

Senator Todd D. Weiler proposes the following substitute bill:

**PENALTY MODIFICATIONS FOR CERTAIN DUI-RELATED
OFFENSES**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to negligently operating a vehicle resulting in death and who may become an ignition interlock restricted driver.

Highlighted Provisions:

This bill:

- ▶ renames the offense of negligently operating a vehicle resulting in death;
- ▶ creates a sentencing guideline for automobile homicide;
- ▶ adds automobile homicide to the list of crimes for which probation, suspension of sentence, a lower category of offense, or hospitalization may not be granted;
- ▶ modifies the fee for an impounded vehicle;
- ▶ modifies who may elect to become an ignition interlock restricted driver; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:



26 AMENDS:

27 **41-6a-501**, as last amended by Laws of Utah 2023, Chapters 328, 415

28 **41-6a-521**, as last amended by Laws of Utah 2023, Chapter 384

29 **41-6a-1406**, as last amended by Laws of Utah 2023, Chapter 335

30 **41-6a-1901**, as last amended by Laws of Utah 2022, Chapter 116

31 **53-3-220**, as last amended by Laws of Utah 2023, Chapter 415

32 **53-3-414**, as last amended by Laws of Utah 2022, Chapters 46, 116

33 **53-10-403**, as last amended by Laws of Utah 2023, Chapters 328, 457

34 **75-2-803**, as last amended by Laws of Utah 2022, Chapters 116, 157 and 430 and last
35 amended by Coordination Clause, Laws of Utah 2022, Chapter 157

36 **76-3-406**, as last amended by Laws of Utah 2023, Chapter 184

37 **76-5-201**, as last amended by Laws of Utah 2022, Chapters 116, 181 and last amended
38 by Coordination Clause, Laws of Utah 2022, Chapters 116, 181

39 **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415

40 **78B-9-402**, as last amended by Laws of Utah 2022, Chapters 116, 430

41 **80-6-712**, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430

42 **80-6-804**, as last amended by Laws of Utah 2023, Chapter 236

43 **Utah Code Sections Affected By Coordination Clause:**

44 **76-3-406**, as last amended by Laws of Utah 2023, Chapter 184



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

47 Section 1. Section **41-6a-501** is amended to read:

48 **41-6a-501. Definitions.**

49 (1) As used in this part:

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

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

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

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

55 (iv) the vehicle is lawfully parked; and

56 (v) under the facts presented, it is evident that the person did not drive the vehicle to

57 the location while under the influence of alcohol, a drug, or the combined influence of alcohol
58 and any drug.

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

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

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

63 (B) an educational series; or

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

65 (ii) that is approved by the Division of Integrated Healthcare in accordance with
66 Section [26B-5-104](#).

67 (c) "Driving under the influence court" means a court that is approved as a driving
68 under the influence court by the Judicial Council according to standards established by the
69 Judicial Council.

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

71 (i) a controlled substance as defined in Section [58-37-2](#);

72 (ii) a drug as defined in Section [58-17b-102](#); or

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

75 (e) "Educational series" means an educational series obtained at a substance abuse
76 program that is approved by the Division of Integrated Healthcare in accordance with Section
77 [26B-5-104](#).

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

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

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

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

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

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

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

86 (A) an assessment; or

87 (B) an educational series; and

88 (ii) that is approved by the Division of Integrated Healthcare in accordance with
89 Section 26B-5-104.

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

91 (i) serious permanent disfigurement;

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

93 (iii) a substantial risk of death.

94 (j) "Substance abuse treatment" means treatment obtained at a substance abuse
95 program that is approved by the Division of Integrated Healthcare in accordance with Section
96 26B-5-104.

97 (k) "Substance abuse treatment program" means a state licensed substance abuse
98 program.

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

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

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

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

104 (2) As used in Sections 41-6a-502 and 41-6a-520.1:

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

107 (i) driving under the influence under Section 41-6a-502;

108 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
109 combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or

110 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
111 41-6a-502.5;

112 (iii) driving with any measurable controlled substance that is taken illegally in the body
113 under Section 41-6a-517;

114 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination
115 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in
116 compliance with Section 41-6a-510;

117 (v) Section 76-5-207;

118 (vi) operating a motor vehicle with any amount of a controlled substance in an

119 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
120 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

121 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

122 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of
123 conviction is reduced under Section 76-3-402;

124 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

125 (x) statutes or ordinances previously in effect in this state or in effect in any other state,
126 the United States, or any district, possession, or territory of the United States which would
127 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of
128 both-related reckless driving if committed in this state, including punishments administered
129 under 10 U.S.C. Sec. 815.

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

134 (i) enhancement of penalties under this part; and

135 (ii) expungement under Title 77, Chapter 40a, Expungement.

136 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
137 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah
138 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

139 (i) this part;

140 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

141 (iii) [~~negligently operating a vehicle resulting in death~~] automobile homicide under
142 Section 76-5-207.

143 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive
144 metabolite of a controlled substance.

145 Section 2. Section 41-6a-521 is amended to read:

146 **41-6a-521. Revocation hearing for refusal -- Appeal.**

147 (1) (a) A person who has been notified of the Driver License Division's intention to
148 revoke the person's license under Section 41-6a-520 is entitled to a hearing.

149 (b) A request for the hearing shall be made in writing within 10 calendar days after the

150 day on which notice is provided.

151 (c) Upon request in a manner specified by the Driver License Division, the Driver
152 License Division shall grant to the person an opportunity to be heard within 29 days after the
153 date of arrest.

154 (d) If the person does not make a request for a hearing before the Driver License
155 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state
156 is revoked beginning on the 45th day after the date of arrest:

157 (i) for a person 21 years old or older on the date of arrest, for a period of:

158 (A) except as provided in Subsection (1)(d)(i)(B) or (9), 18 months; or

159 (B) 36 months if the person previously committed an offense that occurred within the
160 preceding 10 years from the date of the arrest that resulted in a:

161 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
162 53-3-231;

163 (II) conviction under Section 41-6a-502 or a statute previously in effect in this state
164 that would constitute a violation of Section 41-6a-502;

165 (III) conviction for an offense under Section 76-5-102.1; or

166 (IV) conviction for an offense under Section 76-5-207; or

167 (ii) for a person under 21 years old on the date of arrest:

168 (A) except as provided in Subsection (1)(d)(ii)(B), until the person is 21 years old or
169 for a period of two years, whichever is longer; or

170 (B) until the person is 21 years old or for a period of 36 months, whichever is longer, if
171 the person previously committed an offense that occurred within the preceding 10 years from
172 the date of the arrest that resulted in a:

173 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
174 53-3-231; or

175 (II) conviction for an offense under Section 41-6a-502 or a statute previously in effect
176 in this state that would constitute a violation of Section 41-6a-502;

177 (III) conviction for an offense under Section 76-5-102.1; or

178 (IV) conviction for an offense under Section 76-5-207.

179 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,
180 the hearing shall be conducted by the Driver License Division in:

- 181 (i) the county in which the offense occurred; or
182 (ii) a county which is adjacent to the county in which the offense occurred.
- 183 (b) The Driver License Division may hold a hearing in some other county if the Driver
184 License Division and the person both agree.
- 185 (3) The hearing shall be documented and shall cover the issues of:
- 186 (a) whether a peace officer had reasonable grounds to believe that a person was
187 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or
188 53-3-231; and
- 189 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.
- 190 (4) (a) In connection with the hearing, the division or its authorized agent:
- 191 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and
192 the production of relevant books and papers; and
- 193 (ii) shall issue subpoenas for the attendance of necessary peace officers.
- 194 (b) The Driver License Division shall pay witness fees and mileage from the
195 Transportation Fund in accordance with the rates established in Section 78B-1-119.
- 196 (5) (a) If after a hearing, the Driver License Division determines that the person was
197 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the
198 person fails to appear before the Driver License Division as required in the notice, the Driver
199 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah
200 beginning on the date the hearing is held:
- 201 (i) for a person 21 years old or older on the date of arrest, for a period of:
- 202 (A) except as provided in Subsection (5)(a)(i)(B) or (9), 18 months; or
203 (B) 36 months if the person previously committed an offense that occurred within the
204 preceding 10 years from the date of the arrest that resulted in a:
- 205 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
206 53-3-231;
- 207 (II) conviction under Section 41-6a-502 or a statute previously in effect in this state
208 that would constitute a violation of Section 41-6a-502;
- 209 (III) conviction for an offense under Section 76-5-102.1; or
210 (IV) conviction for an offense under Section 76-5-207; or
211 (ii) for a person under 21 years of age on the date of arrest:

212 (A) except as provided in Subsection (5)(a)(ii)(B), until the person is 21 years old or
213 for a period of two years, whichever is longer; or

214 (B) until the person is 21 years old or for a period of 36 months, whichever is longer, if
215 the person previously committed an offense that occurred within the preceding 10 years from
216 the date of the arrest that resulted in a:

217 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
218 53-3-231;

219 (II) conviction under Section 41-6a-502 or a statute previously in effect in this state
220 that would constitute a violation of Section 41-6a-502;

221 (III) conviction for an offense under Section 76-5-102.1; or

222 (IV) conviction for an offense under Section 76-5-207.

223 (b) The Driver License Division shall also assess against the person, in addition to any
224 fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid
225 before the person's driving privilege is reinstated, to cover administrative costs.

226 (c) The fee shall be cancelled if the person obtains an unappealed court decision
227 following a proceeding allowed under Subsection (2) that the revocation was improper.

228 (6) (a) Any person whose license has been revoked by the Driver License Division
229 under this section following an administrative hearing may seek judicial review.

230 (b) Judicial review of an informal adjudicative proceeding is a trial.

231 (c) Venue is in the district court in the county in which the offense occurred.

232 (7) If the Driver License Division revokes a person's driving privilege under
233 Subsection (1)(d)(i)(A) [~~or~~], (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A), the person may petition
234 the division and elect to become an ignition interlock restricted driver after the driver serves at
235 least 90 days of the revocation if the person:

236 (a) has a valid driving privilege, with the exception of the revocation under Subsection
237 (1)(d)(i)(A) [~~or~~], (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A);

238 (b) installs an ignition interlock device in any vehicle owned or driven by the person in
239 accordance with Section 53-3-1007;

240 (c) pays the license reinstatement application fees described in Subsections
241 53-3-105(26) and (27);

242 (d) pays the appropriate original license fees under Section 53-3-105; and

243 (e) completes the license application process including successful completion of
244 required testing.

245 (8) (a) A person who elects to become an ignition interlock restricted driver under
246 Subsection (7) shall remain an ignition interlock restricted driver for a period of three years.

247 (b) If the person described under Subsection (8)(a) removes an ignition interlock
248 device from a vehicle owned or driven by the person prior to the expiration of the three-year
249 ignition interlock restriction period and does not install a new ignition interlock device from
250 the same or a different ignition interlock provider within 24 hours:

251 (i) the person's driving privilege shall be revoked under Subsection (1)(d)(i)(A) [or],
252 (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A) for a period of 18 months from the date the ignition
253 interlock device was removed from the vehicle;

254 (ii) no days may be subtracted from the 18-month revocation period under Subsection
255 (8)(b)(i) for any days the person was in compliance with the interlock restriction under
256 Subsection (7);

257 (iii) the person is required to pay the license reinstatement application fee under
258 Subsection [53-3-105](#)(26); and

259 (iv) the person may not elect to become an ignition interlock restricted driver under this
260 section.

261 (9) (a) Notwithstanding the provisions in Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the
262 division shall reinstate a person's driving privilege before completion of the revocation period
263 imposed under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) if:

264 (i) the reporting court notifies the Driver License Division that the person is
265 participating in or has successfully completed a 24-7 sobriety program as defined in Section
266 [41-6a-515.5](#);

267 (ii) the person has served at least 90 days of the revocation under Subsection
268 (1)(d)(i)(A) or (5)(a)(i)(A); and

269 (iii) the person has a valid driving privilege, with the exception of the revocation under
270 Subsection (1)(d)(i)(A) or (5)(a)(i)(A).

271 (b) If a person's driving privilege is reinstated under Subsection (9)(a), the person is
272 required to:

273 (i) install an ignition interlock device in any vehicle owned or driven by the person in

274 accordance with Section 53-3-1007;

275 (ii) pay the license reinstatement application fees described in Subsections
276 53-3-105(26) and (27);

277 (iii) pay the appropriate original license fees under Section 53-3-105; and

278 (iv) complete the license application process including successful completion of
279 required testing.

280 (c) If the reporting court notifies the Driver License Division that a person has failed to
281 complete all requirements of the 24-7 sobriety program, the division:

282 (i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or
283 (5)(a)(i)(A) for a period of 18 months from the date of the notice; and

284 (ii) may not subtract any days from the 18-month revocation period for:

285 (A) days during which the person's driving privilege previously was revoked; or

286 (B) days during which the person was compliant with the 24-7 sobriety program.

287 Section 3. Section 41-6a-1406 is amended to read:

288 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
289 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

290 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
291 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace
292 officer or by an order of a person acting on behalf of a law enforcement agency or highway
293 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
294 expense of the owner.

295 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
296 impounded to a state impound yard.

297 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
298 removed by a tow truck motor carrier that meets standards established:

299 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

300 (b) by the department under Subsection (10).

301 (4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or
302 outboard motor that is:

303 (i) removed or impounded as described in Subsection (1); or

304 (ii) removed or impounded by any law enforcement or government entity.

305 (b) Before noon on the next business day after the date of the removal of the vehicle,
306 vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division
307 by:

- 308 (i) the peace officer or agency by whom the peace officer is employed; and
- 309 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
310 operator is employed.

311 (c) The report shall be in a form specified by the Motor Vehicle Division and shall
312 include:

- 313 (i) the operator's name, if known;
- 314 (ii) a description of the vehicle, vessel, or outboard motor;
- 315 (iii) the vehicle identification number or vessel or outboard motor identification
316 number;
- 317 (iv) the license number, temporary permit number, or other identification number
318 issued by a state agency;
- 319 (v) the date, time, and place of impoundment;
- 320 (vi) the reason for removal or impoundment;
- 321 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
322 outboard motor; and
- 323 (viii) the place where the vehicle, vessel, or outboard motor is stored.

324 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
325 State Tax Commission shall make rules to establish proper format and information required on
326 the form described in this Subsection (4).

327 (e) Until the tow truck operator or tow truck motor carrier reports the removal as
328 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

- 329 (i) collect any fee associated with the removal; and
- 330 (ii) begin charging storage fees.

331 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
332 Motor Vehicle Division shall give notice, in the manner described in Section [41-1a-114](#), to the
333 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

- 334 (i) the registered owner;
- 335 (ii) any lien holder; or

336 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor
337 is currently operating under a temporary permit issued by the dealer, as described in Section
338 41-3-302.

339 (b) The notice shall:

340 (i) state the date, time, and place of removal, the name, if applicable, of the person
341 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
342 and the place where the vehicle, vessel, or outboard motor is stored;

343 (ii) state that the registered owner is responsible for payment of towing, impound, and
344 storage fees charged against the vehicle, vessel, or outboard motor;

345 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
346 motor is released; and

347 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
348 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or
349 impoundment under this section, one of the parties fails to make a claim for release of the
350 vehicle, vessel, or outboard motor.

351 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
352 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
353 to notify the parties described in Subsection (5)(a) of the removal and the place where the
354 vehicle, vessel, or outboard motor is stored.

355 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
356 the vehicle, vessel, or outboard motor is stored.

357 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
358 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
359 service in accordance with Subsection 72-9-603(1)(a)(i).

360 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
361 in Subsection (5)(a):

362 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
363 the State Tax Commission;

364 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
365 vessel, or outboard motor;

366 (iii) completes the registration, if needed, and pays the appropriate fees;

367 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
368 impound fee of [~~\$400~~] \$425; and

369 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
370 motor is stored.

371 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
372 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

373 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
374 be deposited into the Department of Public Safety Restricted Account created in Section
375 53-3-106;

376 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
377 be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and

378 (iv) the remainder of the administrative impound fee assessed under Subsection
379 (6)(a)(iv) shall be deposited into the General Fund.

380 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
381 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
382 owner's agent presents written evidence to the State Tax Commission that:

383 (i) the Driver License Division determined that the arrested person's driver license
384 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
385 or other report from the Driver License Division presented within 180 days after the day on
386 which the Driver License Division mailed the final notification; or

387 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
388 stolen vehicle report presented within 180 days after the day of the impoundment.

389 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
390 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)
391 or any service rendered, performed, or supplied in connection with a removal or impoundment
392 under Subsection (1).

393 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
394 impounded vehicle, vessel, or outboard motor if:

395 (i) the vehicle, vessel, or outboard motor is being held as evidence; and

396 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
397 Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or

398 outboard motor under this Subsection (6).

399 (7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party
400 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor
401 Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard
402 motor as described in Section 41-1a-1103.

403 (b) The date of impoundment is considered the date of seizure for computing the time
404 period provided under Section 41-1a-1103.

405 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the
406 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the
407 fees and charges, together with damages, court costs, and attorney fees, against the operator of
408 the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

409 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
410 or outboard motor.

411 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
412 the department shall make rules setting the performance standards for towing companies to be
413 used by the department.

414 (11) (a) The Motor Vehicle Division may specify that a report required under
415 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and
416 retrieval of the information.

417 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
418 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

419 (ii) The fees under this Subsection (11)(b) shall:

420 (A) be reasonable and fair; and

421 (B) reflect the cost of administering the database.

422 Section 4. Section 41-6a-1901 is amended to read:

423 **41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and**
424 **records -- Notice to Department of State.**

425 (1) As used in this section, "diplomat" means an individual who:

426 (a) has a driver license issued by the United States Department of State; or

427 (b) claims immunities or privileges under 22 U.S.C. [Sections] Secs. 254a through
428 258a with respect to:

- 429 (i) a moving traffic violation under this title or a moving traffic violation of an
430 ordinance of a local authority; or
- 431 (ii) operating a motor vehicle while committing any of the following offenses:
- 432 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide under
433 Section 76-5-207;
- 434 (B) manslaughter under Section 76-5-205;
- 435 (C) negligent homicide under Section 76-5-206;
- 436 (D) aggravated assault under Section 76-5-103; or
- 437 (E) reckless endangerment under Section 76-5-112.
- 438 (2) A law enforcement officer who stops a motor vehicle and has probable cause to
439 believe that the driver is a diplomat that has committed a violation described under Subsection
440 (1)(b)(i) or (ii) shall:
- 441 (a) as soon as practicable, contact the United States Department of State in order to
442 verify the driver's status and immunity, if any;
- 443 (b) record all relevant information from any driver license or identification card,
444 including a driver license or identification card issued by the United States Department of
445 State; and
- 446 (c) within five working days after the date the officer stops the driver, forward all of
447 the following to the Department of Public Safety:
- 448 (i) if the driver is involved in a vehicle accident, the vehicle accident report;
- 449 (ii) if a citation or other charging document was issued to the driver, a copy of the
450 citation or other charging document; and
- 451 (iii) if a citation or other charging document was not issued to the driver, a written
452 report of the incident.
- 453 (3) The Department of Public Safety shall:
- 454 (a) file each vehicle accident report, citation or other charging document, and incident
455 report that the Department of Public Safety receives under this section;
- 456 (b) keep convenient records or make suitable notations showing each:
- 457 (i) conviction;
- 458 (ii) finding of responsibility; and
- 459 (iii) vehicle accident; and

460 (c) within five working days after receipt, send a copy of each document and record
461 described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign Missions,
462 of the United States Department of State.

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

465 Section 5. Section **53-3-220** is amended to read:

466 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
467 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
468 **Limited driving privileges.**

469 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
470 6a, Traffic Code, or Section [76-5-303](#), specifically provides for denial, suspension, or
471 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
472 receiving a record of the person's conviction for:

473 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,
474 [~~negligently operating a vehicle resulting in death~~] automobile homicide under Section
475 [76-5-207](#), or automobile homicide involving using a handheld wireless communication device
476 while driving under Section [76-5-207.5](#);

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

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

484 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
485 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
486 regulating driving on highways;

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

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

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

491 (viii) two charges of reckless driving, impaired driving, or any combination of reckless
492 driving and impaired driving committed within a period of 12 months; but if upon a first
493 conviction of reckless driving or impaired driving the judge or justice recommends suspension
494 of the convicted person's license, the division may after a hearing suspend the license for a
495 period of three months;

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

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

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

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

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

507 (xiv) operating or being in actual physical control of a motor vehicle while having any
508 measurable or detectable amount of alcohol in the person's body in violation of Section
509 41-6a-530;

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

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

514 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).

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

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

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

521 (c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon

522 receiving a record of conviction, the division shall immediately suspend for six months the
523 license of the convicted person if the person was convicted of violating any one of the
524 following offenses while the person was an operator of a motor vehicle, and the court finds that
525 a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

- 526 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 527 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 528 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 529 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 530 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 531 (F) any criminal offense that prohibits possession, distribution, manufacture,
532 cultivation, sale, or transfer of any substance that is prohibited under the acts described in
533 Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute,
534 manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described
535 in Subsections (1)(c)(i)(A) through (E).

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

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

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

545 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall
546 suspend the person's driving privilege for a period of six months from the date of the notice,
547 and no days shall be subtracted from the six-month suspension period for which a driving
548 privilege was previously suspended under Subsection (1)(c)(i).

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

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

553 (B) a record of the conviction.

554 (ii) An order of suspension under this section is at the discretion of the sentencing
555 court, and may not be for more than 90 days for each offense.

556 (e) (i) The division shall immediately suspend for one year the license of a person upon
557 receiving a record of:

558 (A) conviction for the first time for a violation under Section 32B-4-411; or

559 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

560 (ii) The division shall immediately suspend for a period of two years the license of a
561 person upon receiving a record of:

562 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

563 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
564 conviction for a violation under Section 32B-4-411; or

565 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation
566 under Section 32B-4-411; and

567 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
568 adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

569 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

570 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

571 (I) impose a suspension for one year beginning on the date of conviction; or

572 (II) if the person is under the age of eligibility for a driver license, impose a suspension
573 that begins on the date of conviction and continues for one year beginning on the date of
574 eligibility for a driver license; or

575 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

576 (I) impose a suspension for a period of two years; or

577 (II) if the person is under the age of eligibility for a driver license, impose a suspension
578 that begins on the date of conviction and continues for two years beginning on the date of
579 eligibility for a driver license.

580 (iv) Upon receipt of the first order suspending a person's driving privileges under
581 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
582 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

583 (v) Upon receipt of the second or subsequent order suspending a person's driving

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

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

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

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

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

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

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

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

604 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),
605 and (1)(c)(i); and

606 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
607 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
608 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),
609 Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the
610 person was charged with violating as a result of a plea bargain after having been originally
611 charged with violating one or more of these sections or ordinances, unless:

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

614 (B) the division receives written verification from the person's primary care physician

615 that:

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

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

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

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

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

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

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

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

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

636 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

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

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

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

645 Section 6. Section **53-3-414** is amended to read:

646 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**647 **Procedure.**

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

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

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

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

656 (iv) failing to provide reasonable assistance or identification when involved in an
657 accident resulting in:

658 (A) personal injury in accordance with Section [41-6a-401.3](#);

659 (B) death in accordance with Section [41-6a-401.5](#); or

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

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

663 (vii) driving a commercial motor vehicle while the person's commercial driver license
664 is disqualified in accordance with the provisions of this section for violating an offense
665 described in this section; or

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

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

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

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

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

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

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

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

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

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

689 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving
690 privileges established by rule of the division.

691 (b) If a reinstated driver is subsequently convicted of another disqualifying offense
692 under this section, the driver is permanently disqualified for life and is ineligible to again apply
693 for a reduction of the lifetime disqualification.

694 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified
695 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the
696 commission of any felony involving:

697 (a) the manufacturing, distributing, or dispensing of a controlled substance, or
698 possession with intent to manufacture, distribute, or dispense a controlled substance and is
699 ineligible to apply for a reduction of the lifetime disqualification under Subsection (4); or

700 (b) an act or practice of severe forms of trafficking in persons as defined and described
701 in 22 U.S.C. Sec. 7102(11).

702 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds
703 or is required to hold a CDL is disqualified for not less than:

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

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

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

708 violations:

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

710 (ii) arise from separate incidents; and

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

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

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

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

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

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

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

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

719 commercial motor vehicle for a period not less than:

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

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

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

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

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

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

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

737 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
738 disqualified for not less than 60 days if the division determines, in its check of the driver's

739 driver license status, application, and record prior to issuing a CDL or at any time after the
740 CDL is issued, that the driver has falsified information required to apply for a CDL in this
741 state.

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

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

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

749 (c) one year if, during any three-year period, the driver is convicted of three or more
750 violations in separate incidents.

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

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

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

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

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

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

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

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

765 (v) driver poses an imminent hazard.

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

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

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

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

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

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

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

778 (ii) arise from separate incidents; and

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

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

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

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

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

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

797 (ii) expunged under Title 77, Chapter 40a, Expungement.

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

801 (a) one year; or

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

803 (15) The division may concurrently impose any disqualification periods that arise

804 under this section while a driver is disqualified by the Secretary of the United States

805 Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

806 Section 7. Section **53-10-403** is amended to read:

807 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

808 (1) Sections [53-10-403.6](#), [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to

809 any person who:

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

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

812 (b) has pled guilty to or has been convicted by any other state or by the United States

813 government of an offense which if committed in this state would be punishable as one or more

814 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

815 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any

816 offense under Subsection (2)(c);

817 (d) has been booked:

818 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,

819 2014, through December 31, 2014, under Subsection [53-10-404\(4\)\(b\)](#) for any felony offense; or

820 (ii) on or after January 1, 2015, for any felony offense; or

821 (e) is a minor under Subsection (3).

822 (2) Offenses referred to in Subsection (1) are:

823 (a) any felony or class A misdemeanor under the Utah Code;

824 (b) any offense under Subsection (2)(a):

825 (i) for which the court enters a judgment for conviction to a lower degree of offense

826 under Section [76-3-402](#); or

827 (ii) regarding which the court allows the defendant to enter a plea in abeyance as

828 defined in Section [77-2a-1](#); or

829 (c) (i) any violent felony as defined in Section [53-10-403.5](#);

830 (ii) sale or use of body parts, Section [26B-8-315](#);

831 (iii) failure to stop at an accident that resulted in death, Section [41-6a-401.5](#);

- 832 (iv) operating a motor vehicle with any amount of a controlled substance in an
833 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
834 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);
- 835 (v) a felony violation of enticing a minor, Section 76-4-401;
- 836 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 837 (vii) a felony violation of propelling a substance or object at a correctional officer, a
838 peace officer, or an employee or a volunteer, including health care providers, Section
839 76-5-102.6;
- 840 (viii) [~~negligently operating a vehicle resulting in death~~] automobile homicide,
841 Subsection 76-5-207(2)(b);
- 842 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
843 smuggling, Section 76-5-310.1;
- 844 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 845 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 846 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 847 (xiii) sale of a child, Section 76-7-203;
- 848 (xiv) aggravated escape, Subsection 76-8-309(2);
- 849 (xv) a felony violation of assault on an elected official, Section 76-8-315;
- 850 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of
851 Pardons and Parole, Section 76-8-316;
- 852 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 853 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 854 (xix) a felony violation of sexual battery, Section 76-9-702.1;
- 855 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 856 (xxi) a felony violation of abuse or desecration of a dead human body, Section
857 76-9-704;
- 858 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section
859 76-10-402;
- 860 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
861 Section 76-10-403;
- 862 (xxiv) possession of a concealed firearm in the commission of a violent felony,

863 Subsection 76-10-504(4);
864 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,
865 Subsection 76-10-1504(3);
866 (xxvi) commercial obstruction, Subsection 76-10-2402(2);
867 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section
868 77-41-107;
869 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or
870 (xxix) violation of condition for release after arrest under Section 78B-7-802.
871 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated
872 by the juvenile court due to the commission of any offense described in Subsection (2), and
873 who:
874 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
875 court on or after July 1, 2002; or
876 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or
877 after July 1, 2002, for an offense under Subsection (2).
878 Section 8. Section 75-2-803 is amended to read:
879 **75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts,**
880 **joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture --**
881 **Revocation.**
882 (1) As used in this section:
883 (a) "Conviction" means the same as that term is defined in Section 77-38b-102.
884 (b) "Decedent" means a deceased individual.
885 (c) "Disposition or appointment of property" includes a transfer of an item of property
886 or any other benefit to a beneficiary designated in a governing instrument.
887 (d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any
888 felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for
889 which the elements are established by a preponderance of the evidence and by applying the
890 same principles of culpability and defenses described in Title 76, Utah Criminal Code.
891 (ii) "Disqualifying homicide" does not include an offense for:
892 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide, as
893 described in Section 76-5-207; and

894 (B) automobile homicide involving using a handheld wireless communication device
895 while driving, as described in Section 76-5-207.5.

896 (e) "Governing instrument" means a governing instrument executed by the decedent.

897 (f) "Killer" means an individual who commits a disqualifying homicide.

898 (g) "Revocable" means a disposition, appointment, provision, or nomination under
899 which the decedent, at the time of or immediately before death, was alone empowered, by law
900 or under the governing instrument, to cancel the designation in favor of the killer regardless of
901 whether at the time or immediately before death:

902 (i) the decedent was empowered to designate the decedent in place of the decedent's
903 killer; or

904 (ii) the decedent had the capacity to exercise the power.

905 (2) (a) An individual who commits a disqualifying homicide of the decedent forfeits all
906 benefits under this chapter with respect to the decedent's estate, including an intestate share, an
907 elective share, an omitted spouse's or child's share, a homestead allowance, exempt property,
908 and a family allowance.

909 (b) If the decedent died intestate, the decedent's intestate estate passes as if the killer
910 disclaimed the killer's intestate share.

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

912 (a) revokes any revocable:

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

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

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

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

923 (4) A severance under Subsection (3)(b) does not affect any third-party interest in
924 property acquired for value and in good faith reliance on an apparent title by survivorship in the

925 killer unless a writing declaring the severance has been noted, registered, filed, or recorded in
926 records appropriate to the kind and location of the property which are relied upon, in the
927 ordinary course of transactions involving such property, as evidence of ownership.

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

931 (6) A wrongful acquisition of property or interest by one who kills another under
932 circumstances not covered by this section shall be treated in accordance with the principle that
933 a killer cannot profit from the killer's wrong.

934 (7) (a) An interested person may petition the court to determine whether an individual
935 has committed a disqualifying homicide of the decedent.

936 (b) An individual has committed a disqualifying homicide of the decedent for purposes
937 of this section if:

938 (i) unless the court finds that disinheritance would create a manifest injustice, the court
939 finds that, by a preponderance of the evidence, the individual has committed a disqualifying
940 homicide of the decedent; or

941 (ii) the court finds that a judgment of conviction has been entered against the
942 individual for a disqualifying homicide of the decedent and all direct appeals for the judgment
943 have been exhausted.

944 (8) (a) Before a court determines whether an individual committed a disqualifying
945 homicide of the decedent under Subsection (7), the decedent's estate may petition the court to:

946 (i) enter a temporary restraining order, an injunction, or a temporary restraining order
947 and an injunction, to preserve the property or assets of the killer or the killer's estate;

948 (ii) require the execution of a trustee's bond under Section [75-7-702](#) for the killer's
949 estate;

950 (iii) establish a constructive trust on any property or assets of the killer or the killer's
951 estate that is effective from the time the killer's act caused the death of the decedent; or

952 (iv) take any other action necessary to preserve the property or assets of the killer or the
953 killer's estate:

954 (A) until a court makes a determination under Subsection (7); or

955 (B) for the payment of all damages and judgments for conduct resulting in the

956 disqualifying homicide of the decedent.

957 (b) Upon a petition for a temporary restraining order or an injunction under Subsection
958 (8)(a)(i), a court may enter a temporary restraining order against an owner's property in
959 accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity
960 of a hearing, if the court determines that:

961 (i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a
962 judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of
963 the decedent; and

964 (ii) notice of the hearing would likely result in the property being:

965 (A) sold, distributed, destroyed, or removed; and

966 (B) unavailable to satisfy a judgment or damages owed by the killer for conduct
967 resulting in the disqualifying homicide of the decedent.

968 (9) (a) (i) A payor or other third party is not liable for having made a payment or
969 transferred an item of property or any other benefit to a beneficiary designated in a governing
970 instrument affected by a disqualifying homicide, or for having taken any other action in good
971 faith reliance on the validity of the governing instrument, upon request and satisfactory proof of
972 the decedent's death, before the payor or other third party received written notice of a claimed
973 forfeiture or revocation under this section.

974 (ii) A payor or other third party is liable for a payment made or other action taken after
975 the payor or other third party received written notice of a claimed forfeiture or revocation under
976 this section.

977 (b) (i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a) shall
978 be mailed to the payor's or other third party's main office or home by registered or certified
979 mail, return receipt requested, or served upon the payor or other third party in the same manner
980 as a summons in a civil action.

981 (ii) Upon receipt of written notice of a claimed forfeiture or revocation under this
982 section, a payor or other third party may pay any amount owed or transfer or deposit any item
983 of property held by the payor or third party to or with:

984 (A) the court having jurisdiction of the probate proceedings relating to the decedent's
985 estate; or

986 (B) if no proceedings have been commenced, the court having jurisdiction of probate

987 proceedings relating to the decedent's estates located in the county of the decedent's residence.

988 (iii) The court shall hold the funds or item of property and, upon the court's
989 determination under this section, shall order disbursement in accordance with the
990 determination.

991 (iv) Payments, transfers, or deposits made to or with the court discharge the payor or
992 other third party from all claims for the value of amounts paid to or items of property
993 transferred to or deposited with the court.

994 (10) (a) A person who purchases property for value and without notice, or who receives
995 a payment or other item of property in partial or full satisfaction of a legally enforceable
996 obligation, is:

997 (i) not obligated under this section to return the payment, item of property, or benefit;
998 and

999 (ii) not liable under this section for the amount of the payment or the value of the item
1000 of property or benefit.

1001 (b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a
1002 payment, item of property, or any other benefit to which the person is not entitled under this
1003 section is:

1004 (i) obligated to return the payment, item of property, or benefit to the person who is
1005 entitled to the payment, property, or benefit under this section; and

1006 (ii) personally liable for the amount of the payment or the value of the item of property
1007 or benefit to the person who is entitled to the payment, property, or benefit under this section.

1008 (c) If this section or any part of this section is preempted by federal law with respect to
1009 a payment, an item of property, or any other benefit covered by this section, a person who, not
1010 for value, receives the payment, item of property, or any other benefit to which the person is
1011 not entitled under this section is:

1012 (i) obligated to return the payment, item of property, or benefit to the person who
1013 would have been entitled to the payment, property, or benefit if this section or part were not
1014 preempted; and

1015 (ii) personally liable for the amount of the payment or the value of the item of property
1016 or benefit, to the person who would have been entitled to the payment, property, or benefit if
1017 this section or part were not preempted.

1018 *The following section is affected by a coordination clause at the end of this bill.*

1019 Section 9. Section **76-3-406** is amended to read:

1020 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**
 1021 **offense, or hospitalization may not be granted.**

1022 (1) Notwithstanding Sections [76-3-201](#) and [77-18-105](#) and Title 77, Chapter 16a,
 1023 Commitment and Treatment of Individuals with a Mental Condition, except as provided in
 1024 Section [76-5-406.5](#) or Subsection [77-16a-103](#)(6) or (7), probation may not be granted, the
 1025 execution or imposition of sentence may not be suspended, the court may not enter a judgment
 1026 for a lower category of offense, and hospitalization may not be ordered, the effect of which
 1027 would in any way shorten the prison sentence for an individual who commits:

1028 (a) a capital felony or a first degree felony involving:

1029 ~~[(a)]~~ (i) Section [76-5-202](#), aggravated murder;

1030 ~~[(b)]~~ (ii) Section [76-5-203](#), murder;

1031 ~~[(c)]~~ (iii) Section [76-5-301.1](#), child kidnaping;

1032 ~~[(d)]~~ (iv) Section [76-5-302](#), aggravated kidnaping;

1033 ~~[(e)]~~ (v) Section [76-5-402](#), rape, if the individual is sentenced under Subsection
 1034 [76-5-402](#)(3)(b), (3)(c), or (4);

1035 ~~[(f)]~~ (vi) Section [76-5-402.1](#), rape of a child;

1036 ~~[(g)]~~ (vii) Section [76-5-402.2](#), object rape, if the individual is sentenced under
 1037 Subsection [76-5-402.2](#)(3)(b), (3)(c), or (4);

1038 ~~[(h)]~~ (viii) Section [76-5-402.3](#), object rape of a child;

1039 ~~[(i)]~~ (ix) Section [76-5-403](#), forcible sodomy, if the individual is sentenced under
 1040 Subsection [76-5-403](#)(3)(b), (3)(c), or (4);

1041 ~~[(j)]~~ (x) Section [76-5-403.1](#), sodomy on a child;

1042 ~~[(k)]~~ (xi) Section [76-5-404](#), forcible sexual abuse, if the individual is sentenced under
 1043 Subsection [76-5-404](#)(3)(b)(i) or (ii);

1044 ~~[(l)]~~ (xii) Section [76-5-404.3](#), aggravated sexual abuse of a child;

1045 ~~[(m)]~~ (xiii) Section [76-5-405](#), aggravated sexual assault; or

1046 ~~[(n)]~~ (xiv) any attempt to commit a felony listed in Subsection ~~[(1)(f), (h), or (j)].~~

1047 (1)(a)(vi), (viii), or (x); or

1048 (b) a second degree felony offense of automobile homicide, as described in Section

1049 [76-5-207.](#)

1050 (2) Except for an offense before the district court in accordance with Section [80-6-502](#)
1051 or [80-6-504](#), the provisions of this section do not apply if the sentencing court finds that the
1052 defendant:

1053 (a) was under 18 years old at the time of the offense; and

1054 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
1055 delayed filing of the information.

1056 Section 10. Section **76-5-201** is amended to read:

1057 **76-5-201. Criminal homicide -- Designations of offenses -- Exceptions --**

1058 **Application of consensual altercation defense.**

1059 (1) (a) As used in this section:

1060 (i) "Abortion" means the same as that term is defined in Section [76-7-301](#).

1061 (ii) "Criminal homicide" means an act causing the death of another human being,
1062 including an unborn child at any stage of the unborn child's development.

1063 (b) The terms defined in Section [76-1-101.5](#) apply to this section.

1064 (2) The following are criminal homicide:

1065 (a) aggravated murder;

1066 (b) murder;

1067 (c) manslaughter;

1068 (d) child abuse homicide;

1069 (e) homicide by assault;

1070 (f) negligent homicide; and

1071 (g) [~~negligently operating a vehicle resulting in death~~] automobile homicide.

1072 (3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide if:

1073 (a) the death of an unborn child is caused by an abortion;

1074 (b) the sole reason for the death of an unborn child is that the actor:

1075 (i) refused to consent to:

1076 (A) medical treatment; or

1077 (B) a cesarean section; or

1078 (ii) failed to follow medical advice; or

1079 (c) a woman causes the death of her own unborn child, and the death:

- 1080 (i) is caused by a criminally negligent act or reckless act of the woman; and
1081 (ii) is not caused by an intentional or knowing act of the woman.
1082 (4) The provisions governing a defense of a consensual altercation as described in
1083 Section 76-5-104 apply to this part.
1084 Section 11. Section 76-5-207 is amended to read:
1085 **76-5-207. Automobile homicide -- Penalties -- Evidence.**
1086 (1) (a) As used in this section:
1087 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.
1088 (ii) "Criminally negligent" means the same as that term is described in Subsection
1089 76-2-103(4).
1090 (iii) "Drug" means:
1091 (A) a controlled substance;
1092 (B) a drug as defined in Section 58-37-2; or
1093 (C) a substance that, when knowingly, intentionally, or recklessly taken into the human
1094 body, can impair the ability of an individual to safely operate a vehicle.
1095 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that
1096 degree of care that reasonable and prudent persons exercise under like or similar circumstances.
1097 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.
1098 (b) Terms defined in Section 76-1-101.5 apply to this section.
1099 (2) An actor commits [~~negligently operating a vehicle resulting in death~~] automobile
1100 homicide if the actor:
1101 (a) (i) operates a vehicle in a negligent or criminally negligent manner causing the
1102 death of another individual;
1103 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
1104 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
1105 time of the test;
1106 (B) is under the influence of alcohol, any drug, or the combined influence of alcohol
1107 and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
1108 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
1109 operation; or
1110 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

- 1111 (ii) has in the actor's body any measurable amount of a controlled substance.
- 1112 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty
- 1113 of:
- 1114 (a) a second degree felony, punishable by a term of imprisonment of not less than five
- 1115 years nor more than 15 years; and
- 1116 (b) a separate offense for each victim suffering death as a result of the actor's violation
- 1117 of this section, regardless of whether the deaths arise from the same episode of driving.
- 1118 (4) An actor is not guilty of a violation of [~~negligently operating a vehicle resulting in~~
- 1119 ~~death~~] automobile homicide under Subsection (2)(b) if:
- 1120 (a) the controlled substance was obtained under a valid prescription or order, directly
- 1121 from a practitioner while acting in the course of the practitioner's professional practice, or as
- 1122 otherwise authorized by Title 58, Occupations and Professions;
- 1123 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
- 1124 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
- 1125 [58-37-4.2](#) if:
- 1126 (i) the actor is the subject of medical research conducted by a holder of a valid license
- 1127 to possess controlled substances under Section [58-37-6](#); and
- 1128 (ii) the substance was administered to the actor by the medical researcher.
- 1129 (5) (a) A judge imposing a sentence under this section may consider:
- 1130 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);
- 1131 (ii) the defendant's history;
- 1132 (iii) the facts of the case;
- 1133 (iv) aggravating and mitigating factors; or
- 1134 (v) any other relevant fact.
- 1135 (b) The judge may not impose a lesser sentence than would be required for a conviction
- 1136 based on the defendant's history under Section [41-6a-505](#).
- 1137 (c) The standards for chemical breath analysis as provided by Section [41-6a-515](#) and
- 1138 the provisions for the admissibility of chemical test results as provided by Section [41-6a-516](#)
- 1139 apply to determination and proof of blood alcohol content under this section.
- 1140 (d) A calculation of blood or breath alcohol concentration under this section shall be
- 1141 made in accordance with Subsection [41-6a-502\(3\)](#).

1142 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
1143 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1144 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
1145 admissible except when prohibited by the Utah Rules of Evidence, the United States
1146 Constitution, or the Utah Constitution.

1147 (g) In accordance with Subsection [77-2a-3\(8\)](#), a guilty or no contest plea to an offense
1148 described in this section may not be held in abeyance.

1149 (6) Imprisonment under this section is mandatory in accordance with Section [76-3-406](#).

1150 Section 12. Section **78B-9-402** is amended to read:

1151 **78B-9-402. Petition for determination of factual innocence -- Sufficient**
1152 **allegations -- Notification of victim -- Payment to surviving spouse.**

1153 (1) A person who has been convicted of a felony offense may petition the district court
1154 in the county in which the person was convicted for a hearing to establish that the person is
1155 factually innocent of the crime or crimes of which the person was convicted.

1156 (2) (a) The petition shall contain an assertion of factual innocence under oath by the
1157 petitioner and shall aver, with supporting affidavits or other credible documents, that:

1158 (i) newly discovered material evidence exists that, if credible, establishes that the
1159 petitioner is factually innocent;

1160 (ii) the specific evidence identified by the petitioner in the petition establishes
1161 innocence;

1162 (iii) the material evidence is not merely cumulative of evidence that was known;

1163 (iv) the material evidence is not merely impeachment evidence; and

1164 (v) viewed with all the other evidence, the newly discovered evidence demonstrates
1165 that the petitioner is factually innocent.

1166 (b) (i) The court shall review the petition in accordance with the procedures in
1167 Subsection (9)(b), and make a finding that the petition has satisfied the requirements of
1168 Subsection (2)(a).

1169 (ii) If the court finds the petition does not meet all the requirements of Subsection
1170 (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to
1171 the petitioner and the attorney general.

1172 (3) (a) The petition shall also contain an averment that:

1173 (i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of
1174 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
1175 postconviction motion, and the evidence could not have been discovered by the petitioner or
1176 the petitioner's counsel through the exercise of reasonable diligence; or

1177 (ii) a court has found ineffective assistance of counsel for failing to exercise reasonable
1178 diligence in uncovering the evidence.

1179 (b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the
1180 court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

1181 (ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied,
1182 the court may dismiss the petition without prejudice and give notice to the petitioner and the
1183 attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a)
1184 if the court finds the petition should proceed to hearing based upon the strength of the petition,
1185 and that there is other evidence that could have been discovered through the exercise of
1186 reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

1187 (A) was not discovered by the petitioner or the petitioner's counsel;

1188 (B) is material upon the issue of factual innocence; and

1189 (C) has never been presented to a court.

1190 (4) (a) If the conviction for which the petitioner asserts factual innocence was based
1191 upon a plea of guilty, the petition shall contain the specific nature and content of the evidence
1192 that establishes factual innocence.

1193 (b) The court shall review the evidence and may dismiss the petition at any time in the
1194 course of the proceedings, if the court finds that the evidence of factual innocence relies solely
1195 upon the recantation of testimony or prior statements made by a witness against the petitioner,
1196 and the recantation appears to the court to be equivocal or self serving.

1197 (5) A person who has already obtained postconviction relief that vacated or reversed
1198 the person's conviction or sentence may also file a petition under this part in the same manner
1199 and form as described above, if no retrial or appeal regarding this offense is pending.

1200 (6) If some or all of the evidence alleged to be exonerating is biological evidence
1201 subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section
1202 [78B-9-301](#).

1203 (7) Except as provided in Subsection (9), the petition and all subsequent proceedings

1204 shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and
1205 shall include the underlying criminal case number.

1206 (8) After a petition is filed under this section, prosecutors, law enforcement officers,
1207 and crime laboratory personnel shall cooperate in preserving evidence and in determining the
1208 sufficiency of the chain of custody of the evidence which is the subject of the petition.

1209 (9) (a) A person who files a petition under this section shall serve notice of the petition
1210 and a copy of the petition upon the office of the prosecutor who obtained the conviction and
1211 upon the Utah attorney general.

1212 (b) (i) The assigned judge shall conduct an initial review of the petition.

1213 (ii) If it is apparent to the court that the petitioner is either merely relitigating facts,
1214 issues, or evidence presented in previous proceedings or presenting issues that appear frivolous
1215 or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal,
1216 and serve notice of dismissal upon the petitioner and the attorney general.

1217 (iii) If, upon completion of the initial review, the court does not dismiss the petition,
1218 the court shall order the attorney general to file a response to the petition.

1219 (iv) The attorney general shall, within 30 days after the day on which the attorney
1220 general receives the court's order, or within any additional period of time the court allows,
1221 answer or otherwise respond to all proceedings initiated under this part.

1222 (c) (i) After the time for response by the attorney general under Subsection (9)(b) has
1223 passed, the court shall order a hearing if the court finds the petition meets the requirements of
1224 Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence
1225 regarding the charges of which the petitioner was convicted.

1226 (ii) No bona fide and compelling issue of factual innocence exists if the petitioner is
1227 merely relitigating facts, issues, or evidence presented in a previous proceeding or if the
1228 petitioner is unable to identify with sufficient specificity the nature and reliability of the newly
1229 discovered evidence that establishes the petitioner's factual innocence.

1230 (d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually
1231 innocent, the court may find the petitioner is factually innocent without holding a hearing.

1232 (ii) If the state will not stipulate that the evidence establishes that the petitioner is
1233 factually innocent, no determination of factual innocence may be made by the court without
1234 first holding a hearing under this part.

1235 (10) The court may not grant a petition for a hearing under this part during the period
1236 in which criminal proceedings in the matter are pending before any trial or appellate court,
1237 unless stipulated to by the parties.

1238 (11) Any victim of a crime that is the subject of a petition under this part, and who has
1239 elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any
1240 hearing regarding the petition.

1241 (12) (a) A petition to determine factual innocence under this part, or Part 3,
1242 Postconviction Testing of DNA, shall be filed separately from any petition for postconviction
1243 relief under Part 1, General Provisions.

1244 (b) Separate petitions may be filed simultaneously in the same court.

1245 (13) The procedures governing the filing and adjudication of a petition to determine
1246 factual innocence apply to all petitions currently filed or pending in the district court and any
1247 new petitions filed on or after June 1, 2012.

1248 (14) (a) As used in this Subsection (14) and in Subsection (15):

1249 (i) "Married" means the legal marital relationship established between two individuals
1250 and as recognized by the law; and

1251 (ii) "Spouse" means an individual married to the petitioner at the time the petitioner
1252 was found guilty of the offense regarding which a petition is filed and who has since then been
1253 continuously married to the petitioner until the petitioner's death.

1254 (b) A claim for determination of factual innocence under this part is not extinguished
1255 upon the death of the petitioner.

1256 (c) (i) If any payments are already being made to the petitioner under this part at the
1257 time of the death of the petitioner, or if the finding of factual innocence occurs after the death
1258 of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with
1259 Section 78B-9-405 to the petitioner's surviving spouse.

1260 (ii) Payments cease upon the death of the spouse.

1261 (15) The spouse under Subsection (14) forfeits all rights to receive any payment under
1262 this part if the spouse is charged with a homicide established by a preponderance of the
1263 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,
1264 Offenses Against the Individual, except [~~negligently operating a vehicle resulting in death~~]
1265 automobile homicide under Section 76-5-207, applying the same principles of culpability and

1266 defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of
1267 Criminal Responsibility.

1268 Section 13. Section **80-6-712** is amended to read:

1269 **80-6-712. Time periods for supervision of probation or placement -- Termination**
1270 **of continuing jurisdiction.**

1271 (1) If the juvenile court places a minor on probation under Section **80-6-702**, the
1272 juvenile court shall establish a period of time for supervision for the minor that is:

1273 (a) if the minor is placed on intake probation, no more than three months; or

1274 (b) if the minor is placed on formal probation, from four to six months, but may not
1275 exceed six months.

1276 (2) (a) If the juvenile court commits a minor to the division under Section **80-6-703**,
1277 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

1278 (i) for a minor placed out of the home, a period of custody from three to six months,
1279 but may not exceed six months; and

1280 (ii) for aftercare services if the minor was placed out of the home, a period of
1281 supervision from three to four months, but may not exceed four months.

1282 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

1283 (i) in the home of a qualifying relative or guardian;

1284 (ii) at an independent living program contracted or operated by the division; or

1285 (iii) in a family-based setting with approval by the director or the director's designee if
1286 the minor does not qualify for an independent living program due to age, disability, or another
1287 reason or the minor cannot be placed with a qualifying relative or guardian.

1288 (3) If the juvenile court orders a minor to secure care, the authority shall:

1289 (a) have jurisdiction over the minor's case; and

1290 (b) apply the provisions of Part 8, Commitment and Parole.

1291 (4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at
1292 the end of the time period described in Subsection (1) for probation or Subsection (2) for
1293 commitment to the division, unless:

1294 (i) termination would interrupt the completion of the treatment program determined to
1295 be necessary by the results of a validated risk and needs assessment under Section **80-6-606**;

1296 (ii) the minor commits a new misdemeanor or felony offense;

- 1297 (iii) the minor has not completed community or compensatory service hours;
- 1298 (iv) there is an outstanding fine; or
- 1299 (v) the minor has not paid restitution in full.
- 1300 (b) The juvenile court shall determine whether a minor has completed a treatment
- 1301 program under Subsection (4)(a)(i) by considering:
- 1302 (i) the recommendations of the licensed service provider for the treatment program;
- 1303 (ii) the minor's record in the treatment program; and
- 1304 (iii) the minor's completion of the goals of the treatment program.
- 1305 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
- 1306 exists the juvenile court may extend supervision for the time needed to address the specific
- 1307 circumstance.
- 1308 (6) If the juvenile court extends supervision solely on the ground that the minor has not
- 1309 yet completed community or compensatory service hours under Subsection (4)(a)(iii), the
- 1310 juvenile court may only extend supervision:
- 1311 (a) one time for no more than three months; and
- 1312 (b) as intake probation.
- 1313 (7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has
- 1314 not paid restitution in full as described in Subsection (4)(a)(v):
- 1315 (i) the juvenile court may only:
- 1316 (A) extend jurisdiction up to four times for no more than three months at a time;
- 1317 (B) consider the efforts of the minor to pay restitution in full when determining
- 1318 whether to extend jurisdiction under Subsection (7)(a)(i); and
- 1319 (C) make orders concerning the payment of restitution during the period for which
- 1320 jurisdiction is extended;
- 1321 (ii) the juvenile court shall terminate any intake probation or formal probation of the
- 1322 minor; and
- 1323 (iii) a designated staff member of the juvenile court shall submit a report to the juvenile
- 1324 court every three months regarding the minor's efforts to pay restitution.
- 1325 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
- 1326 juvenile court shall:
- 1327 (i) terminate jurisdiction over the minor's case; and

1328 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
1329 Subsection 80-6-709(8).

1330 (8) If the juvenile court extends supervision or jurisdiction under this section, the
1331 grounds for the extension and the length of any extension shall be recorded in the court records
1332 and tracked in the data system used by the Administrative Office of the Courts and the division.

1333 (9) If a minor leaves supervision without authorization for more than 24 hours, the
1334 supervision period for the minor shall toll until the minor returns.

1335 (10) This section does not apply to any minor adjudicated under this chapter for:

1336 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

1337 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

1338 (c) Section 76-5-203, murder or attempted murder;

1339 (d) Section 76-5-205, manslaughter;

1340 (e) Section 76-5-206, negligent homicide;

1341 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile
1342 homicide;

1343 (g) Section 76-5-207.5, automobile homicide involving using a wireless
1344 communication device while operating a motor vehicle;

1345 (h) Section 76-5-208, child abuse homicide;

1346 (i) Section 76-5-209, homicide by assault;

1347 (j) Section 76-5-302, aggravated kidnapping;

1348 (k) Section 76-5-405, aggravated sexual assault;

1349 (l) a felony violation of Section 76-6-103, aggravated arson;

1350 (m) Section 76-6-203, aggravated burglary;

1351 (n) Section 76-6-302, aggravated robbery;

1352 (o) Section 76-10-508.1, felony discharge of a firearm;

1353 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
1354 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

1355 (ii) the minor has been previously adjudicated or convicted of an offense involving the
1356 use of a dangerous weapon; or

1357 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
1358 the minor has been previously committed to the division for secure care.

1359 Section 14. Section **80-6-804** is amended to read:

1360 **80-6-804. Review and termination of secure care.**

1361 (1) If a juvenile offender is ordered to secure care under Section **80-6-705**, the juvenile
1362 offender shall appear before the authority within 45 days after the day on which the juvenile
1363 offender is ordered to secure care for review of a treatment plan and to establish parole release
1364 guidelines.

1365 (2) (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is
1366 ordered to secure care under Section **80-6-705**, the authority shall set a presumptive term of
1367 secure care for the juvenile offender from three to six months, but the presumptive term may
1368 not exceed six months.

1369 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1370 authority may immediately release the juvenile offender on parole if there is a treatment
1371 program available for the juvenile offender in a community-based setting.

1372 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile
1373 offender on parole at the end of the presumptive term of secure care unless:

1374 (i) termination would interrupt the completion of a treatment program determined to be
1375 necessary by the results of a validated risk and needs assessment under Section **80-6-606**; or

1376 (ii) the juvenile offender commits a new misdemeanor or felony offense.

1377 (d) The authority shall determine whether a juvenile offender has completed a
1378 treatment program under Subsection (2)(c)(i) by considering:

1379 (i) the recommendations of the licensed service provider for the treatment program;

1380 (ii) the juvenile offender's record in the treatment program; and

1381 (iii) the juvenile offender's completion of the goals of the treatment program.

1382 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
1383 secure care and delay parole release for the time needed to address the specific circumstance if
1384 one of the circumstances under Subsection (2)(c) exists.

1385 (f) The authority shall:

1386 (i) record the length of the extension and the grounds for the extension; and

1387 (ii) report annually the length and grounds of extension to the commission.

1388 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
1389 juvenile court and the division.

1390 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1391 authority may not:

1392 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)
1393 that would result in a term of secure care that exceeds a term of incarceration for an adult under
1394 Section 76-3-204 for the same misdemeanor offense; or

1395 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)
1396 if the extension would result in a term of secure care that exceeds the term of incarceration for
1397 an adult under Section 76-3-204 for the same misdemeanor offense.

1398 (3) (a) If a juvenile offender is ordered to secure care, the authority shall set a
1399 presumptive term of parole supervision, including aftercare services, from three to four months,
1400 but the presumptive term may not exceed four months.

1401 (b) If the authority determines that a juvenile offender is unable to return home
1402 immediately upon release, the juvenile offender may serve the term of parole:

1403 (i) in the home of a qualifying relative or guardian;

1404 (ii) at an independent living program contracted or operated by the division; or

1405 (iii) in a family-based setting with approval by the director or the director's designee if
1406 the minor does not qualify for an independent living program due to age, disability, or another
1407 reason or the minor cannot be placed with a qualifying relative or guardian.

1408 (c) The authority shall release a juvenile offender from parole and terminate the
1409 authority's jurisdiction at the end of the presumptive term of parole, unless:

1410 (i) termination would interrupt the completion of a treatment program that is
1411 determined to be necessary by the results of a validated risk and needs assessment under
1412 Section 80-6-606;

1413 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

1414 (iii) restitution has not been completed.

1415 (d) The authority shall determine whether a juvenile offender has completed a
1416 treatment program under Subsection (3)(c)(i) by considering:

1417 (i) the recommendations of the licensed service provider;

1418 (ii) the juvenile offender's record in the treatment program; and

1419 (iii) the juvenile offender's completion of the goals of the treatment program.

1420 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay

- 1421 parole release only for the time needed to address the specific circumstance.
- 1422 (f) The authority shall:
- 1423 (i) record the grounds for extension of the presumptive length of parole and the length
1424 of the extension; and
- 1425 (ii) report annually the extension and the length of the extension to the commission.
- 1426 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
1427 juvenile court and the division.
- 1428 (h) If a juvenile offender leaves parole supervision without authorization for more than
1429 24 hours, the term of parole shall toll until the juvenile offender returns.
- 1430 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care
1431 for:
- 1432 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 1433 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 1434 (c) Section 76-5-203, murder or attempted murder;
- 1435 (d) Section 76-5-205, manslaughter;
- 1436 (e) Section 76-5-206, negligent homicide;
- 1437 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile
1438 homicide;
- 1439 (g) Section 76-5-207.5, automobile homicide involving using a wireless
1440 communication device while operating a motor vehicle;
- 1441 (h) Section 76-5-208, child abuse homicide;
- 1442 (i) Section 76-5-209, homicide by assault;
- 1443 (j) Section 76-5-302, aggravated kidnapping;
- 1444 (k) Section 76-5-405, aggravated sexual assault;
- 1445 (l) a felony violation of Section 76-6-103, aggravated arson;
- 1446 (m) Section 76-6-203, aggravated burglary;
- 1447 (n) Section 76-6-302, aggravated robbery;
- 1448 (o) Section 76-10-508.1, felony discharge of a firearm;
- 1449 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
1450 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
1451 (ii) the juvenile offender has been previously adjudicated or convicted of an offense

1452 involving the use of a dangerous weapon, as defined in Section [76-1-101.5](#); or

1453 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
1454 juvenile offender has been previously ordered to secure care.

1455 Section 15. **Effective date.**

1456 This bill takes effect on May 1, 2024.

1457 Section 16. **Coordinating H.B. 273 with H.B. 181.**

1458 If H.B. 273, Sentencing Modifications for Certain DUI Offenses, and H.B. 181,

1459 Criminal Offenses Amendments, both pass and become law, the Legislature intends that, on

1460 May 3, 2024, Section [76-3-406](#) be repealed and reenacted to read:

1461 "[76-3-406](#). Crimes for which probation, suspension of sentence, lower category of
1462 offense, or hospitalization may not be granted.

1463 (1) As used in this section, "attempted child rape offense" means an attempt to commit
1464 a felony that is:

1465 (a) rape of a child as described in Section [76-5-402.1](#);

1466 (b) object rape of a child as described in Section [76-5-402.3](#); or

1467 (c) sodomy on a child as described in Section [76-5-403.1](#).

1468 (2) Except as provided in Subsection (3), a court may not grant probation, suspend the
1469 execution or imposition of a sentence, enter a judgment for a lower category of offense, or
1470 order hospitalization, if the effect of which would in any way shorten the prison sentence for an
1471 actor who commits:

1472 (a) a capitol felony or a first degree felony, or attempts to commit a felony, that is:

1473 (i) aggravated murder as described in Section [76-5-202](#);

1474 (ii) murder as described in Section [76-5-203](#);

1475 (iii) child kidnapping as described in Section [76-5-301.1](#);

1476 (iv) aggravated kidnapping as described in Subsection [76-5-302](#)(3)(b);

1477 (v) rape as described in Subsection [76-5-402](#)(3)(b), (3)(c), or (4);

1478 (vi) rape of a child as described in Section [76-5-402.1](#);

1479 (vii) object rape as described in Subsection [76-5-402.2](#)(3)(b), (3)(c), or (4);

1480 (viii) object rape of a child as described in Section [76-5-402.3](#);

1481 (ix) forcible sodomy as described in Subsection [76-5-403](#)(3)(b), (3)(c), or (4);

1482 (x) sodomy on a child as described in Section [76-5-403.1](#);

1483 (xi) forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);
1484 (xii) aggravated sexual abuse of a child as described in Section 76-5-404.3; or
1485 (xiii) aggravated sexual assault as described in Section 76-5-405; or
1486 (b) a second degree felony offense of automobile homicide, as described in Section
1487 76-5-207.

1488 (3) Except for an attempted child rape offense, a court may suspend the execution or
1489 imposition of a prison sentence for an actor that is convicted of an attempt to commit a felony
1490 described in Subsection (2) if the court:

1491 (a) makes a finding on the record that:

1492 (i) details why it is in the interests of justice not to execute or impose the prison
1493 sentence; and

1494 (ii) the individual does not pose a significant safety risk to:

1495 (A) the victim of the attempted crime; or
1496 (B) the general public; and

1497 (b) orders the individual to complete the terms and conditions of probation that is
1498 supervised by the Department of Corrections.

1499 (4) Except for an offense before the district court in accordance with Section 80-6-502
1500 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the
1501 defendant:

1502 (a) was under 18 years old at the time of the offense; and
1503 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
1504 delayed filing of the information.

1505 (5) Except as provided in Subsection 77-16a-103(6) or (7), a court may not grant
1506 probation, suspend the execution or imposition of a sentence, enter a judgment for a lower
1507 category of offense, or order hospitalization under Section 76-3-201 or 77-18-105 or Title 77,
1508 Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, if the court
1509 is prohibited by this section."