

Senator Todd D. Weiler proposes the following substitute bill:

SENTENCING MODIFICATIONS FOR CERTAIN DUI

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;
- ▶ 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:

None

Utah Code Sections Affected:

AMENDS:

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



- 26 **41-6a-521**, as last amended by Laws of Utah 2023, Chapter 384
- 27 **41-6a-1406**, as last amended by Laws of Utah 2023, Chapter 335
- 28 **41-6a-1901**, as last amended by Laws of Utah 2022, Chapter 116
- 29 **53-3-220**, as last amended by Laws of Utah 2023, Chapter 415
- 30 **53-3-414**, as last amended by Laws of Utah 2022, Chapters 46, 116
- 31 **53-10-403**, as last amended by Laws of Utah 2023, Chapters 328, 457
- 32 **75-2-803**, as last amended by Laws of Utah 2022, Chapters 116, 157 and 430 and last
- 33 amended by Coordination Clause, Laws of Utah 2022, Chapter 157
- 34 **76-5-201**, as last amended by Laws of Utah 2022, Chapters 116, 181 and last amended
- 35 by Coordination Clause, Laws of Utah 2022, Chapters 116, 181
- 36 **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415
- 37 **78B-9-402**, as last amended by Laws of Utah 2022, Chapters 116, 430
- 38 **80-6-712**, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430
- 39 **80-6-804**, as last amended by Laws of Utah 2023, Chapter 236

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

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

43 **41-6a-501. Definitions.**

44 (1) As used in this part:

45 (a) "Actual physical control" is determined by a consideration of the totality of the

46 circumstances, but does not include a circumstance in which:

- 47 (i) the person is asleep inside the vehicle;
- 48 (ii) the person is not in the driver's seat of the vehicle;
- 49 (iii) the engine of the vehicle is not running;
- 50 (iv) the vehicle is lawfully parked; and
- 51 (v) under the facts presented, it is evident that the person did not drive the vehicle to

52 the location while under the influence of alcohol, a drug, or the combined influence of alcohol

53 and any drug.

54 (b) "Assessment" means an in-depth clinical interview with a licensed mental health

55 therapist:

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

- 57 (A) substance abuse treatment that is obtained at a substance abuse program;
- 58 (B) an educational series; or
- 59 (C) a combination of Subsections (1)(b)(i)(A) and (B); and
- 60 (ii) that is approved by the Division of Integrated Healthcare in accordance with
- 61 Section 26B-5-104.
- 62 (c) "Driving under the influence court" means a court that is approved as a driving
- 63 under the influence court by the Judicial Council according to standards established by the
- 64 Judicial Council.
- 65 (d) "Drug" or "drugs" means:
- 66 (i) a controlled substance as defined in Section 58-37-2;
- 67 (ii) a drug as defined in Section 58-17b-102; or
- 68 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human
- 69 body, can impair the ability of a person to safely operate a motor vehicle.
- 70 (e) "Educational series" means an educational series obtained at a substance abuse
- 71 program that is approved by the Division of Integrated Healthcare in accordance with Section
- 72 26B-5-104.
- 73 (f) "Negligence" means simple negligence, the failure to exercise that degree of care
- 74 that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- 75 (g) "Novice learner driver" means an individual who:
- 76 (i) has applied for a Utah driver license;
- 77 (ii) has not previously held a driver license in this state or another state; and
- 78 (iii) has not completed the requirements for issuance of a Utah driver license.
- 79 (h) "Screening" means a preliminary appraisal of a person:
- 80 (i) used to determine if the person is in need of:
- 81 (A) an assessment; or
- 82 (B) an educational series; and
- 83 (ii) that is approved by the Division of Integrated Healthcare in accordance with
- 84 Section 26B-5-104.
- 85 (i) "Serious bodily injury" means bodily injury that creates or causes:
- 86 (i) serious permanent disfigurement;
- 87 (ii) protracted loss or impairment of the function of any bodily member or organ; or

88 (iii) a substantial risk of death.

89 (j) "Substance abuse treatment" means treatment obtained at a substance abuse
90 program that is approved by the Division of Integrated Healthcare in accordance with Section
91 26B-5-104.

92 (k) "Substance abuse treatment program" means a state licensed substance abuse
93 program.

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

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

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

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

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

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

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

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

105 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
106 41-6a-502.5;

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

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

112 (v) Section 76-5-207;

113 (vi) operating a motor vehicle with any amount of a controlled substance in an
114 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
115 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

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

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

- 119 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or
120 (x) statutes or ordinances previously in effect in this state or in effect in any other state,
121 the United States, or any district, possession, or territory of the United States which would
122 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of
123 both-related reckless driving if committed in this state, including punishments administered
124 under 10 U.S.C. Sec. 815.
- 125 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
126 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
127 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently
128 reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:
- 129 (i) enhancement of penalties under this part; and
130 (ii) expungement under Title 77, Chapter 40a, Expungement.
- 131 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
132 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah
133 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:
- 134 (i) this part;
135 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and
136 (iii) ~~negligently operating a vehicle resulting in death~~ automobile homicide under
137 Section 76-5-207.
- 138 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive
139 metabolite of a controlled substance.
- 140 Section 2. Section 41-6a-521 is amended to read:
141 **41-6a-521. Revocation hearing for refusal -- Appeal.**
- 142 (1) (a) A person who has been notified of the Driver License Division's intention to
143 revoke the person's license under Section 41-6a-520 is entitled to a hearing.
- 144 (b) A request for the hearing shall be made in writing within 10 calendar days after the
145 day on which notice is provided.
- 146 (c) Upon request in a manner specified by the Driver License Division, the Driver
147 License Division shall grant to the person an opportunity to be heard within 29 days after the
148 date of arrest.
- 149 (d) If the person does not make a request for a hearing before the Driver License

150 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state
151 is revoked beginning on the 45th day after the date of arrest:

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

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

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

156 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
157 53-3-231;

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

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

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

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

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

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

168 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
169 53-3-231; or

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

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

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

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

176 (i) the county in which the offense occurred; or

177 (ii) a county which is adjacent to the county in which the offense occurred.

178 (b) The Driver License Division may hold a hearing in some other county if the Driver
179 License Division and the person both agree.

180 (3) The hearing shall be documented and shall cover the issues of:

181 (a) whether a peace officer had reasonable grounds to believe that a person was
182 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or
183 53-3-231; and

184 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.

185 (4) (a) In connection with the hearing, the division or its authorized agent:

186 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and
187 the production of relevant books and papers; and

188 (ii) shall issue subpoenas for the attendance of necessary peace officers.

189 (b) The Driver License Division shall pay witness fees and mileage from the
190 Transportation Fund in accordance with the rates established in Section 78B-1-119.

191 (5) (a) If after a hearing, the Driver License Division determines that the person was
192 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the
193 person fails to appear before the Driver License Division as required in the notice, the Driver
194 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah
195 beginning on the date the hearing is held:

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

197 (A) except as provided in Subsection (5)(a)(i)(B) or (9), 18 months; or

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

200 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
201 53-3-231;

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

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

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

206 (ii) for a person under 21 years of age on the date of arrest:

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

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

212 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or
213 53-3-231;

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

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

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

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

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

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

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

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

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

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

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

235 (c) pays the license reinstatement application fees described in Subsections
236 53-3-105(26) and (27);

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

238 (e) completes the license application process including successful completion of
239 required testing.

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

242 (b) If the person described under Subsection (8)(a) removes an ignition interlock

243 device from a vehicle owned or driven by the person prior to the expiration of the three-year
244 ignition interlock restriction period and does not install a new ignition interlock device from
245 the same or a different ignition interlock provider within 24 hours:

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

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

252 (iii) the person is required to pay the license reinstatement application fee under
253 Subsection 53-3-105(26); and

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

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

259 (i) the reporting court notifies the Driver License Division that the person is
260 participating in or has successfully completed a 24-7 sobriety program as defined in Section
261 41-6a-515.5;

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

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

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

268 (i) install an ignition interlock device in any vehicle owned or driven by the person in
269 accordance with Section 53-3-1007;

270 (ii) pay the license reinstatement application fees described in Subsections
271 53-3-105(26) and (27);

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

273 (iv) complete the license application process including successful completion of

274 required testing.

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

277 (i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or

278 (5)(a)(i)(A) for a period of 18 months from the date of the notice; and

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

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

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

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

283 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
284 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

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

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

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

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

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

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

303 (i) the peace officer or agency by whom the peace officer is employed; and

304 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck

305 operator is employed.

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

308 (i) the operator's name, if known;

309 (ii) a description of the vehicle, vessel, or outboard motor;

310 (iii) the vehicle identification number or vessel or outboard motor identification
311 number;

312 (iv) the license number, temporary permit number, or other identification number
313 issued by a state agency;

314 (v) the date, time, and place of impoundment;

315 (vi) the reason for removal or impoundment;

316 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
317 outboard motor; and

318 (viii) the place where the vehicle, vessel, or outboard motor is stored.

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

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

324 (i) collect any fee associated with the removal; and

325 (ii) begin charging storage fees.

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

329 (i) the registered owner;

330 (ii) any lien holder; or

331 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor
332 is currently operating under a temporary permit issued by the dealer, as described in Section
333 41-3-302.

334 (b) The notice shall:

335 (i) state the date, time, and place of removal, the name, if applicable, of the person

336 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
337 and the place where the vehicle, vessel, or outboard motor is stored;

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

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

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

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

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

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

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

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

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

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

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

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

366 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under

367 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

368 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
369 be deposited into the Department of Public Safety Restricted Account created in Section
370 53-3-106;

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

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

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

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

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

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

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

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

391 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
392 Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or
393 outboard motor under this Subsection (6).

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

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

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

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

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

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

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

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

415 (A) be reasonable and fair; and

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

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

418 **41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and**
419 **records -- Notice to Department of State.**

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

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

422 (b) claims immunities or privileges under 22 U.S.C. [Sections] Secs. 254a through
423 258a with respect to:

424 (i) a moving traffic violation under this title or a moving traffic violation of an
425 ordinance of a local authority; or

426 (ii) operating a motor vehicle while committing any of the following offenses:

427 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide under
428 Section 76-5-207;

- 429 (B) manslaughter under Section 76-5-205;
- 430 (C) negligent homicide under Section 76-5-206;
- 431 (D) aggravated assault under Section 76-5-103; or
- 432 (E) reckless endangerment under Section 76-5-112.

433 (2) A law enforcement officer who stops a motor vehicle and has probable cause to
434 believe that the driver is a diplomat that has committed a violation described under Subsection
435 (1)(b)(i) or (ii) shall:

436 (a) as soon as practicable, contact the United States Department of State in order to
437 verify the driver's status and immunity, if any;

438 (b) record all relevant information from any driver license or identification card,
439 including a driver license or identification card issued by the United States Department of
440 State; and

441 (c) within five working days after the date the officer stops the driver, forward all of
442 the following to the Department of Public Safety:

443 (i) if the driver is involved in a vehicle accident, the vehicle accident report;

444 (ii) if a citation or other charging document was issued to the driver, a copy of the
445 citation or other charging document; and

446 (iii) if a citation or other charging document was not issued to the driver, a written
447 report of the incident.

448 (3) The Department of Public Safety shall:

449 (a) file each vehicle accident report, citation or other charging document, and incident
450 report that the Department of Public Safety receives under this section;

451 (b) keep convenient records or make suitable notations showing each:

452 (i) conviction;

453 (ii) finding of responsibility; and

454 (iii) vehicle accident; and

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

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

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

461 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
462 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
463 **Limited driving privileges.**

464 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter
465 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
466 disqualification, the division shall deny, suspend, or disqualify the license of a person upon
467 receiving a record of the person's conviction for:

468 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,
469 [~~negligently operating a vehicle resulting in death~~] automobile homicide under Section
470 76-5-207, or automobile homicide involving using a handheld wireless communication device
471 while driving under Section 76-5-207.5;

472 (ii) driving or being in actual physical control of a motor vehicle while under the
473 influence of alcohol, any drug, or combination of them to a degree that renders the person
474 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
475 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

476 (iii) driving or being in actual physical control of a motor vehicle while having a blood
477 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance
478 that complies with the requirements of Subsection 41-6a-510(1);

479 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
480 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
481 regulating driving on highways;

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

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

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

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

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

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

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

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

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

502 (xiv) operating or being in actual physical control of a motor vehicle while having any
503 measurable or detectable amount of alcohol in the person's body in violation of Section
504 41-6a-530;

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

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

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

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

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

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

516 (c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon
517 receiving a record of conviction, the division shall immediately suspend for six months the
518 license of the convicted person if the person was convicted of violating any one of the
519 following offenses while the person was an operator of a motor vehicle, and the court finds that
520 a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

521 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

- 522 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 523 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 524 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 525 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 526 (F) any criminal offense that prohibits possession, distribution, manufacture,
- 527 cultivation, sale, or transfer of any substance that is prohibited under the acts described in
- 528 Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute,
- 529 manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described
- 530 in Subsections (1)(c)(i)(A) through (E).
- 531 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a
- 532 person's driving privilege before completion of the suspension period imposed under
- 533 Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner
- 534 specified by the division, that the defendant is participating in or has successfully completed a
- 535 drug court program as defined in Section [78A-5-201](#).
- 536 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is
- 537 required to pay the license reinstatement fees under Subsection [53-3-105\(26\)](#).
- 538 (iv) The court shall notify the division, in a manner specified by the division, if a
- 539 person fails to complete all requirements of the drug court program.
- 540 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall
- 541 suspend the person's driving privilege for a period of six months from the date of the notice,
- 542 and no days shall be subtracted from the six-month suspension period for which a driving
- 543 privilege was previously suspended under Subsection (1)(c)(i).
- 544 (d) (i) The division shall immediately suspend a person's driver license for conviction
- 545 of the offense of theft of motor vehicle fuel under Section [76-6-404.7](#) if the division receives:
- 546 (A) an order from the sentencing court requiring that the person's driver license be
- 547 suspended; and
- 548 (B) a record of the conviction.
- 549 (ii) An order of suspension under this section is at the discretion of the sentencing
- 550 court, and may not be for more than 90 days for each offense.
- 551 (e) (i) The division shall immediately suspend for one year the license of a person upon
- 552 receiving a record of:

553 (A) conviction for the first time for a violation under Section 32B-4-411; or
554 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.
555 (ii) The division shall immediately suspend for a period of two years the license of a
556 person upon receiving a record of:
557 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and
558 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior
559 conviction for a violation under Section 32B-4-411; or
560 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation
561 under Section 32B-4-411; and
562 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior
563 adjudication under Section 80-6-701 for a violation under Section 32B-4-411.
564 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
565 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
566 (I) impose a suspension for one year beginning on the date of conviction; or
567 (II) if the person is under the age of eligibility for a driver license, impose a suspension
568 that begins on the date of conviction and continues for one year beginning on the date of
569 eligibility for a driver license; or
570 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
571 (I) impose a suspension for a period of two years; 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 two years beginning on the date of
574 eligibility for a driver license.
575 (iv) Upon receipt of the first order suspending a person's driving privileges under
576 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if
577 ordered by the court in accordance with Subsection 32B-4-411(3)(a).
578 (v) Upon receipt of the second or subsequent order suspending a person's driving
579 privileges under Section 32B-4-411, the division shall reduce the suspension period under
580 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).
581 (2) The division shall extend the period of the first denial, suspension, revocation, or
582 disqualification for an additional like period, to a maximum of one year for each subsequent
583 occurrence, upon receiving:

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

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

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

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

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

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

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

601 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
602 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
603 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),
604 Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the
605 person was charged with violating as a result of a plea bargain after having been originally
606 charged with violating one or more of these sections or ordinances, unless:

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

609 (B) the division receives written verification from the person's primary care physician
610 that:

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

614 (II) the physician is not aware of any physical, emotional, or mental impairment that

615 would affect the person's ability to operate a motor vehicle safely; and

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

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

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

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

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

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

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

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

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

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

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

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

641 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**
642 **Procedure.**

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

- 646 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled
647 substance, or more than one of these;
- 648 (ii) driving a commercial motor vehicle while the concentration of alcohol in the
649 person's blood, breath, or urine is .04 grams or more;
- 650 (iii) leaving the scene of an accident involving a motor vehicle the person was driving;
- 651 (iv) failing to provide reasonable assistance or identification when involved in an
652 accident resulting in:
- 653 (A) personal injury in accordance with Section 41-6a-401.3;
- 654 (B) death in accordance with Section 41-6a-401.5; or
- 655 (v) using a motor vehicle in the commission of a felony;
- 656 (vi) refusal to submit to a test to determine the concentration of alcohol in the person's
657 blood, breath, or urine;
- 658 (vii) driving a commercial motor vehicle while the person's commercial driver license
659 is disqualified in accordance with the provisions of this section for violating an offense
660 described in this section; or
- 661 (viii) operating a commercial motor vehicle in a negligent manner causing the death of
662 another including the offenses of manslaughter under Section 76-5-205, negligent homicide
663 under Section 76-5-206, or [~~negligently operating a vehicle resulting in death~~] automobile
664 homicide under Section 76-5-207.
- 665 (b) The division shall subtract from any disqualification period under Subsection
666 (1)(a)(i) the number of days for which a license was previously disqualified under Subsection
667 (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which
668 the record of conviction is based.
- 669 (2) If any of the violations under Subsection (1) occur while the driver is transporting a
670 hazardous material required to be placarded, the driver is disqualified for not less than three
671 years.
- 672 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds
673 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if
674 convicted of or administrative action is taken for two or more of any of the offenses under
675 Subsection (1), (5), or (14) arising from two or more separate incidents.
- 676 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

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

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

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

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

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

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

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

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

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

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

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

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

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

702 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic
703 violations:

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

705 (ii) arise from separate incidents; and

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

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

708 disqualified from driving a commercial motor vehicle and the division receives notice of a
709 subsequent conviction for a serious traffic violation that results in an additional disqualification
710 period under this Subsection (6), the subsequent disqualification period is effective beginning
711 on the ending date of the current serious traffic violation disqualification period.

712 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an
713 out-of-service order while driving a commercial motor vehicle is disqualified from driving a
714 commercial motor vehicle for a period not less than:

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

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

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

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

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

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

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

732 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
733 disqualified for not less than 60 days if the division determines, in its check of the driver's
734 driver license status, application, and record prior to issuing a CDL or at any time after the
735 CDL is issued, that the driver has falsified information required to apply for a CDL in this
736 state.

737 (9) A driver of a commercial motor vehicle who is convicted of violating a
738 railroad-highway grade crossing provision under Section [41-6a-1205](#), while driving a

739 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period
740 not less than:

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

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

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

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

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

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

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

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

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

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

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

760 (v) driver poses an imminent hazard.

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

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

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

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

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

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

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

773 (ii) arise from separate incidents; and

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

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

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

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

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

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

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

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

796 (a) one year; or

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

798 (15) The division may concurrently impose any disqualification periods that arise
799 under this section while a driver is disqualified by the Secretary of the United States

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

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

802 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

803 (1) Sections **53-10-403.6**, **53-10-404**, **53-10-404.5**, **53-10-405**, and **53-10-406** apply to
804 any person who:

805 (a) has pled guilty to or has been convicted of any of the offenses under Subsection
806 (2)(a) or (b) on or after July 1, 2002;

807 (b) has pled guilty to or has been convicted by any other state or by the United States
808 government of an offense which if committed in this state would be punishable as one or more
809 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

810 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
811 offense under Subsection (2)(c);

812 (d) has been booked:

813 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
814 2014, through December 31, 2014, under Subsection **53-10-404(4)(b)** for any felony offense; or

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

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

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

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

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

820 (i) for which the court enters a judgment for conviction to a lower degree of offense
821 under Section **76-3-402**; or

822 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
823 defined in Section **77-2a-1**; or

824 (c) (i) any violent felony as defined in Section **53-10-403.5**;

825 (ii) sale or use of body parts, Section **26B-8-315**;

826 (iii) failure to stop at an accident that resulted in death, Section **41-6a-401.5**;

827 (iv) operating a motor vehicle with any amount of a controlled substance in an
828 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,

829 Laws of Utah 2021, Chapter 236, Section 1, Subsection **58-37-8(2)(g)**;

830 (v) a felony violation of enticing a minor, Section **76-4-401**;

831 (vi) negligently operating a vehicle resulting in injury, Subsection **76-5-102.1(2)(b)**;

- 832 (vii) a felony violation of propelling a substance or object at a correctional officer, a
833 peace officer, or an employee or a volunteer, including health care providers, Section
834 76-5-102.6;
- 835 (viii) [~~negligently operating a vehicle resulting in death~~] automobile homicide,
836 Subsection 76-5-207(2)(b);
- 837 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
838 smuggling, Section 76-5-310.1;
- 839 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 840 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 841 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 842 (xiii) sale of a child, Section 76-7-203;
- 843 (xiv) aggravated escape, Subsection 76-8-309(2);
- 844 (xv) a felony violation of assault on an elected official, Section 76-8-315;
- 845 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of
846 Pardons and Parole, Section 76-8-316;
- 847 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 848 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 849 (xix) a felony violation of sexual battery, Section 76-9-702.1;
- 850 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 851 (xxi) a felony violation of abuse or desecration of a dead human body, Section
852 76-9-704;
- 853 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section
854 76-10-402;
- 855 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
856 Section 76-10-403;
- 857 (xxiv) possession of a concealed firearm in the commission of a violent felony,
858 Subsection 76-10-504(4);
- 859 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,
860 Subsection 76-10-1504(3);
- 861 (xxvi) commercial obstruction, Subsection 76-10-2402(2);
- 862 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section

863 77-41-107;

864 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

865 (xxix) violation of condition for release after arrest under Section 78B-7-802.

866 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated
867 by the juvenile court due to the commission of any offense described in Subsection (2), and
868 who:

869 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
870 court on or after July 1, 2002; or

871 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or
872 after July 1, 2002, for an offense under Subsection (2).

873 Section 8. Section 75-2-803 is amended to read:

874 **75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts,**
875 **joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture --**
876 **Revocation.**

877 (1) As used in this section:

878 (a) "Conviction" means the same as that term is defined in Section 77-38b-102.

879 (b) "Decedent" means a deceased individual.

880 (c) "Disposition or appointment of property" includes a transfer of an item of property
881 or any other benefit to a beneficiary designated in a governing instrument.

882 (d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any
883 felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for
884 which the elements are established by a preponderance of the evidence and by applying the
885 same principles of culpability and defenses described in Title 76, Utah Criminal Code.

886 (ii) "Disqualifying homicide" does not include an offense for:

887 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide, as
888 described in Section 76-5-207; and

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

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

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

893 (g) "Revocable" means a disposition, appointment, provision, or nomination under

894 which the decedent, at the time of or immediately before death, was alone empowered, by law
895 or under the governing instrument, to cancel the designation in favor of the killer regardless of
896 whether at the time or immediately before death:

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

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

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

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

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

907 (a) revokes any revocable:

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

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

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

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

918 (4) A severance under Subsection (3)(b) does not affect any third-party interest in
919 property acquired for value and in good faith reliance on an apparent title by survivorship in the
920 killer unless a writing declaring the severance has been noted, registered, filed, or recorded in
921 records appropriate to the kind and location of the property which are relied upon, in the
922 ordinary course of transactions involving such property, as evidence of ownership.

923 (5) Provisions of a governing instrument are given effect as if the killer disclaimed all
924 provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or

925 representative capacity, as if the killer predeceased the decedent.

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

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

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

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

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

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

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

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

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

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

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

950 (B) for the payment of all damages and judgments for conduct resulting in the
951 disqualifying homicide of the decedent.

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

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

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

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

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

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

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

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

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

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

981 (B) if no proceedings have been commenced, the court having jurisdiction of probate
982 proceedings relating to the decedent's estates located in the county of the decedent's residence.

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

986 (iv) Payments, transfers, or deposits made to or with the court discharge the payor or

987 other third party from all claims for the value of amounts paid to or items of property
988 transferred to or deposited with the court.

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

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

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

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

999 (i) obligated to return the payment, item of property, or benefit to the person who is
1000 entitled to the payment, property, or benefit under this section; and

1001 (ii) personally liable for the amount of the payment or the value of the item of property
1002 or benefit to the person who is entitled to the payment, property, or benefit under this section.

1003 (c) If this section or any part of this section is preempted by federal law with respect to
1004 a payment, an item of property, or any other benefit covered by this section, a person who, not
1005 for value, receives the payment, item of property, or any other benefit to which the person is
1006 not entitled under this section is:

1007 (i) obligated to return the payment, item of property, or benefit to the person who
1008 would have been entitled to the payment, property, or benefit if this section or part were not
1009 preempted; and

1010 (ii) personally liable for the amount of the payment or the value of the item of property
1011 or benefit, to the person who would have been entitled to the payment, property, or benefit if
1012 this section or part were not preempted.

1013 Section 9. Section **76-5-201** is amended to read:

1014 **76-5-201. Criminal homicide -- Designations of offenses -- Exceptions --**

1015 **Application of consensual altercation defense.**

1016 (1) (a) As used in this section:

1017 (i) "Abortion" means the same as that term is defined in Section [76-7-301](#).

- 1018 (ii) "Criminal homicide" means an act causing the death of another human being,
1019 including an unborn child at any stage of the unborn child's development.
- 1020 (b) The terms defined in Section 76-1-101.5 apply to this section.
- 1021 (2) The following are criminal homicide:
- 1022 (a) aggravated murder;
- 1023 (b) murder;
- 1024 (c) manslaughter;
- 1025 (d) child abuse homicide;
- 1026 (e) homicide by assault;
- 1027 (f) negligent homicide; and
- 1028 (g) ~~[negligently operating a vehicle resulting in death]~~ automobile homicide.
- 1029 (3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide if:
- 1030 (a) the death of an unborn child is caused by an abortion;
- 1031 (b) the sole reason for the death of an unborn child is that the actor:
- 1032 (i) refused to consent to:
- 1033 (A) medical treatment; or
- 1034 (B) a cesarean section; or
- 1035 (ii) failed to follow medical advice; or
- 1036 (c) a woman causes the death of her own unborn child, and the death:
- 1037 (i) is caused by a criminally negligent act or reckless act of the woman; and
- 1038 (ii) is not caused by an intentional or knowing act of the woman.
- 1039 (4) The provisions governing a defense of a consensual altercation as described in
1040 Section 76-5-104 apply to this part.
- 1041 Section 10. Section 76-5-207 is amended to read:
- 1042 **76-5-207. Automobile homicide -- Penalties -- Evidence.**
- 1043 (1) (a) As used in this section:
- 1044 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 1045 (ii) "Criminally negligent" means the same as that term is described in Subsection
1046 76-2-103(4).
- 1047 (iii) "Drug" means:
- 1048 (A) a controlled substance;

1049 (B) a drug as defined in Section 58-37-2; or

1050 (C) a substance that, when knowingly, intentionally, or recklessly taken into the human
1051 body, can impair the ability of an individual to safely operate a vehicle.

1052 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that
1053 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

1054 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1055 (b) Terms defined in Section 76-1-101.5 apply to this section.

1056 (2) An actor commits [~~negligently operating a vehicle resulting in death~~] automobile
1057 homicide if the actor:

1058 (a) (i) operates a vehicle in a negligent or criminally negligent manner causing the
1059 death of another individual;

1060 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
1061 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
1062 time of the test;

1063 (B) is under the influence of alcohol, any drug, or the combined influence of alcohol
1064 and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

1065 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
1066 operation; or

1067 (b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

1068 (ii) has in the actor's body any measurable amount of a controlled substance.

1069 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty
1070 of:

1071 (a) a second degree felony, punishable by a term of imprisonment of not less than five
1072 years nor more than 15 years; and

1073 (b) a separate offense for each victim suffering death as a result of the actor's violation
1074 of this section, regardless of whether the deaths arise from the same episode of driving.

1075 (4) An actor is not guilty of a violation of [~~negligently operating a vehicle resulting in~~
1076 ~~death~~] automobile homicide under Subsection (2)(b) if:

1077 (a) the controlled substance was obtained under a valid prescription or order, directly
1078 from a practitioner while acting in the course of the practitioner's professional practice, or as
1079 otherwise authorized by Title 58, Occupations and Professions;

- 1080 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
- 1081 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
- 1082 [58-37-4.2](#) if:
- 1083 (i) the actor is the subject of medical research conducted by a holder of a valid license
- 1084 to possess controlled substances under Section [58-37-6](#); and
- 1085 (ii) the substance was administered to the actor by the medical researcher.
- 1086 (5) (a) A judge imposing a sentence under this section may consider:
- 1087 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);
- 1088 (ii) the defendant's history;
- 1089 (iii) the facts of the case;
- 1090 (iv) aggravating and mitigating factors; or
- 1091 (v) any other relevant fact.
- 1092 (b) The judge may not impose a lesser sentence than would be required for a conviction
- 1093 based on the defendant's history under Section [41-6a-505](#).
- 1094 (c) The standards for chemical breath analysis as provided by Section [41-6a-515](#) and
- 1095 the provisions for the admissibility of chemical test results as provided by Section [41-6a-516](#)
- 1096 apply to determination and proof of blood alcohol content under this section.
- 1097 (d) A calculation of blood or breath alcohol concentration under this section shall be
- 1098 made in accordance with Subsection [41-6a-502\(3\)](#).
- 1099 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
- 1100 this section is or has been legally entitled to use alcohol or a drug is not a defense.
- 1101 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
- 1102 admissible except when prohibited by the Utah Rules of Evidence, the United States
- 1103 Constitution, or the Utah Constitution.
- 1104 (g) In accordance with Subsection [77-2a-3\(8\)](#), a guilty or no contest plea to an offense
- 1105 described in this section may not be held in abeyance.
- 1106 (6) If, when imposing a sentence under this section, the court finds that it is in the
- 1107 interest of justice to suspend the imposition of prison, the court shall detail the finding on the
- 1108 record, including why a suspended prison sentence is in the interest of justice.
- 1109 (7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less
- 1110 than three years nor more than 15 years if the court details on the record why it is in the interest

1111 of justice.

1112 Section 11. Section **78B-9-402** is amended to read:

1113 **78B-9-402. Petition for determination of factual innocence -- Sufficient**
1114 **allegations -- Notification of victim -- Payment to surviving spouse.**

1115 (1) A person who has been convicted of a felony offense may petition the district court
1116 in the county in which the person was convicted for a hearing to establish that the person is
1117 factually innocent of the crime or crimes of which the person was convicted.

1118 (2) (a) The petition shall contain an assertion of factual innocence under oath by the
1119 petitioner and shall aver, with supporting affidavits or other credible documents, that:

1120 (i) newly discovered material evidence exists that, if credible, establishes that the
1121 petitioner is factually innocent;

1122 (ii) the specific evidence identified by the petitioner in the petition establishes
1123 innocence;

1124 (iii) the material evidence is not merely cumulative of evidence that was known;

1125 (iv) the material evidence is not merely impeachment evidence; and

1126 (v) viewed with all the other evidence, the newly discovered evidence demonstrates
1127 that the petitioner is factually innocent.

1128 (b) (i) The court shall review the petition in accordance with the procedures in
1129 Subsection (9)(b), and make a finding that the petition has satisfied the requirements of
1130 Subsection (2)(a).

1131 (ii) If the court finds the petition does not meet all the requirements of Subsection
1132 (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to
1133 the petitioner and the attorney general.

1134 (3) (a) The petition shall also contain an averment that:

1135 (i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of
1136 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
1137 postconviction motion, and the evidence could not have been discovered by the petitioner or
1138 the petitioner's counsel through the exercise of reasonable diligence; or

1139 (ii) a court has found ineffective assistance of counsel for failing to exercise reasonable
1140 diligence in uncovering the evidence.

1141 (b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the

1142 court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

1143 (ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied,
1144 the court may dismiss the petition without prejudice and give notice to the petitioner and the
1145 attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a)
1146 if the court finds the petition should proceed to hearing based upon the strength of the petition,
1147 and that there is other evidence that could have been discovered through the exercise of
1148 reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

1149 (A) was not discovered by the petitioner or the petitioner's counsel;

1150 (B) is material upon the issue of factual innocence; and

1151 (C) has never been presented to a court.

1152 (4) (a) If the conviction for which the petitioner asserts factual innocence was based
1153 upon a plea of guilty, the petition shall contain the specific nature and content of the evidence
1154 that establishes factual innocence.

1155 (b) The court shall review the evidence and may dismiss the petition at any time in the
1156 course of the proceedings, if the court finds that the evidence of factual innocence relies solely
1157 upon the recantation of testimony or prior statements made by a witness against the petitioner,
1158 and the recantation appears to the court to be equivocal or self serving.

1159 (5) A person who has already obtained postconviction relief that vacated or reversed
1160 the person's conviction or sentence may also file a petition under this part in the same manner
1161 and form as described above, if no retrial or appeal regarding this offense is pending.

1162 (6) If some or all of the evidence alleged to be exonerating is biological evidence
1163 subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section
1164 [78B-9-301](#).

1165 (7) Except as provided in Subsection (9), the petition and all subsequent proceedings
1166 shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and
1167 shall include the underlying criminal case number.

1168 (8) After a petition is filed under this section, prosecutors, law enforcement officers,
1169 and crime laboratory personnel shall cooperate in preserving evidence and in determining the
1170 sufficiency of the chain of custody of the evidence which is the subject of the petition.

1171 (9) (a) A person who files a petition under this section shall serve notice of the petition
1172 and a copy of the petition upon the office of the prosecutor who obtained the conviction and

1173 upon the Utah attorney general.

1174 (b) (i) The assigned judge shall conduct an initial review of the petition.

1175 (ii) If it is apparent to the court that the petitioner is either merely relitigating facts,
1176 issues, or evidence presented in previous proceedings or presenting issues that appear frivolous
1177 or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal,
1178 and serve notice of dismissal upon the petitioner and the attorney general.

1179 (iii) If, upon completion of the initial review, the court does not dismiss the petition,
1180 the court shall order the attorney general to file a response to the petition.

1181 (iv) The attorney general shall, within 30 days after the day on which the attorney
1182 general receives the court's order, or within any additional period of time the court allows,
1183 answer or otherwise respond to all proceedings initiated under this part.

1184 (c) (i) After the time for response by the attorney general under Subsection (9)(b) has
1185 passed, the court shall order a hearing if the court finds the petition meets the requirements of
1186 Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence
1187 regarding the charges of which the petitioner was convicted.

1188 (ii) No bona fide and compelling issue of factual innocence exists if the petitioner is
1189 merely relitigating facts, issues, or evidence presented in a previous proceeding or if the
1190 petitioner is unable to identify with sufficient specificity the nature and reliability of the newly
1191 discovered evidence that establishes the petitioner's factual innocence.

1192 (d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually
1193 innocent, the court may find the petitioner is factually innocent without holding a hearing.

1194 (ii) If the state will not stipulate that the evidence establishes that the petitioner is
1195 factually innocent, no determination of factual innocence may be made by the court without
1196 first holding a hearing under this part.

1197 (10) The court may not grant a petition for a hearing under this part during the period
1198 in which criminal proceedings in the matter are pending before any trial or appellate court,
1199 unless stipulated to by the parties.

1200 (11) Any victim of a crime that is the subject of a petition under this part, and who has
1201 elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any
1202 hearing regarding the petition.

1203 (12) (a) A petition to determine factual innocence under this part, or Part 3,

1204 Postconviction Testing of DNA, shall be filed separately from any petition for postconviction
1205 relief under Part 1, General Provisions.

1206 (b) Separate petitions may be filed simultaneously in the same court.

1207 (13) The procedures governing the filing and adjudication of a petition to determine
1208 factual innocence apply to all petitions currently filed or pending in the district court and any
1209 new petitions filed on or after June 1, 2012.

1210 (14) (a) As used in this Subsection (14) and in Subsection (15):

1211 (i) "Married" means the legal marital relationship established between two individuals
1212 and as recognized by the law; and

1213 (ii) "Spouse" means an individual married to the petitioner at the time the petitioner
1214 was found guilty of the offense regarding which a petition is filed and who has since then been
1215 continuously married to the petitioner until the petitioner's death.

1216 (b) A claim for determination of factual innocence under this part is not extinguished
1217 upon the death of the petitioner.

1218 (c) (i) If any payments are already being made to the petitioner under this part at the
1219 time of the death of the petitioner, or if the finding of factual innocence occurs after the death
1220 of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with
1221 Section 78B-9-405 to the petitioner's surviving spouse.

1222 (ii) Payments cease upon the death of the spouse.

1223 (15) The spouse under Subsection (14) forfeits all rights to receive any payment under
1224 this part if the spouse is charged with a homicide established by a preponderance of the
1225 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,
1226 Offenses Against the Individual, except [~~negligently operating a vehicle resulting in death~~]
1227 automobile homicide under Section 76-5-207, applying the same principles of culpability and
1228 defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of
1229 Criminal Responsibility.

1230 Section 12. Section 80-6-712 is amended to read:

1231 **80-6-712. Time periods for supervision of probation or placement -- Termination**
1232 **of continuing jurisdiction.**

1233 (1) If the juvenile court places a minor on probation under Section 80-6-702, the
1234 juvenile court shall establish a period of time for supervision for the minor that is:

- 1235 (a) if the minor is placed on intake probation, no more than three months; or
1236 (b) if the minor is placed on formal probation, from four to six months, but may not
1237 exceed six months.
- 1238 (2) (a) If the juvenile court commits a minor to the division under Section 80-6-703,
1239 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:
- 1240 (i) for a minor placed out of the home, a period of custody from three to six months,
1241 but may not exceed six months; and
- 1242 (ii) for aftercare services if the minor was placed out of the home, a period of
1243 supervision from three to four months, but may not exceed four months.
- 1244 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
- 1245 (i) in the home of a qualifying relative or guardian;
1246 (ii) at an independent living program contracted or operated by the division; or
1247 (iii) in a family-based setting with approval by the director or the director's designee if
1248 the minor does not qualify for an independent living program due to age, disability, or another
1249 reason or the minor cannot be placed with a qualifying relative or guardian.
- 1250 (3) If the juvenile court orders a minor to secure care, the authority shall:
- 1251 (a) have jurisdiction over the minor's case; and
1252 (b) apply the provisions of Part 8, Commitment and Parole.
- 1253 (4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at
1254 the end of the time period described in Subsection (1) for probation or Subsection (2) for
1255 commitment to the division, unless:
- 1256 (i) termination would interrupt the completion of the treatment program determined to
1257 be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
1258 (ii) the minor commits a new misdemeanor or felony offense;
1259 (iii) the minor has not completed community or compensatory service hours;
1260 (iv) there is an outstanding fine; or
1261 (v) the minor has not paid restitution in full.
- 1262 (b) The juvenile court shall determine whether a minor has completed a treatment
1263 program under Subsection (4)(a)(i) by considering:
- 1264 (i) the recommendations of the licensed service provider for the treatment program;
1265 (ii) the minor's record in the treatment program; and

1266 (iii) the minor's completion of the goals of the treatment program.

1267 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
1268 exists the juvenile court may extend supervision for the time needed to address the specific
1269 circumstance.

1270 (6) If the juvenile court extends supervision solely on the ground that the minor has not
1271 yet completed community or compensatory service hours under Subsection (4)(a)(iii), the
1272 juvenile court may only extend supervision:

1273 (a) one time for no more than three months; and

1274 (b) as intake probation.

1275 (7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has
1276 not paid restitution in full as described in Subsection (4)(a)(v):

1277 (i) the juvenile court may only:

1278 (A) extend jurisdiction up to four times for no more than three months at a time;

1279 (B) consider the efforts of the minor to pay restitution in full when determining
1280 whether to extend jurisdiction under Subsection (7)(a)(i); and

1281 (C) make orders concerning the payment of restitution during the period for which
1282 jurisdiction is extended;

1283 (ii) the juvenile court shall terminate any intake probation or formal probation of the
1284 minor; and

1285 (iii) a designated staff member of the juvenile court shall submit a report to the juvenile
1286 court every three months regarding the minor's efforts to pay restitution.

1287 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
1288 juvenile court shall:

1289 (i) terminate jurisdiction over the minor's case; and

1290 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
1291 Subsection [80-6-709](#)(8).

1292 (8) If the juvenile court extends supervision or jurisdiction under this section, the
1293 grounds for the extension and the length of any extension shall be recorded in the court records
1294 and tracked in the data system used by the Administrative Office of the Courts and the division.

1295 (9) If a minor leaves supervision without authorization for more than 24 hours, the
1296 supervision period for the minor shall toll until the minor returns.

- 1297 (10) This section does not apply to any minor adjudicated under this chapter for:
- 1298 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 1299 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 1300 (c) Section 76-5-203, murder or attempted murder;
- 1301 (d) Section 76-5-205, manslaughter;
- 1302 (e) Section 76-5-206, negligent homicide;
- 1303 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile
- 1304 homicide;
- 1305 (g) Section 76-5-207.5, automobile homicide involving using a wireless
- 1306 communication device while operating a motor vehicle;
- 1307 (h) Section 76-5-208, child abuse homicide;
- 1308 (i) Section 76-5-209, homicide by assault;
- 1309 (j) Section 76-5-302, aggravated kidnapping;
- 1310 (k) Section 76-5-405, aggravated sexual assault;
- 1311 (l) a felony violation of Section 76-6-103, aggravated arson;
- 1312 (m) Section 76-6-203, aggravated burglary;
- 1313 (n) Section 76-6-302, aggravated robbery;
- 1314 (o) Section 76-10-508.1, felony discharge of a firearm;
- 1315 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 1316 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
- 1317 (ii) the minor has been previously adjudicated or convicted of an offense involving the
- 1318 use of a dangerous weapon; or
- 1319 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 1320 the minor has been previously committed to the division for secure care.
- 1321 Section 13. Section 80-6-804 is amended to read:
- 1322 **80-6-804. Review and termination of secure care.**
- 1323 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
- 1324 offender shall appear before the authority within 45 days after the day on which the juvenile
- 1325 offender is ordered to secure care for review of a treatment plan and to establish parole release
- 1326 guidelines.
- 1327 (2) (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is

1328 ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of
1329 secure care for the juvenile offender from three to six months, but the presumptive term may
1330 not exceed six months.

1331 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1332 authority may immediately release the juvenile offender on parole if there is a treatment
1333 program available for the juvenile offender in a community-based setting.

1334 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile
1335 offender on parole at the end of the presumptive term of secure care unless:

1336 (i) termination would interrupt the completion of a treatment program determined to be
1337 necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

1338 (ii) the juvenile offender commits a new misdemeanor or felony offense.

1339 (d) The authority shall determine whether a juvenile offender has completed a
1340 treatment program under Subsection (2)(c)(i) by considering:

1341 (i) the recommendations of the licensed service provider for the treatment program;

1342 (ii) the juvenile offender's record in the treatment program; and

1343 (iii) the juvenile offender's completion of the goals of the treatment program.

1344 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
1345 secure care and delay parole release for the time needed to address the specific circumstance if
1346 one of the circumstances under Subsection (2)(c) exists.

1347 (f) The authority shall:

1348 (i) record the length of the extension and the grounds for the extension; and

1349 (ii) report annually the length and grounds of extension to the commission.

1350 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
1351 juvenile court and the division.

1352 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1353 authority may not:

1354 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)
1355 that would result in a term of secure care that exceeds a term of incarceration for an adult under
1356 Section 76-3-204 for the same misdemeanor offense; or

1357 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)
1358 if the extension would result in a term of secure care that exceeds the term of incarceration for

1359 an adult under Section 76-3-204 for the same misdemeanor offense.

1360 (3) (a) If a juvenile offender is ordered to secure care, the authority shall set a
1361 presumptive term of parole supervision, including aftercare services, from three to four months,
1362 but the presumptive term may not exceed four months.

1363 (b) If the authority determines that a juvenile offender is unable to return home
1364 immediately upon release, the juvenile offender may serve the term of parole:

1365 (i) in the home of a qualifying relative or guardian;

1366 (ii) at an independent living program contracted or operated by the division; or

1367 (iii) in a family-based setting with approval by the director or the director's designee if
1368 the minor does not qualify for an independent living program due to age, disability, or another
1369 reason or the minor cannot be placed with a qualifying relative or guardian.

1370 (c) The authority shall release a juvenile offender from parole and terminate the
1371 authority's jurisdiction at the end of the presumptive term of parole, unless:

1372 (i) termination would interrupt the completion of a treatment program that is
1373 determined to be necessary by the results of a validated risk and needs assessment under
1374 Section 80-6-606;

1375 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

1376 (iii) restitution has not been completed.

1377 (d) The authority shall determine whether a juvenile offender has completed a
1378 treatment program under Subsection (3)(c)(i) by considering:

1379 (i) the recommendations of the licensed service provider;

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) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
1383 parole release only for the time needed to address the specific circumstance.

1384 (f) The authority shall:

1385 (i) record the grounds for extension of the presumptive length of parole and the length
1386 of the extension; and

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

1388 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
1389 juvenile court and the division.

1390 (h) If a juvenile offender leaves parole supervision without authorization for more than
1391 24 hours, the term of parole shall toll until the juvenile offender returns.

1392 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care
1393 for:

1394 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

1395 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

1396 (c) Section 76-5-203, murder or attempted murder;

1397 (d) Section 76-5-205, manslaughter;

1398 (e) Section 76-5-206, negligent homicide;

1399 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile
1400 homicide;

1401 (g) Section 76-5-207.5, automobile homicide involving using a wireless
1402 communication device while operating a motor vehicle;

1403 (h) Section 76-5-208, child abuse homicide;

1404 (i) Section 76-5-209, homicide by assault;

1405 (j) Section 76-5-302, aggravated kidnapping;

1406 (k) Section 76-5-405, aggravated sexual assault;

1407 (l) a felony violation of Section 76-6-103, aggravated arson;

1408 (m) Section 76-6-203, aggravated burglary;

1409 (n) Section 76-6-302, aggravated robbery;

1410 (o) Section 76-10-508.1, felony discharge of a firearm;

1411 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
1412 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

1413 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
1414 involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

1415 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
1416 juvenile offender has been previously ordered to secure care.

1417 Section 14. **Effective date.**

1418 This bill takes effect on May 1, 2024.