

Representative Steve Eliason proposes the following substitute bill:

DUI OFFENSE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to driving under the influence, including penalties, mandatory sentencing, and pretrial detention.

Highlighted Provisions:

This bill:

- ▶ provides that an actor is guilty of a class A misdemeanor when the actor commits driving under the influence while also operating a vehicle in the opposite direction of traffic on a one-way highway with more than one lane of traffic;
- ▶ reduces the blood alcohol concentration allowed for an individual to plea down to impaired driving;
- ▶ provides mandatory minimum sentences for certain individuals with prior convictions for driving under the influence who violate ignition interlock requirements;
- ▶ clarifies that an ignition interlock restriction period begins on the date of installation of the ignition interlock system;
- ▶ clarifies that the prohibition on operating a motor vehicle without an ignition interlock system installed on the vehicle begins on the date of conviction, not the date of installation of the ignition interlock system;



- 26 ▶ amends penalties for subsequent offenses related to refusal of a chemical test or
- 27 negligent operation of a vehicle that results in injury;
- 28 ▶ amends sentencing requirements for certain offenses of negligent operation of a
- 29 vehicle that results in injury when there is evidence that the individual was also
- 30 driving under the influence;
- 31 ▶ amends sentencing requirements for an offense of negligent operation of a vehicle
- 32 that results in death;
- 33 ▶ amends provisions related to pretrial detention of an individual arrested for driving
- 34 under the influence with another case pending or while on probation for a previous
- 35 offense of driving under the influence;
- 36 ▶ requires pretrial detention or electronic monitoring for an individual that is arrested
- 37 for driving under the influence while already on probation for or while another case
- 38 is pending for driving under the influence; and
- 39 ▶ makes technical changes.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 This bill provides a special effective date.

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46 **41-6a-502**, as last amended by Laws of Utah 2023, Chapter 415
- 47 **41-6a-502.5**, as last amended by Laws of Utah 2023, Chapter 328
- 48 **41-6a-518.2**, as last amended by Laws of Utah 2023, Chapters 384, 415
- 49 **41-6a-520.1**, as enacted by Laws of Utah 2023, Chapter 415
- 50 **53-3-1007**, as last amended by Laws of Utah 2023, Chapter 384
- 51 **76-5-102.1**, as last amended by Laws of Utah 2023, Chapters 111, 415
- 52 **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415
- 53 **77-20-201**, as last amended by Laws of Utah 2023, Chapter 408
- 54 **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265

55 ENACTS:

- 56 **76-5-102.10**, Utah Code Annotated 1953

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

Section 1. Section **41-6a-502** is amended to read:

41-6a-502. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Penalties -- Reporting of convictions.

(1) An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the actor:

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

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

(c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

(2) (a) A violation of Subsection (1) is a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:

(i) has a passenger younger than 16 years old in the vehicle at the time of the offense;

(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time of the offense;

(iii) ~~[the actor]~~ at the time of the offense, also violated:

(A) Section 41-6a-712 or 41-6a-714 [at the time of the offense]; or

(B) Section 41-6a-709, if the violation occurs on a one-way highway, other than a roundabout, that has more than one lane of traffic; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

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

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions each of which is within 10 years of:

88 (A) the current conviction; or
89 (B) the commission of the offense upon which the current conviction is based; or
90 (ii) the current conviction is at any time after:

91 (A) a felony conviction; or
92 (B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of
93 conviction is reduced under Section 76-3-402.

94 [~~(ii) the current conviction is at any time after a conviction of:~~]

95 [~~(A) a violation of Section 76-5-207;~~]

96 [~~(B) a felony violation of this section, Section 76-5-102.1, 41-6a-520.1, or a statute~~
97 ~~previously in effect in this state that would constitute a violation of this section; or]~~

98 [~~(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of~~
99 ~~conviction is reduced under Section 76-3-402.]~~

100 (3) Alcohol concentration in the blood shall be based upon grams of alcohol per 100
101 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of
102 alcohol per 210 liters of breath.

103 (4) A violation of this section includes a violation under a local ordinance similar to
104 this section adopted in compliance with Section 41-6a-510.

105 (5) A court shall, monthly, send to the Division of Professional Licensing, created in
106 Section 58-1-103, a report containing the name, case number, and, if known, the date of birth
107 of each person convicted during the preceding month of a violation of this section for whom
108 there is evidence that the person was driving under the influence, in whole or in part, of a
109 prescribed controlled substance.

110 (6) An offense described in this section is a strict liability offense.

111 (7) A guilty or no contest plea to an offense described in this section may not be held in
112 abeyance.

113 (8) An actor is guilty of a separate offense under Subsection (1) for each passenger in
114 the vehicle that is younger than 16 years old at the time of the offense.

115 Section 2. Section 41-6a-502.5 is amended to read:

116 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
117 **requirements.**

118 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of

119 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of
120 impaired driving under this section if:

121 (a) the defendant completes court ordered probation requirements; or

122 (b) (i) the prosecutor agrees as part of a negotiated plea; and

123 (ii) the court finds the plea to be in the interest of justice.

124 (2) A conviction entered under this section is a class B misdemeanor.

125 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
126 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

127 (ii) If the defendant fails to appear before the court and establish successful completion
128 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
129 amended conviction of Section 41-6a-502.

130 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
131 conviction.

132 (b) The court may enter a conviction of impaired driving immediately under
133 Subsection (1)(b).

134 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
135 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
136 degree.

137 (5) (a) The court shall notify the Driver License Division of each conviction entered
138 under this section.

139 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
140 Professional Licensing, created in Section 58-1-103, a report containing the name, case
141 number, and, if known, the date of birth of each person convicted during the preceding month
142 of a violation of this section for whom there is evidence that the person was driving while
143 impaired, in whole or in part, by a prescribed controlled substance.

144 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
145 sentencing court to order a convicted person to participate in a screening, an assessment, or an
146 educational series, or obtain substance abuse treatment or do a combination of those things,
147 apply to a conviction entered under this section.

148 (b) The court shall render the same order regarding screening, assessment, an
149 educational series, or substance abuse treatment in connection with a first, second, or

150 subsequent conviction under this section as the court would render in connection with applying
151 respectively, the first, second, or subsequent conviction requirements of Subsections
152 41-6a-505(1), (3), (5), and (7).

153 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
154 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
155 reporting court notifies the Driver License Division that the defendant is participating in or has
156 successfully completed the program of a driving under the influence court.

157 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:

- 158 (i) a CDL license holder; or
- 159 (ii) a violation that occurred in a commercial motor vehicle.

160 (8) The provisions of this section are not available:

161 (a) to a person who has a prior conviction as that term is defined in Subsection
162 41-6a-501(2); or

163 (b) where there is admissible evidence that the individual:

- 164 (i) had a blood or breath alcohol level of [~~16~~].11 or higher;
- 165 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable
166 controlled substance; or
- 167 (iii) had a combination of two or more controlled substances in the person's body that
168 were not:

169 (A) prescribed by a licensed physician; or

170 (B) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
171 Research and Medical Cannabis.

172 Section 3. Section 41-6a-518.2 is amended to read:

173 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**
174 **interlock system -- Exemptions.**

175 (1) As used in this section:

176 (a) "Ignition interlock system" means a constant monitoring device or any similar
177 device that:

- 178 (i) is in working order at the time of operation or actual physical control; and
- 179 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection

180 41-6a-518(8).

181 (b) ~~[(i) "Interlock restricted driver" means a person who:]~~
182 ~~[(A) has been ordered by a court or the Board of Pardons and Parole as a condition of~~
183 ~~probation or parole not to operate a motor vehicle without an ignition interlock system;]~~
184 ~~[(B) within the last 18 months has been convicted of a violation under Section~~
185 ~~41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;]~~
186 ~~[(C) (i) within the last three years has been convicted of an offense which would be a~~
187 ~~conviction as defined under Section 41-6a-501; and]~~
188 ~~[(H) the offense described under Subsection (1)(b)(i)(C)(i) is committed within 10~~
189 ~~years from the date that one or more prior offenses was committed if the prior offense resulted~~
190 ~~in a conviction as defined in Section 41-6a-501;]~~
191 ~~[(D) within the last three years has been convicted of a violation of this section;]~~
192 ~~[(E) within the last three years has had the person's driving privilege revoked through~~
193 ~~an administrative action for refusal to submit to a chemical test under Section 41-6a-520;]~~
194 ~~[(F) within the last three years has been convicted of a violation of Section 41-6a-502,~~
195 ~~Subsection 41-6a-520.1(1), or Section 76-5-102.1 and was under 21 years old at the time the~~
196 ~~offense was committed;]~~
197 ~~[(G) within the last six years has been convicted of a felony violation of Section~~
198 ~~41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1 for an offense that occurred after~~
199 ~~May 1, 2006; or]~~
200 ~~[(H) within the last 10 years has been convicted of a violation of Section 76-5-207 for~~
201 ~~an offense that occurred after May 1, 2006.]~~
202 (i) "Interlock restricted driver" means a person who has been ordered by a court or the
203 Board of Pardons and Parole as a condition of probation or parole not to operate a motor
204 vehicle without an ignition interlock system.
205 (ii) "Interlock restricted driver" includes, for the time periods described in Subsection
206 (2), a person who:
207 (A) has been convicted of a violation under Section 41-6a-502, Subsection
208 41-6a-520.1(1), or Section 76-5-102.1;
209 (B) has been convicted of an offense which would be a conviction as defined under
210 Section 41-6a-501, and that offense is committed within 10 years from the date that one or
211 more prior offenses was committed if the prior offense resulted in a conviction as defined in

212 Section 41-6a-501;

213 (C) has been convicted of a violation of this section;

214 (D) has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520.1(1),
215 or Section 76-5-102.1 and was under 21 years old at the time the offense was committed;

216 (E) has been convicted of a felony violation of Section 41-6a-502, Subsection
217 41-6a-520.1(1), or Section 76-5-102.1;

218 (F) has been convicted of a violation of Section 76-5-207; or

219 (G) has had the persons driving privilege revoked through an administrative action for
220 refusal to submit to a chemical test under Section 41-6a-520.

221 [(ii)] (iii) "Interlock restricted driver" does not include a person:

222 (A) whose current conviction described in Subsection [(1)(b)(i)(C)(F)] (1)(b)(ii)(B) is a
223 conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section
224 41-6a-517 and whose prior convictions described in Subsection [(1)(b)(i)(C)(H)] (1)(b)(ii)(B)
225 are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under
226 Section 41-6a-517;

227 (B) whose conviction described in Subsection [(1)(b)(i)(B) or (F)] (1)(b)(ii)(A) or (E)
228 is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court
229 notifies the Driver License Division at the time of sentencing that the conviction does not
230 involve alcohol; or

231 (C) whose conviction described in Subsection [(1)(b)(i)(B), (C), or (F)] (1)(b)(ii)(A),
232 (B), or (D) is a conviction under Section 41-6a-502 that does not involve alcohol and the
233 ignition interlock restriction is removed as described in Subsection [(7)] (8).

234 (2) (a) The ignition interlock restriction period for an ignition interlock restricted driver
235 under Subsection (1)(b)(ii) begins on:

236 (i) for a violation described in Subsections (1)(b)(ii)(A) through (F), the date of
237 conviction; or

238 (ii) for a person described in Subsection (1)(b)(ii)(G), the effective date of the
239 revocation.

240 (b) The ignition interlock restriction period for an ignition interlock restricted driver
241 under Subsection (1)(b)(ii) ends:

242 (i) for a violation described in Subsection (1)(b)(ii)(A), 18 months from the day the

243 ignition interlock restricted driver:

244 (A) provides proof of installation of the ignition interlock system; and

245 (B) reinstates their driving privilege;

246 (ii) for a violation described in Subsections (1)(b)(ii)(B) through (D) and Subsection

247 (1)(b)(ii)(G), two years from the date the ignition interlock restricted driver:

248 (A) provides proof of installation of the ignition interlock system; and

249 (B) reinstates their driving privilege;

250 (iii) for a violation described in Subsection (1)(b)(ii)(E), three years from the date the

251 ignition interlock restricted driver:

252 (A) provides proof of installation of the ignition interlock system; and

253 (B) reinstates their driving privilege; and

254 (iv) for a violation described in Subsection (1)(b)(ii)(F), four years from the date the

255 ignition interlock restricted driver:

256 (A) provides proof of installation of the ignition interlock system; and

257 (B) reinstates their driving privilege.

258 (c) If an ignition interlock system is removed from the vehicle before the restriction
259 period under Subsection (2)(b) has ended, the ignition interlock restriction period is extended
260 by the number of days the ignition interlock system was removed from the persons vehicle.

261 ~~[(2)]~~ (3) The division shall post the ignition interlock restriction on a person's
262 electronic record that is available to law enforcement.

263 ~~[(3)]~~ (4) For purposes of this section, a plea of guilty or no contest to a violation of
264 Section [41-6a-502](#) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
265 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been
266 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

267 ~~[(4)]~~ (5) An interlock restricted driver who operates or is in actual physical control of a
268 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

269 ~~[(5)]~~ (6) It is an affirmative defense to a charge of a violation of Subsection ~~[(4)]~~ (5) if:

270 (a) the interlock restricted driver operated or was in actual physical control of a vehicle
271 owned by the interlock restricted driver's employer;

272 (b) the interlock restricted driver had given written notice to the employer of the
273 interlock restricted driver's interlock restricted status prior to the operation or actual physical

274 control under Subsection [~~(5)(a)~~] (6)(a);

275 (c) the interlock restricted driver had on the interlock restricted driver's person, or in
276 the vehicle, at the time of operation or physical control employer verification, as defined in
277 Subsection 41-6a-518(1); and

278 (d) the operation or actual physical control described in Subsection [~~(5)(a)~~] (6)(a) was
279 in the scope of the interlock restricted driver's employment.

280 [~~(6)~~] (7) The affirmative defense described in Subsection [~~(5)~~] (6) does not apply to:

281 (a) an employer-owned motor vehicle that is made available to an interlock restricted
282 driver for personal use; or

283 (b) a motor vehicle owned by a business entity that is entirely or partly owned or
284 controlled by the interlock restricted driver.

285 [~~(7)~~] (8) (a) An individual with an ignition interlock restriction may petition the
286 division for removal of the restriction if the individual's offense did not involve alcohol.

287 (b) If the division is able to establish that an individual's offense did not involve
288 alcohol, the division may remove the ignition interlock restriction.

289 [~~(8)~~] (9) (a) (i) An individual with an ignition interlock restriction may petition the
290 division for removal of the restriction if the individual has a medical condition that prohibits
291 the individual from providing a deep lung breath sample.

292 (ii) In support of a petition under Subsection [~~(8)(a)(i)~~] (9)(a)(i), the individual shall
293 provide documentation from a physician that describes the individual's medical condition and
294 whether the individual's medical condition would prohibit the individual from being able to
295 provide a deep breath lung sample.

296 (b) If the division is able to establish that an individual is unable to provide a deep
297 breath lung sample as a result of a medical condition, the division may remove the ignition
298 interlock restriction.

299 Section 4. Section **41-6a-520.1** is amended to read:

300 **41-6a-520.1. Refusing a chemical test.**

301 (1) An actor commits refusing a chemical test if:

302 (a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);

303 (b) a court issues a warrant to draw and test the blood; and

304 (c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's

305 blood.

306 (2) (a) A violation of Subsection (1) is a class B misdemeanor.

307 (b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A
308 misdemeanor if the actor:

309 (i) has a passenger younger than 16 years old in the vehicle at the time the officer had
310 grounds to believe the actor was driving under the influence;

311 (ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle
312 at the time the officer had grounds to believe the actor was driving under the influence;

313 (iii) also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or

314 (iv) has one prior conviction within 10 years of:

315 (A) the current conviction under Subsection (1); or

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

317 (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree
318 felony if:

319 (i) the actor has two or more prior convictions, each of which is within 10 years of:

320 (A) the current conviction; or

321 (B) the commission of the offense upon which the current conviction is based; or

322 (ii) the current conviction is at any time after:

323 (A) a felony conviction; or

324 (B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of
325 conviction is reduced under Section 76-3-402.

326 [~~(ii) the current conviction is at any time after a conviction of:~~]

327 [~~(A) a violation of Section 76-5-207;~~]

328 [~~(B) a felony violation of this section, Section 76-5-102.1, 41-6a-502, or a statute~~
329 ~~previously in effect in this state that would constitute a violation of this section; or]~~

330 [~~(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of~~
331 ~~conviction is reduced under Section 76-3-402.]~~

332 (3) As part of any sentence for a conviction of violating this section, the court shall
333 impose the same sentencing as outlined for driving under the influence violations in Section
334 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the
335 following modifications:

336 (a) any jail sentence shall be 24 consecutive hours more than is required under Section
337 41-6a-505;

338 (b) any fine imposed shall be \$100 more than is required under Section 41-6a-505; and

339 (c) the court shall order one or more of the following:

340 (i) the installation of an ignition interlock system as a condition of probation for the
341 individual, in accordance with Section 41-6a-518;

342 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
343 device as a condition of probation for the individual; or

344 (iii) the imposition of home confinement through the use of electronic monitoring, in
345 accordance with Section 41-6a-506.

346 (4) (a) The offense of refusing a chemical test under this section does not merge with
347 any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

348 (b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
349 of refusal to submit to a chemical test under this section may not be held in abeyance.

350 (5) An actor is guilty of a separate offense under Subsection (1) for each passenger in
351 the vehicle that is younger than 16 years old at the time the officer had grounds to believe the
352 actor was driving under the influence.

353 Section 5. Section 53-3-1007 is amended to read:

354 **53-3-1007. Ignition interlock system provider -- Notification to the division upon**
355 **installation or removal of an ignition interlock system -- Monitoring and reporting**
356 **requirements -- Penalties.**

357 (1) An ignition interlock system provider who installs an ignition interlock system on
358 an individual's vehicle shall:

359 (a) provide proof of installation to the individual; and

360 (b) electronically notify the division of installation of an ignition interlock system on
361 the individual's vehicle.

362 (2) An ignition interlock system provider shall electronically notify the division if an
363 individual has:

364 (a) removed an ignition interlock system from the individual's vehicle;

365 (b) attempted to start the motor vehicle with a measurable breath alcohol concentration,
366 and the attempt to start the motor vehicle was prevented by the ignition interlock system,

367 including the date and time of each attempt; or

368 (c) failed to report to the ignition interlock provider for the purpose of monitoring the
369 device every 60 days, or more frequently if ordered by the court as described in Subsection
370 41-6a-518(5)(a).

371 (3) If an individual is an interlock restricted driver and the individual removes an
372 ignition interlock system as described in Subsection (2)(a), the division shall:

373 (a) suspend the individual's driving privilege for the duration of the restriction period
374 as defined in Section 41-6a-518.2; and

375 (b) notify the individual of the suspension period in place and the requirements for
376 reinstatement of the driving privilege with respect to the ignition interlock restriction
377 suspension.

378 (4) The division shall clear a suspension described in Subsection (3) upon:

379 (a) receipt of payment of the fee or fees required under Section 53-3-105; and

380 (b) (i) receipt of electronic notification from an ignition interlock system provider
381 showing proof of the installation of an ignition interlock system on the individual's vehicle or
382 the vehicle the individual will be operating;

383 (ii) if the individual does not own a vehicle or will not be operating a vehicle owned by
384 another individual:

385 (A) electronic verification that the individual does not have a vehicle registered in the
386 individual's name in the state; and

387 (B) receipt of employer verification, as defined in Subsection 41-6a-518(1); or

388 (iii) if the individual is not a resident of Utah, electronic verification that the individual
389 is licensed in the individual's state of residence or is in the process of obtaining a license in the
390 individual's state of residence.

391 (5) If Subsection (4)(b)(ii) applies, the division shall every six months:

392 (a) electronically verify the individual does not have a vehicle registered in the
393 individual's name in the state; and

394 (b) require the individual to provide updated documentation described in Subsection
395 (4)(b)(ii).

396 (6) If the individual described in Subsection (5) does not provide the required
397 documentation described in Subsection (4)(b)(ii), the division shall suspend the individual's

398 driving privilege until:

399 (a) the division receives payment of the fee or fees required under Section 53-3-105;

400 and

401 (b) (i) the division:

402 (A) receives electronic notification from an ignition interlock system provider showing
403 proof of the installation of an ignition interlock system on the individual's vehicle or the
404 vehicle the individual will be operating; or

405 (B) if the individual does not own a vehicle or will not be operating a vehicle owned by
406 another individual, receives electronic verification that the individual does not have a vehicle
407 registered in the individual's name in the state, and receives employer verification, as defined in
408 Subsection 41-6a-518(1); or

409 (ii) if the individual is not a resident of Utah, electronic verification that the individual
410 is licensed in the individual's state of residence or is in the process of obtaining a license in the
411 individual's state of residence.

412 (7) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
413 Act, the division shall suspend the license of any individual without receiving a record of the
414 individual's conviction of crime seven days after receiving electronic notification from an
415 ignition interlock system provider that an individual has removed an ignition interlock system
416 from the individual's vehicle or a vehicle owned by another individual and operated by the
417 individual if the individual is an interlock restricted driver until:

418 (a) the division receives payment of the fee or fees specified in Section 53-3-105; and

419 (b) (i) (A) the division receives electronic notification from an ignition interlock
420 system provider showing new proof of the installation of an ignition interlock system on the
421 individual's vehicle or the vehicle the individual will be operating; or

422 (B) if the individual does not own a vehicle or will not be operating a vehicle owned by
423 another individual, the division receives electronic verification that the individual does not
424 have a vehicle registered in the individual's name in the state, and receives employer
425 verification, as defined in Subsection 41-6a-518(1);

426 (ii) if the individual is not a resident of Utah, the division receives electronic
427 verification that the individual is licensed in the individual's state of residence or is in the
428 process of obtaining a license in the individual's state of residence; or

429 (iii) the individual's interlock restricted period has expired.

430 (8) (a) Upon receipt of a notice described in Subsection (2)(b) or (2)(c), the division
431 shall extend the individual's ignition interlock restriction period by 60 days.

432 (b) The division shall notify the individual of the modified ignition interlock restriction
433 period described in Subsection (8)(a).

434 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
435 division shall make rules establishing:

436 (a) procedures for certification and regulation of ignition interlock system providers;

437 (b) acceptable documentation for proof of the installation of an ignition interlock
438 device;

439 (c) procedures for an ignition interlock system provider to electronically notify the
440 division;

441 (d) procedures for an ignition interlock system provider to provide monitoring of an
442 ignition interlock system and reporting the results of monitoring;

443 (e) procedures for the removal of an ignition interlock restriction if the individual is
444 unable to provide a deep lung breath sample as a result of a medical condition and is unable to
445 properly use an ignition interlock system as described in Subsection [~~41-6a-518.2(8)~~]

446 [41-6a-518.2\(9\)](#); and

447 (f) policies and procedures for the administration of the ignition interlock system
448 program created under this section.

449 Section 6. Section **76-5-102.1** is amended to read:

450 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

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

452 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

453 (ii) "Drug" means the same as that term is defined in Section [76-5-207](#).

454 (iii) "Negligent" or "negligence" means the same as that term is defined in Section
455 [76-5-207](#).

456 (iv) "Vehicle" means the same as that term is defined in Section [41-6a-501](#).

457 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

458 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:

459 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

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

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

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

467 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to
468 another; and

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

470 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:

471 ~~[(a) (i) a class A misdemeanor; or]~~

472 ~~[(ii) a third degree felony if the bodily injury is serious bodily injury; and]~~

473 (a) (i) a class A misdemeanor; or

474 (ii) a third degree felony if the actor has two or more driving under the influence
475 related convictions under Subsection 41-6a-501(2)(a), each of which is within 10 years of:

476 (A) the current conviction; or

477 (B) the commission of the offense upon which the current conviction is based;

478 (iii) a third degree felony, if the current conviction is at any time after the conviction
479 of:

480 (A) a felony conviction; or

481 (B) any conviction described in Subsection (3)(a)(iii)(A) for which judgment of
482 conviction is reduced under Section 76-3-402; or

483 (iv) a third degree felony if the bodily injury is serious bodily injury; and

484 (b) a separate offense for each victim suffering bodily injury as a result of the actor's
485 violation of this section, regardless of whether the injuries arise from the same episode of
486 driving.

487 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under
488 Subsection (2)(b) if:

489 (a) the controlled substance was obtained under a valid prescription or order, directly
490 from a practitioner while acting in the course of the practitioner's professional practice, or as

491 otherwise authorized by Title 58, Occupations and Professions;

492 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

493 (c) the actor possessed, in the actor's body, a controlled substance listed in Section

494 [58-37-4.2](#) if:

495 (i) the actor is the subject of medical research conducted by a holder of a valid license
496 to possess controlled substances under Section [58-37-6](#); and

497 (ii) the substance was administered to the actor by the medical researcher.

498 (5) (a) A judge imposing a sentence under this section may consider:

499 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);

500 (ii) the defendant's history;

501 (iii) the facts of the case;

502 (iv) aggravating and mitigating factors; or

503 (v) any other relevant fact.

504 ~~[(b)] The judge may not impose a lesser sentence than would be required for a
505 conviction based on the defendant's history under Section [41-6a-505](#).]~~

506 ~~[(c)]~~ (b) The standards for chemical breath analysis under Section [41-6a-515](#) and the
507 provisions for the admissibility of chemical test results under Section [41-6a-516](#) apply to
508 determination and proof of blood alcohol content under this section.

509 ~~[(d)]~~ (c) A calculation of blood or breath alcohol concentration under this section shall
510 be made in accordance with Subsection [41-6a-502](#)(3).

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

513 ~~[(f)]~~ (e) Evidence of a defendant's blood or breath alcohol content or drug content is
514 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,
515 or the Utah Constitution.

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

518 Section 7. Section **76-5-102.10** is enacted to read:

519 **76-5-102.10. Sentencing requirements for negligently operating a vehicle resulting**
520 **in injury.**

521 (1) As used in this section:

- 522 (a) "Assessment" means the same as that term is defined in Section 41-6a-501.
- 523 (b) "Educational series" means the same as that term is defined in Section 41-6a-501.
- 524 (c) "Screening" means the same as that term is defined in Section 41-6a-501.
- 525 (2) As part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) that
- 526 would be a first conviction of any driving under the influence related offense found under
- 527 Subsection 41-6a-501(2)(a) where there is admissible evidence that the individual had a blood
- 528 or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in
- 529 addition to any measurable controlled substance, or had a combination of two or more
- 530 controlled substances in the individual's body that were not recommended in accordance with
- 531 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:
- 532 (a) the court shall:
- 533 (i) impose a jail sentence of not less than ten days;
- 534 (ii) order the individual to participate in a screening;
- 535 (iii) order the individual to participate in an assessment, if it is found appropriate by a
- 536 screening under Subsection (2)(a)(ii);
- 537 (iv) order the individual to participate in an educational series if the court does not
- 538 order substance abuse treatment as described under Subsection (2)(b);
- 539 (v) impose a fine of not less than \$700;
- 540 (vi) order probation for the individual in accordance with Section 41-6a-507;
- 541 (vii) (A) order the individual to pay the administrative impound fee described in
- 542 Section 41-6a-1406; or
- 543 (B) if the administrative impound fee was paid by a party described in Subsection
- 544 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
- 545 reimburse the party;
- 546 (viii) (A) order the individual to pay the towing and storage fees described in Section
- 547 72-9-603; or
- 548 (B) if the towing and storage fees were paid by a party described in Subsection
- 549 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
- 550 reimburse the party; or
- 551 (ix) unless the court determines and states on the record that an ignition interlock
- 552 system is not necessary for the safety of the community and in the best interest of justice, order

553 the installation of an ignition interlock system as described in Section 41-6a-518; and
554 (b) the court may:
555 (i) order the individual to obtain substance abuse treatment if the substance abuse
556 treatment program determines that substance abuse treatment is appropriate;
557 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
558 41-6a-515.5 if the individual is 21 years old or older; or
559 (iii) order a combination of Subsections (2)(b)(i) and (ii).
560 (3) As part of any sentence for any first conviction of Subsection 76-5-102.1(3)(a)(i)
561 that would be a first conviction of any driving under the influence related offense found under
562 Subsection 41-6a-501(2)(a) not described in Subsection (2):
563 (a) the court shall:
564 (i) impose a jail sentence of not less than five days;
565 (ii) order the individual to participate in a screening;
566 (iii) order the individual to participate in an assessment, if it is found appropriate by a
567 screening under Subsection (3)(a)(ii);
568 (iv) order the individual to participate in an educational series if the court does not
569 order substance abuse treatment as described under Subsection (3)(b);
570 (v) impose a fine of not less than \$700;
571 (vi) (A) order the individual to pay the administrative impound fee described in Section
572 41-6a-1406; or
573 (B) if the administrative impound fee was paid by a party described in Subsection
574 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
575 reimburse the party; or
576 (vii) (A) order the individual to pay the towing and storage fees described in Section
577 72-9-603; or
578 (B) if the towing and storage fees were paid by a party described in Subsection
579 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
580 reimburse the party; and
581 (b) the court may:
582 (i) order the individual to obtain substance abuse treatment if the substance abuse
583 treatment program determines that substance abuse treatment is appropriate;

584 (ii) order probation for the individual in accordance with Section [41-6a-507](#);
585 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
586 [41-6a-515.5](#) if the individual is 21 years old or older; or
587 (iv) order a combination of Subsections (3)(b)(i) through (iii).
588 (4) If an individual has a prior conviction as defined in Section [41-6a-501](#) that is within
589 10 years of the current conviction under Subsection [76-5-102.1](#)(3)(a)(ii) or the commission of
590 the offense upon which the current conviction is based and where there is admissible evidence
591 that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath
592 alcohol level of .05 or higher in addition to any measurable controlled substance, or had a
593 combination of two or more controlled substances in the individual's body that were not
594 recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and
595 Medical Cannabis, or prescribed:
596 (a) the court shall:
597 (i) impose a jail sentence of not less than 40 days;
598 (ii) order the individual to participate in a screening;
599 (iii) order the individual to participate in an assessment, if it is found appropriate by a
600 screening under Subsection (4)(a)(ii);
601 (iv) order the individual to participate in an educational series if the court does not
602 order substance abuse treatment as described under Subsection (4)(b);
603 (v) impose a fine of not less than \$800;
604 (vi) order probation for the individual in accordance with Section [41-6a-507](#);
605 (vii) order the installation of an ignition interlock system as described in Section
606 [41-6a-518](#);
607 (viii) (A) order the individual to pay the administrative impound fee described in
608 Section [41-6a-1406](#); or
609 (B) if the administrative impound fee was paid by a party described in Subsection
610 [41-6a-1406](#)(5)(a), other than the individual sentenced, order the individual sentenced to
611 reimburse the party; or
612 (ix) (A) order the individual to pay the towing and storage fees described in Section
613 [72-9-603](#); or
614 (B) if the towing and storage fees were paid by a party described in Subsection

615 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
616 reimburse the party; and
617 (b) the court may:
618 (i) order the individual to obtain substance abuse treatment if the substance abuse
619 treatment program determines that substance abuse treatment is appropriate;
620 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
621 41-6a-515.5 if the individual is 21 years old or older; or
622 (iii) order a combination of Subsections (4)(b)(i) and (ii).
623 (5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within
624 10 years of the current conviction under Subsection 76-5-102.1(3)(a)(ii) or the commission of
625 the offense upon which the current conviction is based and that does not qualify under
626 Subsection (4):
627 (a) the court shall:
628 (i) impose a jail sentence of not less than 20 days;
629 (ii) order the individual to participate in a screening;
630 (iii) order the individual to participate in an assessment, if it is found appropriate by a
631 screening under Subsection (5)(a)(ii);
632 (iv) order the individual to participate in an educational series if the court does not
633 order substance abuse treatment as described under Subsection (5)(b);
634 (v) impose a fine of not less than \$800;
635 (vi) order probation for the individual in accordance with Section 41-6a-507;
636 (vii) (A) order the individual to pay the administrative impound fee described in
637 Section 41-6a-1406; or
638 (B) if the administrative impound fee was paid by a party described in Subsection
639 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
640 reimburse the party; or
641 (viii) (A) order the individual to pay the towing and storage fees described in Section
642 72-9-603; or
643 (B) if the towing and storage fees were paid by a party described in Subsection
644 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
645 reimburse the party; and

646 (b) the court may:
647 (i) order the individual to obtain substance abuse treatment if the substance abuse
648 treatment program determines that substance abuse treatment is appropriate;
649 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
650 41-6a-515.5 if the individual is 21 years old or older; or
651 (iii) order a combination of Subsections (5)(b)(i) and (ii).
652 (6) If the court suspends the execution of a prison sentence and places the defendant on
653 probation as part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) where
654 there is admissible evidence that the individual had a blood or breath alcohol level of .16 or
655 higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable
656 controlled substance, or had a combination of two or more controlled substances in the
657 individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2,
658 Cannabinoid Research and Medical Cannabis, or prescribed:
659 (a) the court shall:
660 (i) impose a jail sentence of not less than 240 days;
661 (ii) order the individual to participate in a screening;
662 (iii) order the individual to participate in an assessment, if it is found appropriate by a
663 screening under Subsection (6)(a)(ii);
664 (iv) order the individual to participate in an educational series if the court does not
665 order substance abuse treatment as described under Subsection (6)(b);
666 (v) impose a fine of not less than \$800;
667 (vi) order probation for the individual in accordance with Section 41-6a-507;
668 (vii) order the installation of an ignition interlock system as described in Section
669 41-6a-518;
670 (viii) (A) order the individual to pay the administrative impound fee described in
671 Section 41-6a-1406; or
672 (B) if the administrative impound fee was paid by a party described in Subsection
673 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
674 reimburse the party; or
675 (ix) (A) order the individual to pay the towing and storage fees described in Section
676 72-9-603; or

677 (B) if the towing and storage fees were paid by a party described in Subsection
678 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
679 reimburse the party; and

680 (b) the court may:

681 (i) order the individual to obtain substance abuse treatment if the substance abuse
682 treatment program determines that substance abuse treatment is appropriate;

683 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
684 41-6a-515.5 if the individual is 21 years old or older; or

685 (iii) order a combination of Subsections (6)(b)(i) and (ii).

686 (7) If the court suspends the execution of a prison sentence and places the defendant on
687 probation as part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) not
688 described in Subsection (6):

689 (a) the court shall:

690 (i) impose a jail sentence of not less than 120 days;

691 (ii) order the individual to participate in a screening;

692 (iii) order the individual to participate in an assessment, if it is found appropriate by a
693 screening under Subsection (7)(a)(ii);

694 (iv) order the individual to participate in an educational series if the court does not
695 order substance abuse treatment as described under Subsection (7)(b);

696 (v) impose a fine of not less than \$800;

697 (vi) order probation for the individual in accordance with Section 41-6a-507;

698 (vii) order the installation of an ignition interlock system as described in Section
699 41-6a-518;

700 (viii) (A) order the individual to pay the administrative impound fee described in
701 Section 41-6a-1406; or

702 (B) if the administrative impound fee was paid by a party described in Subsection
703 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
704 reimburse the party; or

705 (ix) (A) order the individual to pay the towing and storage fees described in Section
706 72-9-603; or

707 (B) if the towing and storage fees were paid by a party described in Subsection

708 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
709 reimburse the party; and

710 (b) the court may:

711 (i) order the individual to obtain substance abuse treatment if the substance abuse
712 treatment program determines that substance abuse treatment is appropriate;

713 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
714 41-6a-515.5 if the individual is 21 years old or older; or

715 (iii) order a combination of Subsections (7)(b)(i) and (ii).

716 (8) If the court suspends the execution of a prison sentence and places the defendant on
717 probation as part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) that would
718 be a first conviction of any DUI related offense found under Subsection 41-6a-501(2)(a) where
719 there is admissible evidence that the individual had a blood or breath alcohol level of .16 or
720 higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable
721 controlled substance, or had a combination of two or more controlled substances in the
722 individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2,
723 Cannabinoid Research and Medical Cannabis, or prescribed:

724 (a) the court shall:

725 (i) impose a jail sentence of not less than 180 days;

726 (ii) order the individual to participate in a screening;

727 (iii) order the individual to participate in an assessment, if it is found appropriate by a
728 screening under Subsection (8)(a)(ii);

729 (iv) order the individual to participate in an educational series if the court does not
730 order substance abuse treatment as described under Subsection (8)(b);

731 (v) impose a fine of not less than \$800;

732 (vi) order probation for the individual in accordance with Section 41-6a-507;

733 (vii) order the installation of an ignition interlock system as described in Section
734 41-6a-518;

735 (viii) (A) order the individual to pay the administrative impound fee described in
736 Section 41-6a-1406; or

737 (B) if the administrative impound fee was paid by a party described in Subsection
738 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

739 reimburse the party; or
740 (ix) (A) order the individual to pay the towing and storage fees described in Section
741 72-9-603; or
742 (B) if the towing and storage fees were paid by a party described in Subsection
743 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
744 reimburse the party; and
745 (b) the court may:
746 (i) order the individual to obtain substance abuse treatment if the substance abuse
747 treatment program determines that substance abuse treatment is appropriate;
748 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
749 41-6a-515.5 if the individual is 21 years old or older; or
750 (iii) order a combination of Subsections (8)(b)(i) and (ii).
751 (9) If the court suspends the execution of a prison sentence and places the defendant on
752 probation as part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) that would
753 be a first conviction of any DUI related offense found under Subsection 41-6a-501(2)(a) and
754 not described in Subsection (8):
755 (a) the court shall:
756 (i) impose a jail sentence of not less than 90 days;
757 (ii) order the individual to participate in a screening;
758 (iii) order the individual to participate in an assessment, if it is found appropriate by a
759 screening under Subsection (9)(a)(ii);
760 (iv) order the individual to participate in an educational series if the court does not
761 order substance abuse treatment as described under Subsection (9)(b);
762 (v) impose a fine of not less than \$800;
763 (vi) order probation for the individual in accordance with Section 41-6a-507;
764 (vii) order the installation of an ignition interlock system as described in Section
765 41-6a-518;
766 (viii) (A) order the individual to pay the administrative impound fee described in
767 Section 41-6a-1406; or
768 (B) if the administrative impound fee was paid by a party described in Subsection
769 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to

770 reimburse the party; or
771 (ix) (A) order the individual to pay the towing and storage fees described in Section
772 72-9-603; or
773 (B) if the towing and storage fees were paid by a party described in Subsection
774 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
775 reimburse the party; and
776 (b) the court may:
777 (i) order the individual to obtain substance abuse treatment if the substance abuse
778 treatment program determines that substance abuse treatment is appropriate;
779 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
780 41-6a-515.5 if the individual is 21 years old or older; or
781 (iii) order a combination of Subsections (9)(b)(i) and (ii).
782 (10) If the court suspends the execution of a prison sentence and places the defendant
783 on probation as part of any sentence for a conviction where an individual has a prior conviction
784 as defined in Section 41-6a-501 that is within 10 years of the current conviction under
785 Subsection 76-5-102.1(3)(a)(ii) or the commission of the offense upon which the current
786 conviction is based and where there is admissible evidence that the individual had a blood or
787 breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in
788 addition to any measurable controlled substance, or had a combination of two or more
789 controlled substances in the individual's body that were not recommended in accordance with
790 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:
791 (a) the court shall:
792 (i) impose a jail sentence of not less than 360 days;
793 (ii) order the individual to participate in a screening;
794 (iii) order the individual to participate in an assessment, if it is found appropriate by a
795 screening under Subsection (10)(a)(ii);
796 (iv) order the individual to participate in an educational series if the court does not
797 order substance abuse treatment as described under Subsection (10)(b);
798 (v) impose a fine of not less than \$800;
799 (vi) order probation for the individual in accordance with Section 41-6a-507;
800 (vii) order the installation of an ignition interlock system as described in Section

801 [41-6a-518](#);

802 (viii) (A) order the individual to pay the administrative impound fee described in

803 Section [41-6a-1406](#); or

804 (B) if the administrative impound fee was paid by a party described in Subsection

805 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to

806 reimburse the party; or

807 (ix) (A) order the individual to pay the towing and storage fees described in Section

808 [72-9-603](#); or

809 (B) if the towing and storage fees were paid by a party described in Subsection

810 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to

811 reimburse the party; and

812 (b) the court may:

813 (i) order the individual to obtain substance abuse treatment if the substance abuse

814 treatment program determines that substance abuse treatment is appropriate;

815 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section

816 [41-6a-515.5](#) if the individual is 21 years old or older; or

817 (iii) order a combination of Subsections (10)(b)(i) and (ii).

818 (11) If the court suspends the execution of a prison sentence and places the defendant

819 on probation as part of any sentence for a conviction where an individual has a prior conviction

820 as defined in Section [41-6a-501](#) that is within 10 years of the current conviction under

821 Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) or the commission of the offense upon which the current

822 conviction is based and that does not qualify under Subsection (10):

823 (a) the court shall:

824 (i) impose a jail sentence of not less than 270 days;

825 (ii) order the individual to participate in a screening;

826 (iii) order the individual to participate in an assessment, if it is found appropriate by a

827 screening under Subsection (11)(a)(ii);

828 (iv) order the individual to participate in an educational series if the court does not

829 order substance abuse treatment as described under Subsection (11)(b);

830 (v) impose a fine of not less than \$800;

831 (vi) order probation for the individual in accordance with Section [41-6a-507](#);

832 (vii) (A) order the individual to pay the administrative impound fee described in
833 Section [41-6a-1406](#); or

834 (B) if the administrative impound fee was paid by a party described in Subsection
835 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
836 reimburse the party; or

837 (viii) (A) order the individual to pay the towing and storage fees described in Section
838 [72-9-603](#); or

839 (B) if the towing and storage fees were paid by a party described in Subsection
840 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
841 reimburse the party; and

842 (b) the court may:

843 (i) order the individual to obtain substance abuse treatment if the substance abuse
844 treatment program determines that substance abuse treatment is appropriate;

845 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
846 [41-6a-515.5](#) if the individual is 21 years old or older; or

847 (iii) order a combination of Subsections (11)(b)(i) and (ii).

848 (12) If an individual has two or more prior convictions as defined in Section [41-6a-501](#)
849 that is within 10 years of the current conviction under Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) or the
850 commission of the offense upon which the current conviction is based and that does not qualify
851 under Subsection (10) the court shall impose, and may not suspend, a prison sentence.

852 Section 8. Section **76-5-207** is amended to read:

853 **76-5-207. Negligently operating a vehicle resulting in death -- Penalties --**

854 **Evidence.**

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

856 (i) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

857 (ii) "Criminally negligent" means the same as that term is described in Subsection
858 [76-2-103\(4\)](#).

859 (iii) "Drug" means:

860 (A) a controlled substance;

861 (B) a drug as defined in Section [58-37-2](#); or

862 (C) a substance that, when knowingly, intentionally, or recklessly taken into the human

863 body, can impair the ability of an individual to safely operate a vehicle.

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

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

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

868 (2) An actor commits negligently operating a vehicle resulting in death if the actor:

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

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

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

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

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

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

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

882 (a) a second degree felony; and

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

885 (4) An actor is not guilty of a violation of negligently operating a vehicle resulting in
886 death under Subsection (2)(b) if:

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

890 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

891 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
892 58-37-4.2 if:

893 (i) the actor is the subject of medical research conducted by a holder of a valid license

894 to possess controlled substances under Section 58-37-6; and

895 (ii) the substance was administered to the actor by the medical researcher.

896 (5) (a) A judge imposing a sentence under this section [~~may consider:~~] shall impose
897 and may not suspend a prison sentence.

898 [~~(i) the sentencing guidelines developed in accordance with Section 63M-7-404;~~]

899 [~~(ii) the defendant's history;~~]

900 [~~(iii) the facts of the case;~~]

901 [~~(iv) aggravating and mitigating factors; or~~]

902 [~~(v) any other relevant fact.~~]

903 [~~(b) The judge may not impose a lesser sentence than would be required for a~~
904 ~~conviction based on the defendant's history under Section 41-6a-505.]~~

905 [~~(e)~~] (b) The standards for chemical breath analysis as provided by Section 41-6a-515
906 and the provisions for the admissibility of chemical test results as provided by Section
907 41-6a-516 apply to determination and proof of blood alcohol content under this section.

908 [~~(d)~~] (c) A calculation of blood or breath alcohol concentration under this section shall
909 be made in accordance with Subsection 41-6a-502(3).

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

912 [~~(f)~~] (e) Evidence of a defendant's blood or breath alcohol content or drug content is
913 admissible except when prohibited by the Utah Rules of Evidence, the United States
914 Constitution, or the Utah Constitution.

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

917 Section 9. Section 77-20-201 is amended to read:

918 **77-20-201. Right to bail -- Capital felony.**

919 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to
920 bail as a matter of right, except if the individual is charged with:

921 (a) a capital felony when there is substantial evidence to support the charge;

922 (b) a felony committed while on parole or on probation for a felony conviction, or
923 while free on bail awaiting trial on a previous felony charge, when there is substantial evidence
924 to support the current felony charge;

925 (c) a felony when there is substantial evidence to support the charge and the court
926 finds, by clear and convincing evidence, that:

927 (i) the individual would constitute a substantial danger to any other individual or to the
928 community after considering available conditions of release that the court may impose if the
929 individual is released on bail; or

930 (ii) the individual is likely to flee the jurisdiction of the court if the individual is
931 released on bail;

932 (d) a felony when there is substantial evidence to support the charge and the court
933 finds, by clear and convincing evidence, that the individual violated a material condition of
934 release while previously on bail;

935 (e) a domestic violence offense if:

936 (i) there is substantial evidence to support the charge; and

937 (ii) the court finds, by clear and convincing evidence, that the individual would
938 constitute a substantial danger to an alleged victim of domestic violence after considering
939 available conditions of release that the court may impose if the individual is released on bail;

940 (f) the offense of driving under the influence or driving with a measurable controlled
941 substance in the body if:

942 (i) the offense results in death or serious bodily injury to an individual;

943 (ii) there is substantial evidence to support the charge; and

944 (iii) the court finds, by clear and convincing evidence, that the individual would
945 constitute a substantial danger to the community after considering available conditions of
946 release that the court may impose if the individual is released on bail; [~~or~~]

947 (g) a felony violation of Section 76-9-101 if:

948 (i) there is substantial evidence to support the charge; and

949 (ii) the court finds, by clear and convincing evidence, that the individual is not likely to
950 appear for a subsequent court appearance[-]; or

951 (h) except as provided in Subsection (4), the offense of driving under the influence or
952 driving with a measurable controlled substance in the body:

953 (i) if committed while on parole or on probation for a driving under the influence or
954 driving with a measurable controlled substance in the body conviction; or

955 (ii) while the individual is out of custody awaiting trial on a previous driving under the

956 influence or driving with a measurable controlled substance in the body charge, when the court
957 finds there is substantial evidence to support the current charge.

958 (2) Notwithstanding any other provision of this section, there is a rebuttable
959 presumption that an individual is a substantial danger to the community under Subsection
960 (1)(f)(iii):

961 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or
962 greater if the individual is arrested for, or charged with, the offense of driving under the
963 influence and the offense resulted in death or serious bodily injury to an individual; or

964 (b) if the individual has a measurable amount of controlled substance in the
965 individual's body, the individual is arrested for, or charged with, the offense of driving with a
966 measurable controlled substance in the body and the offense resulted in death or serious bodily
967 injury to an individual.

968 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
969 [76-5-202](#), aggravated murder, is a capital felony unless:

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

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

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

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

977 (b) the court orders the person to participate in home confinement through the use of
978 electronic monitoring as described in Section [41-6a-506](#).

979 Section 10. Section **77-40a-303** is amended to read:

980 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**
981 **conviction.**

982 (1) Except as otherwise provided by this section, a petitioner is eligible to receive a
983 certificate of eligibility from the bureau to expunge the records of a conviction if:

984 (a) the petitioner has paid in full all fines and interest ordered by the court related to the
985 conviction for which expungement is sought;

986 (b) the petitioner has paid in full all restitution ordered by the court under Section

987 77-38b-205; and

988 (c) the following time periods have passed after the day on which the petitioner was
989 convicted or released from incarceration, parole, or probation, whichever occurred last, for the
990 conviction that the petitioner seeks to expunge:

991 (i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

992 (ii) 10 years for the conviction of a felony for operating a motor vehicle with any
993 amount of a controlled substance in an individual's body and causing serious bodily injury or
994 death, as codified before May 4, 2022, Laws of Utah 2021,

995 Chapter 236, Section 1, Subsection 58-37-8(2)(g);

996 (iii) seven years for the conviction of a felony;

997 (iv) five years for the conviction of a drug possession offense that is a felony;

998 (v) five years for the conviction of a class A misdemeanor;

999 (vi) four years for the conviction of a class B misdemeanor; or

1000 (vii) three years for the conviction of a class C misdemeanor or infraction.

1001 (2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to
1002 expunge the records of a conviction under Subsection (1) if:

1003 (a) except as provided in Subsection (3), the conviction for which expungement is
1004 sought is:

1005 (i) a capital felony;

1006 (ii) a first degree felony;

1007 (iii) a felony conviction of a violent felony as defined in Subsection

1008 76-3-203.5(1)(c)(i);

1009 (iv) (A) a felony conviction described in Subsection 41-6a-501(2); or

1010 (B) any conviction described in Subsection (2)(a)(iv)(A) for which judgment of
1011 conviction is reduced under Section 76-3-402;

1012 (v) an offense, or a combination of offenses, that would require the individual to
1013 register as a sex offender, as defined in Section 77-41-102; or

1014 (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

1015 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
1016 the petitioner, unless the criminal proceeding is for a traffic offense;

1017 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the

1018 petitioner, unless the plea in abeyance is for a traffic offense;

1019 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
1020 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
1021 offense;

1022 (e) the petitioner intentionally or knowingly provides false or misleading information
1023 on the application for a certificate of eligibility;

1024 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
1025 case; or

1026 (g) the bureau determines that the petitioner's criminal history makes the petitioner
1027 ineligible for a certificate of eligibility under Subsection (4) or (5).

1028 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
1029 defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the
1030 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by
1031 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District
1032 Court.

1033 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
1034 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the
1035 bureau determines that the petitioner's criminal history, including previously expunged
1036 convictions, contains any of the following:

1037 (a) two or more felony convictions other than for drug possession offenses, each of
1038 which is contained in a separate criminal episode;

1039 (b) any combination of three or more convictions other than for drug possession
1040 offenses that include two class A misdemeanor convictions, each of which is contained in a
1041 separate criminal episode;

1042 (c) any combination of four or more convictions other than for drug possession
1043 offenses that include three class B misdemeanor convictions, each of which is contained in a
1044 separate criminal episode; or

1045 (d) five or more convictions other than for drug possession offenses of any degree
1046 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

1047 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate
1048 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau

1049 determines that the petitioner's criminal history, including previously expunged convictions,
1050 contains any of the following:

1051 (a) three or more felony convictions for drug possession offenses, each of which is
1052 contained in a separate criminal episode; or

1053 (b) any combination of five or more convictions for drug possession offenses, each of
1054 which is contained in a separate criminal episode.

1055 (6) If the petitioner's criminal history contains convictions for both a drug possession
1056 offense and a non-drug possession offense arising from the same criminal episode, the bureau
1057 shall count that criminal episode as a conviction under Subsection (4) if any non-drug
1058 possession offense in that episode:

1059 (a) is a felony or class A misdemeanor; or

1060 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
1061 possession offense in that episode.

1062 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day
1063 on which the petitioner was convicted or released from incarceration, parole, or probation,
1064 whichever occurred last, for all convictions:

1065 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased
1066 by one; and

1067 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
1068 the highest level of convicted offense in the criminal episode is:

1069 (i) a class B misdemeanor;

1070 (ii) a class C misdemeanor;

1071 (iii) a drug possession offense if none of the non-drug possession offenses in the
1072 criminal episode are a felony or a class A misdemeanor; or

1073 (iv) an infraction.

1074 (8) When determining whether a petitioner is eligible for a certificate of eligibility
1075 under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
1076 prior conviction for:

1077 (a) an infraction;

1078 (b) a traffic offense;

1079 (c) a minor regulatory offense; or

1080 (d) a clean slate eligible case that was automatically expunged in accordance with
1081 Section [77-40a-201](#).

1082 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
1083 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes
1084 in accordance with Section [77-27-5.1](#).

1085 Section 11. **Effective date.**

1086 This bill takes effect on July 1, 2024.