure provided for in:

135 (a) Subsection [26B-8-406\(4\)](#) shall be made when the requirements of that paragraph  
 136 are met~~[-]~~ ; and

137 (b) Subsection [26B-8-406\(9\)](#) is not discretionary.

138 Section 4. Section **26B-8-408** is amended to read:

139 **26B-8-408. Health data not subject to subpoena or compulsory process --**  
 140 **Exception.**

141 (1) ~~[Identifiable]~~ Except as provided in Subsection (2), identifiable health data  
 142 obtained in the course of activities undertaken or supported under this part may not be subject  
 143 to discovery, subpoena, or similar compulsory process in any civil or criminal, judicial,  
 144 administrative, or legislative proceeding, nor shall any individual or organization with lawful  
 145 access to identifiable health data under the provisions of this part be compelled to testify with  
 146 regard to such health data, except that data pertaining to a party in litigation may be subject to  
 147 subpoena or similar compulsory process in an action brought by or on behalf of such individual  
 148 to enforce any liability arising under this part.

149 (2) The Driver License Division may use an individual's identifiable health data from

150 blood or urine test provided to the Driver License Division under Section 26B-1-216 in an  
151 administrative hearing, agency review, or judicial review involving the individual who is the  
152 subject of the blood or urine test as described in Section 53-3-111.

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

154 **41-6a-509. Driver license suspension or revocation for a driving under the**  
155 **influence violation.**

156 (1) (a) The Driver License Division shall, if the person is 21 years old or older at the  
157 time of arrest:

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

160 (ii) revoke for a period of two years the license of a person if:

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

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

164 (b) (i) If a person elects to become an interlock restricted driver under Subsection  
165 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a  
166 violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to  
167 complete 120 days of the interlock restriction.

168 (ii) If a person elects to become an interlock restricted driver under Subsection  
169 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the  
170 Driver License Division:

171 (A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period  
172 of 120 days from the date the ignition interlock system was removed from the vehicle; and

173 (B) may not reduce the 120-day suspension for any days the person was compliant with  
174 the interlock restriction under Subsection 53-3-223(10)(a).

175 (c) (i) If a person elects to become an interlock restricted driver under Subsection  
176 41-6a-521(7), the Driver License Division may not suspend the operator's license for a  
177 violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to  
178 complete three years of the interlock restriction under Subsection 41-6a-521(7).

179 (ii) If a person elects to become an interlock restricted driver under Subsection  
180 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the

181 Driver License Division:

182 (A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period  
183 of 120 days from the date the ignition interlock system was removed from the vehicle; and

184 (B) may not reduce the 120-day suspension for any days the person was compliant with  
185 the interlock restriction under Subsection 41-6a-521(7).

186 (2) The Driver License Division shall, if the person is 19 years old or older but under  
187 21 years old at the time of arrest:

188 (a) suspend the person's driver license until the person is 21 years old or for a period of  
189 one year, whichever is longer, if the person is convicted for the first time of a violation under  
190 Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July  
191 1, 2011;

192 (b) deny the person's application for a license or learner's permit until the person is 21  
193 years old or for a period of one year, whichever is longer, if the person:

194 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or  
195 76-5-207 of an offense committed on or after July 1, 2011; and

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

197 (c) revoke the person's driver license until the person is 21 years old or for a period of  
198 two years, whichever is longer, if:

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

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

202 (d) deny the person's application for a license or learner's permit until the person is 21  
203 years old or for a period of two years, whichever is longer, if:

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

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

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

208 (3) The Driver License Division shall, if the person is under 19 years old at the time of  
209 arrest:

210 (a) suspend the person's driver license until the person is 21 years old if the person is  
211 convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

212 (b) deny the person's application for a license or learner's permit until the person is 21  
213 years old if the person:

214 (i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or  
215 76-5-207; and

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

217 (c) revoke the person's driver license until the person is 21 years old if:

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

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

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

221 (d) deny the person's application for a license or learner's permit until the person is 21  
222 years old if:

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

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

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

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

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

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

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

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

240 (7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1,  
241 or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License  
242 Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or



243 Subsection (3)(a) or (b) prior to completion of the suspension period if the person:  
244 (a) completes at least six months of the license suspension;  
245 (b) completes a screening;  
246 (c) completes an assessment, if it is found appropriate by a screening under Subsection  
247 (7)(b);  
248 (d) completes substance abuse treatment if it is found appropriate by the assessment  
249 under Subsection (7)(c);  
250 (e) completes an educational series if substance abuse treatment is not required by an  
251 assessment under Subsection (7)(c) or the court does not order substance abuse treatment;  
252 (f) has not been convicted of a violation of any motor vehicle law in which the person  
253 was involved as the operator of the vehicle during the suspension period imposed under  
254 Subsection (2)(a) or (b) or Subsection (3)(a) or (b);  
255 (g) has complied with all the terms of the person's probation or all orders of the court if  
256 not ordered to probation; and  
257 (h) (i) is 18 years old or older and provides a sworn statement to the court that the  
258 person has not unlawfully consumed alcohol during the suspension period imposed under  
259 Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or  
260 (ii) is under 18 years old and has the person's parent or legal guardian provide an  
261 affidavit or sworn statement to the court certifying that to the parent or legal guardian's  
262 knowledge the person has not unlawfully consumed alcohol during the suspension period  
263 imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).  
264 (8) If the court shortens a person's license suspension period in accordance with the  
265 requirements of Subsection (7), the court shall forward the order shortening the person's  
266 suspension period to the Driver License Division in a manner specified by the division prior to  
267 the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection  
268 (3)(a) or (b).  
269 (9) (a) (i) In addition to any other penalties provided in this section, a court may order  
270 the operator's license of a person who is convicted of a violation of Section [41-6a-502](#),  
271 [76-5-102.1](#), or [76-5-207](#) to be suspended or revoked for an additional period of 90 days, 120  
272 days, 180 days, one year, or two years to remove from the highways those persons who have  
273 shown they are safety hazards.

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

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

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

282 (i) screenings;

283 (ii) assessments;

284 (iii) educational series;

285 (iv) substance abuse treatment; and

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

287 (b) Subject to Subsection 53-3-218(3), upon receiving the notification described in  
288 Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with  
289 Subsection 53-3-221(2).

290 (11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the  
291 Driver License Division may shorten the suspension or revocation period imposed under  
292 Subsection (1) before completion of the suspension or revocation period if the person:

293 (i) is participating in or has successfully completed a 24-7 sobriety program as defined  
294 in Section 41-6a-515.5; ~~or~~

295 (ii) (A) is participating in or has successfully completed a problem solving court  
296 program approved by the Judicial Council, including a driving under the influence court  
297 program or a drug court program; and

298 (B) has elected to become an interlock restricted driver as a condition of probation  
299 during the remainder of the person's suspension or revocation period in accordance with  
300 Section 41-6a-518[-] ; or

301 (iii) has had their operator license suspended under Subsection (1)(a)(i), and the court  
302 does not have a problem solving court program approved by the Judicial Council, if the person:

303 (A) has installed an ignition interlock device in any vehicle owned or driven by the  
304 person in accordance with Section 53-3-1007; and

305 (B) did not inflict bodily injury upon another as a proximate result of having operated  
306 the vehicle in a negligent manner.

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

311 (c) The court shall notify the Driver License Division, in a manner specified by the  
312 Driver License Division, if a person fails to complete or comply with a condition that allowed  
313 the court to shorten the person's license suspension or revocation period under Subsection  
314 (11)(a).

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

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

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

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

329 Section 6. Section [41-6a-515.6](#) is amended to read:

330 **[41-6a-515.6. Field sobriety test training.](#)**

331 Each law enforcement agency shall ensure that each peace officer receives training on  
332 the current standard field sobriety testing guidelines established by the National Highway  
333 Traffic Safety Administration and in accordance with Section [53-25-102](#).

334 Section 7. Section [53-3-104](#) is amended to read:

335 **[53-3-104. Division duties.](#)**

336 The division shall:

337 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
338 make rules:

339 (a) for examining applicants for a license, as necessary for the safety and welfare of the  
340 traveling public;

341 (b) for acceptable documentation of an applicant's identity, Social Security number,  
342 Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the  
343 United States, honorable or general discharge from the United States military, and other proof  
344 or documentation required under this chapter;

345 (c) for acceptable documentation to verify that an individual is homeless as verified by  
346 the Department of Workforce Services, for purposes of residency, address verification, and  
347 obtaining a fee waiver;

348 (d) regarding the restrictions to be imposed on an individual driving a motor vehicle  
349 with a temporary learner permit or learner permit;

350 (e) for exemptions from licensing requirements as authorized in this chapter;

351 (f) establishing procedures for the storage and maintenance of applicant information  
352 provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

353 (g) to provide educational information to each applicant for a license, which  
354 information shall be based on data provided by the Division of Air Quality, including:

355 (i) ways drivers can improve air quality; and

356 (ii) the harmful effects of vehicle emissions;

357 (2) examine each applicant according to the class of license applied for;

358 (3) license motor vehicle drivers;

359 (4) file every application for a license received by the division and shall maintain  
360 indices containing:

361 (a) all applications denied and the reason each was denied;

362 (b) all applications granted; and

363 (c) the name of every licensee whose license has been suspended, disqualified, or  
364 revoked by the division and the reasons for the action;

365 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with  
366 this chapter;

- 367 (6) file all accident reports and abstracts of court records of convictions received by the  
368 division under state law;
- 369 (7) maintain a record of each licensee showing the licensee's convictions and the traffic  
370 accidents in which the licensee has been involved where a conviction has resulted;
- 371 (8) consider the record of a licensee upon an application for renewal of a license and at  
372 other appropriate times;
- 373 (9) search the license files, compile, and furnish a report on the driving record of any  
374 individual licensed in the state in accordance with Section 53-3-109;
- 375 (10) develop and implement a record system as required by Section 41-6a-604;
- 376 (11) in accordance with Section 53G-10-507, establish:
- 377 (a) procedures and standards to certify teachers of driver education classes to  
378 administer knowledge and skills tests;
- 379 (b) minimal standards for the tests; and
- 380 (c) procedures to enable school districts to administer or process any tests for students  
381 to receive a class D operator's license;
- 382 (12) in accordance with Section 53-3-510, establish:
- 383 (a) procedures and standards to certify licensed instructors of commercial driver  
384 training school courses to administer the skills test;
- 385 (b) minimal standards for the test; and
- 386 (c) procedures to enable licensed commercial driver training schools to administer or  
387 process skills tests for students to receive a class D operator's license;
- 388 (13) provide administrative support to the Driver License Medical Advisory Board  
389 created in Section 53-3-303;
- 390 (14) upon request by the lieutenant governor, provide the lieutenant governor with a  
391 digital copy of the driver license or identification card signature of an individual who is an  
392 applicant for voter registration under Section 20A-2-206; [and]
- 393 (15) in accordance with Section 53-3-407.1, establish:
- 394 (a) procedures and standards to license a commercial driver license third party tester or  
395 commercial driver license third party examiner to administer the commercial driver license  
396 skills tests;
- 397 (b) minimum standards for the commercial driver license skills test; and

398 (c) procedures to enable a licensed commercial driver license third party tester or  
399 commercial driver license third party examiner to administer a commercial driver license skills  
400 test for an applicant to receive a commercial driver license[-] ; and

401 (16) receive from the Department of Health and Human Services a result from a blood  
402 or urine test of an individual arrested for driving under the influence and use the blood or urine  
403 test result in an administrative hearing or agency review involving the individual who is the  
404 subject of the blood or urine test as described in Section 53-3-111.

405 Section 8. Section 53-3-111 is enacted to read:

406 **53-3-111. Blood and urine test reports -- Permissible uses and restrictions.**

407 (1) The division shall receive a result of a blood or urine test report in accordance with  
408 Title 26B, Chapter 8, Part 4, Health Statistics.

409 (2) (a) The division may only use an individual's personally identifiable health data  
410 from a blood and urine test in connection with:

411 (i) an administrative hearing involving that individual;

412 (ii) in accordance Title 63G, Chapter 4, Part 3, Agency Review, an agency review of  
413 the administrative hearing described in Subsection (2)(a)(i); or

414 (iii) in accordance Title 63G, Chapter 4, Part 4, Judicial Review, a judicial review of  
415 the administrative hearing described in Subsection (2)(a)(i).

416 (b) (i) The division shall aggregate and anonymize data from a blood and urine test.

417 (ii) The division may only use the anonymized and aggregated data from blood and  
418 urine tests:

419 (A) to create a report required or requested by the Legislature; or

420 (B) to create statistical reports for criminal justice agencies.

421 (3) The division shall securely retain each blood and urine test as a private record as  
422 provided in Title 63G, Chapter 2, Government Records Access and Management Act.

423 (4) The division may provide the information from a blood and urine test received  
424 under this section:

425 (a) to the individual who is the subject of the blood and urine test;

426 (b) to the individual's attorney in connection with an administrative proceeding before  
427 the division; or

428 (c) as otherwise required by law.

429 Section 9. Section **53-25-102** is enacted to read:

430 **53-25-102. Standards for oral fluid and portable breath tests -- Rulemaking.**

431 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
432 department shall make rules to establish standards for the proper use of oral fluid and portable  
433 breath testing as part of a field sobriety test.

434 (2) Each law enforcement agency shall provide training to ensure that:

435 (a) oral fluid and portable breath testing techniques and practices comply with the rules  
436 described in Subsection (1); and

437 (b) oral fluid and portable breath testing equipment is used in a manner consistent with  
438 manufacturer and industry standards.

439 (3) Evidence obtained through oral fluid testing or portable breath testing is relevant in  
440 determining probable cause that a person is guilty of an offense described in Subsection  
441 41-6a-501(2)(a)(i), 41-6a-501(2)(a)(iii) through (vii), or 41-6a-501(2)(a)(x).

442 Section 10. **Effective date.**

443 This bill takes effect on May 1, 2024.