

**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

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**LONG TITLE**

**General Description:**

This bill amends provisions related to driving under the influence, including penalties, 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;
- ▶ requires the Department of Public Safety to waive participation and testing fees entirely or in part for indigent individuals participating in the 24-7 sobriety program;
- ▶ requires an individual for whom the Department of Public Safety waived fees to reimburse the Department of Public Safety under certain circumstances;
- ▶ amends provisions related to sentences for certain individuals with prior convictions for driving under the influence who violate ignition interlock requirements;
- ▶ allows an ignition interlock restricted driver to petition the Driver License Division



- 26 for removal of the restriction in certain circumstances if certain conditions are met;
- 27       ▶ clarifies that an ignition interlock restriction period begins on the date of installation
- 28 of the ignition interlock system;
- 29       ▶ clarifies that the prohibition on operating a motor vehicle without an ignition
- 30 interlock system installed on the vehicle begins on the date of conviction, not the
- 31 date of installation of the ignition interlock system;
- 32       ▶ amends penalties for subsequent offenses related to refusal of a chemical test or
- 33 negligent operation of a vehicle that results in injury;
- 34       ▶ requires the Sentencing Commission to amend sentencing guidelines for certain
- 35 offenses related to ignition interlock restricted drivers and of negligent operation of
- 36 a vehicle that results in injury when there is evidence that the individual was also
- 37 driving under the influence;
- 38       ▶ amends provisions related to pretrial detention of an individual arrested for driving
- 39 under the influence with another case pending or while on probation for a previous
- 40 offense of driving under the influence;
- 41       ▶ requires pretrial detention or electronic monitoring for an individual that is arrested
- 42 for driving under the influence while already on probation for or while another case
- 43 is pending for driving under the influence; and
- 44       ▶ makes technical changes.

45 **Money Appropriated in this Bill:**

46       None

47 **Other Special Clauses:**

48       This bill provides a special effective date.

49 **Utah Code Sections Affected:**

50 AMENDS:

- 51       [41-6a-502](#), as last amended by Laws of Utah 2023, Chapter 415
- 52       [41-6a-502.5](#), as last amended by Laws of Utah 2023, Chapter 328
- 53       [41-6a-505](#), as last amended by Laws of Utah 2023, Chapters 328, 415
- 54       [41-6a-515.5](#), as last amended by Laws of Utah 2021, Chapter 83
- 55       [41-6a-518.2](#), as last amended by Laws of Utah 2023, Chapters 384, 415
- 56       [41-6a-520.1](#), as enacted by Laws of Utah 2023, Chapter 415

57 [53-3-1007](#), as last amended by Laws of Utah 2023, Chapter 384  
 58 [63M-7-404](#), as last amended by Laws of Utah 2023, Chapter 111  
 59 [76-5-102.1](#), as last amended by Laws of Utah 2023, Chapters 111, 415  
 60 [77-20-201](#), as last amended by Laws of Utah 2023, Chapter 408

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

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

64 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**  
 65 **both or with specified or unsafe blood alcohol concentration -- Penalties -- Reporting of**  
 66 **convictions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (B) the commission of the offense upon which the current conviction is based.  
89 (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree  
90 felony if:

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

92 (A) the current conviction; or

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

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

95 (A) a felony conviction; or

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

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

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

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

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

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

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

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

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

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

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

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

120 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**  
121 **requirements.**

122 (1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of  
123 Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of  
124 impaired driving under this section if:

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

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

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

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

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

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

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

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

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

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

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

148 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a  
149 sentencing court to order a convicted person to participate in a screening, an assessment, or an

150 educational series, or obtain substance abuse treatment or do a combination of those things,  
151 apply to a conviction entered under this section.

152 (b) The court shall render the same order regarding screening, assessment, an  
153 educational series, or substance abuse treatment in connection with a first, second, or  
154 subsequent conviction under this section as the court would render in connection with applying  
155 respectively, the first, second, or subsequent conviction requirements of Subsections  
156 41-6a-505(1), (3), (5), and (7).

157 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section  
158 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the  
159 reporting court notifies the Driver License Division that the defendant is participating in or has  
160 successfully completed the program of a driving under the influence court.

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

162 (i) a CDL license holder; or

163 (ii) a violation that occurred in a commercial motor vehicle.

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

165 (a) to a person who has a prior conviction as that term is defined in Subsection  
166 41-6a-501(2); or

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

168 (i) except as provided in Subsection (9), had a blood or breath alcohol level of [~~+.6~~].11  
169 or higher;

170 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable  
171 controlled substance; or

172 (iii) had a combination of two or more controlled substances in the person's body that  
173 were not:

174 (A) prescribed by a licensed physician; or

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

177 (9) (a) The provisions of this section are available to an individual who was 21 years  
178 old or older at the time of offense and where there is admissible evidence that the individual  
179 had a blood or breath alcohol level between .11 and .15, if the court orders the individual to:

180 (i) install an ignition interlock system in accordance with Section 41-6a-518, for not

181 less than three months; and

182 (ii) (A) wear an ankle attached continuous transdermal alcohol monitoring device or  
183 remote alcohol monitor not fewer than 30 consecutive days; or

184 (B) participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 for a  
185 minimum of 30 days.

186 (b) If the defendant fails to successfully complete the court ordered requirements under  
187 Subsection (9)(a), the court shall enter an amended conviction of Section 41-6a-502.

188 (c) Failure to successfully complete requirements under Subsection (9)(b) means:

189 (i) failure to install an ignition interlock system in accordance with Section 41-6a-518;

190 (ii) removal of an ignition interlock system prior to the expiration of the required  
191 three-month period as described in Subsection (9)(a)(i);

192 (iii) detection of alcohol or tampering with the ignition interlock system during the  
193 three-month period described in Subsection (9)(a)(i);

194 (iv) detection of alcohol or tampering with the device during the 30-day transdermal  
195 alcohol monitoring period described in Subsection (9)(a)(ii)(A); or

196 (v) failure to successfully complete the 24-7 sobriety program as described in  
197 Subsection (9)(a)(ii)(B).

198 Section 3. Section **41-6a-505** is amended to read:

199 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
200 **drugs, or a combination of both violations.**

201 (1) As part of any sentence for a first conviction of Section 41-6a-502 where there is  
202 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had  
203 a blood or breath alcohol level of .05 or higher in addition to any measurable controlled  
204 substance, or had a combination of two or more controlled substances in the individual's body  
205 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid  
206 Research and Medical Cannabis, or prescribed:

207 (a) the court shall:

208 (i) (A) impose a jail sentence of not less than five days; or

209 (B) impose a jail sentence of not less than two days in addition to home confinement of  
210 not fewer than 30 consecutive days through the use of electronic monitoring that includes a  
211 substance abuse testing instrument in accordance with Section 41-6a-506;

- 212 (ii) order the individual to participate in a screening;
- 213 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
214 screening under Subsection (1)(a)(ii);
- 215 (iv) order the individual to participate in an educational series if the court does not  
216 order substance abuse treatment as described under Subsection (1)(b);
- 217 (v) impose a fine of not less than \$700;
- 218 (vi) order probation for the individual in accordance with Section 41-6a-507;
- 219 (vii) (A) order the individual to pay the administrative impound fee described in  
220 Section 41-6a-1406; or
- 221 (B) if the administrative impound fee was paid by a party described in Subsection  
222 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
223 reimburse the party;
- 224 (viii) (A) order the individual to pay the towing and storage fees described in Section  
225 72-9-603; or
- 226 (B) if the towing and storage fees were paid by a party described in Subsection  
227 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
228 reimburse the party; or
- 229 (ix) unless the court determines and states on the record that an ignition interlock  
230 system is not necessary for the safety of the community and in the best interest of justice, order  
231 the installation of an ignition interlock system as described in Section 41-6a-518; and
- 232 (b) the court may:
- 233 (i) order the individual to obtain substance abuse treatment if the substance abuse  
234 treatment program determines that substance abuse treatment is appropriate;
- 235 (ii) order the individual to participate in a [24/7] 24-7 sobriety program as defined in  
236 Section 41-6a-515.5 if the individual is 21 years old or older; or
- 237 (iii) order a combination of Subsections (1)(b)(i) and (ii).
- 238 (2) (a) If an individual described in Subsection (1) is participating in a [24/7] 24-7  
239 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence  
240 imposed under Subsection (1)(a).
- 241 (b) If an individual described in Subsection (1) fails to successfully complete all of the  
242 requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail



243 sentence described in Subsection (2)(a).

244 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described  
245 in Subsection (1):

246 (a) the court shall:

247 (i) (A) impose a jail sentence of not less than two days; or

248 (B) require the individual to work in a compensatory-service work program for not less  
249 than 48 hours;

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

251 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
252 screening under Subsection (3)(a)(ii);

253 (iv) order the individual to participate in an educational series if the court does not  
254 order substance abuse treatment as described under Subsection (3)(b);

255 (v) impose a fine of not less than \$700;

256 (vi) (A) order the individual to pay the administrative impound fee described in Section  
257 41-6a-1406; or

258 (B) if the administrative impound fee was paid by a party described in Subsection  
259 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
260 reimburse the party; or

261 (vii) (A) order the individual to pay the towing and storage fees described in Section  
262 72-9-603; or

263 (B) if the towing and storage fees were paid by a party described in Subsection  
264 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
265 reimburse the party; and

266 (b) the court may:

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

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

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

272 (iv) order a combination of Subsections (3)(b)(i) through (iii).

273 (4) (a) If an individual described in Subsection (3) is participating in a [24/7] 24-7

274 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence  
275 imposed under Subsection (3)(a).

276 (b) If an individual described in Subsection (4)(a) fails to successfully complete all of  
277 the requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail  
278 sentence described in Subsection (4)(a).

279 (5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within  
280 10 years of the current conviction under Section 41-6a-502 or the commission of the offense  
281 upon which the current conviction is based and where there is admissible evidence that the  
282 individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol  
283 level of .05 or higher in addition to any measurable controlled substance, or had a combination  
284 of two or more controlled substances in the individual's body that were not recommended in  
285 accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or  
286 prescribed:

287 (a) the court shall:

288 (i) (A) impose a jail sentence of not less than 20 days;

289 (B) impose a jail sentence of not less than 10 days in addition to home confinement of  
290 not fewer than 60 consecutive days through the use of electronic monitoring that includes a  
291 substance abuse testing instrument in accordance with Section 41-6a-506; or

292 (C) impose a jail sentence of not less than 10 days in addition to ordering the  
293 individual to obtain substance abuse treatment, if the court finds that substance abuse treatment  
294 is more likely to reduce recidivism and is in the interests of public safety;

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

296 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
297 screening under Subsection (5)(a)(ii);

298 (iv) order the individual to participate in an educational series if the court does not  
299 order substance abuse treatment as described under Subsection (5)(b);

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

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

302 (vii) order the installation of an ignition interlock system as described in Section  
303 41-6a-518;

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

305 Section 41-6a-1406; or

306 (B) if the administrative impound fee was paid by a party described in Subsection  
307 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
308 reimburse the party; or

309 (ix) (A) order the individual to pay the towing and storage fees described in Section  
310 72-9-603; or

311 (B) if the towing and storage fees were paid by a party described in Subsection  
312 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
313 reimburse the party; and

314 (b) the court may:

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

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

319 (iii) order a combination of Subsections (5)(b)(i) and (ii).

320 (6) (a) If an individual described in Subsection (5) is participating in a [24/7] 24-7  
321 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence  
322 imposed under Subsection (5)(a) after the individual has served a minimum of:

323 (i) five days of the jail sentence for a second offense; or

324 (ii) 10 days of the jail sentence for a third or subsequent offense.

325 (b) If an individual described in Subsection (6)(a) fails to successfully complete all of  
326 the requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail  
327 sentence described in Subsection (6)(a).

328 (7) If an individual has a prior conviction as defined in Section 41-6a-501 that is within  
329 10 years of the current conviction under Section 41-6a-502 or the commission of the offense  
330 upon which the current conviction is based and that does not qualify under Subsection (5):

331 (a) the court shall:

332 (i) (A) impose a jail sentence of not less than 10 days; or

333 (B) impose a jail sentence of not less than 5 days in addition to home confinement of  
334 not fewer than 30 consecutive days through the use of electronic monitoring that includes a  
335 substance abuse testing instrument in accordance with Section 41-6a-506;

- 336 (ii) order the individual to participate in a screening;
- 337 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
338 screening under Subsection (7)(a)(ii);
- 339 (iv) order the individual to participate in an educational series if the court does not  
340 order substance abuse treatment as described under Subsection (7)(b);
- 341 (v) impose a fine of not less than \$800;
- 342 (vi) order probation for the individual in accordance with Section 41-6a-507;
- 343 (vii) (A) order the individual to pay the administrative impound fee described in  
344 Section 41-6a-1406; or  
345 (B) if the administrative impound fee was paid by a party described in Subsection  
346 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
347 reimburse the party; or
- 348 (viii) (A) order the individual to pay the towing and storage fees described in Section  
349 72-9-603; or  
350 (B) if the towing and storage fees were paid by a party described in Subsection  
351 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
352 reimburse the party; and
- 353 (b) the court may:
  - 354 (i) order the individual to obtain substance abuse treatment if the substance abuse  
355 treatment program determines that substance abuse treatment is appropriate;
  - 356 (ii) order the individual to participate in a [24/7] 24-7 sobriety program as defined in  
357 Section 41-6a-515.5 if the individual is 21 years old or older; or
  - 358 (iii) order a combination of Subsections (7)(b)(i) and (ii).
- 359 (8) (a) If an individual described in Subsection (7) is participating in a [24/7] 24-7  
360 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence  
361 imposed under Subsection (7)(a) after the individual has served a minimum of:
  - 362 (i) five days of the jail sentence for a second offense; or
  - 363 (ii) 10 days of the jail sentence for a third or subsequent offense.
- 364 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of  
365 the requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail  
366 sentence described in Subsection (8)(a).

367 (9) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison  
368 sentence and places the defendant on probation where there is admissible evidence that the  
369 individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol  
370 level of .05 in addition to any measurable controlled substance, or had a combination of two or  
371 more controlled substances in the ~~[person's]~~ individual's body that were not recommended in  
372 accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research Medical Cannabis, or  
373 prescribed, the court shall impose:

374 (a) a fine of not less than \$1,500;

375 (b) a jail sentence of not less than 120 days;

376 (c) home confinement of not fewer than 120 consecutive days through the use of  
377 electronic monitoring that includes a substance abuse testing instrument in accordance with  
378 Section 41-6a-506; and

379 (d) supervised probation.

380 (10) (a) For Subsection (9) or Subsection 41-6a-502(2)(c)(i), the court:

381 (i) shall impose an order requiring the individual to obtain a screening and assessment  
382 for alcohol and substance abuse, and treatment as appropriate; and

383 (ii) may impose an order requiring the individual to participate in a ~~[24/7]~~ 24-7 sobriety  
384 program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

385 (b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all  
386 of the requirements of the ~~[24/7]~~ 24-7 sobriety program, the court shall impose the suspended  
387 prison sentence described in Subsection (9).

388 (11) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison  
389 sentence and places the defendant on probation with a sentence not described in Subsection (9),  
390 the court shall impose:

391 (a) a fine of not less than \$1,500;

392 (b) a jail sentence of not less than 60 days;

393 (c) home confinement of not fewer than 60 consecutive days through the use of  
394 electronic monitoring that includes a substance abuse testing instrument in accordance with  
395 Section 41-6a-506; and

396 (d) supervised probation.

397 (12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the

398 requirements of this section.

399 (ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

400 (b) A court, with stipulation of both parties and approval from the judge, may convert a  
401 jail sentence required in this section to electronic home confinement.

402 (c) A court may order a jail sentence imposed as a condition of misdemeanor probation  
403 under this section to be served in multiple two-day increments at weekly intervals if the court  
404 determines that separate jail increments are necessary to ensure the defendant can serve the  
405 statutorily required jail term and maintain employment.

406 (13) If an individual is convicted of a violation of Section 41-6a-502 and there is  
407 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the  
408 court shall order the following, or describe on record why the order or orders are not  
409 appropriate:

410 (a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

411 (b) one or more of the following:

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

414 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring  
415 device or remote alcohol monitor as a condition of probation for the individual; or

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

418 Section 4. Section 41-6a-515.5 is amended to read:

419 **41-6a-515.5. Sobriety program for DUI.**

420 (1) As used in this section:

421 (a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and  
422 drug monitoring program that:

423 (i) requires an individual to abstain from alcohol or drugs for a period of time;

424 (ii) requires an individual to submit to random drug testing; and

425 (iii) requires the individual to be subject to testing to determine the presence of  
426 alcohol:

427 (A) twice a day at a central location where timely sanctions may be applied;

428 (B) by continuous remote sensing or transdermal alcohol monitoring by means of an

429 electronic monitoring device that allows timely sanctions to be applied; or

430 (C) by an alternate method that is approved by the National Highway Traffic Safety  
431 Administration.

432 (b) (i) "Testing" means a procedure for determining the presence and level of alcohol  
433 or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

434 (ii) "Testing" includes any combination of the use of:

435 (A) remote and in-person breath testing;

436 (B) drug patch testing;

437 (C) urinalysis testing;

438 (D) saliva testing;

439 (E) continuous remote sensing;

440 (F) transdermal alcohol monitoring; or

441 (G) alternate body fluids approved for testing by the commissioner of the department.

442 (2) The department may establish a 24-7 sobriety program with a law enforcement  
443 agency that is able to meet the 24-7 sobriety program qualifications and requirements under  
444 this section.

445 (3) (a) The 24-7 sobriety program shall include use of multiple testing methodologies  
446 for the presence of alcohol or drugs that:

447 (i) best facilitates the ability to apply timely sanctions for noncompliance;

448 (ii) is available at an affordable cost; and

449 (iii) provides for positive, behavioral reinforcement for program compliance.

450 (b) The commissioner shall consider the following factors to determine which testing  
451 methodologies are best suited for each participant:

452 (i) whether a device is available;

453 (ii) whether the participant is capable of paying the fees and costs associated with each  
454 testing methodology;

455 (iii) travel requirements based on each testing methodology and the participant's  
456 circumstances;

457 (iv) the substance or substances for which testing will be required; and

458 (v) other factors the commissioner considers relevant.

459 (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and

460 satisfy at least two of the following categories:

461 (i) the program is included in the federal registry of evidence-based programs and  
462 practices;

463 (ii) the program has been reported in a peer-reviewed journal as having positive effects  
464 on the primary targeted outcome; or

465 (iii) the program has been documented as effective by informed experts and other  
466 sources.

467 (b) If a law enforcement agency participates in a 24-7 sobriety program, the department  
468 shall assist in the creation and administration of the program in the manner provided in this  
469 section.

470 (c) A 24-7 sobriety program shall have at least one testing location and two daily  
471 testing times approximately 12 hours apart.

472 (d) [~~A person~~] An individual who is ordered by a judge to participate in the 24-7  
473 sobriety program for a first conviction as defined in Subsection 41-6a-501(2) shall be required  
474 to participate in a 24-7 sobriety program for at least 30 days.

475 (e) If [~~a person~~] an individual who is ordered by a judge to participate in the 24-7  
476 sobriety program has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10  
477 years of the current conviction under Section 41-6a-502 or the commission of the offense upon  
478 which the current conviction is based, the [~~person~~] individual shall be required to participate in  
479 a 24-7 sobriety program for at least one year.

480 (5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law  
481 enforcement agency may designate an entity to provide the testing services or to take any other  
482 action required or authorized to be provided by the law enforcement agency pursuant to this  
483 section, except that the law enforcement agency's designee may not determine whether an  
484 individual is required to participate in the 24-7 sobriety program.

485 (b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall  
486 establish the testing locations and times for the county.

487 (6) (a) The commissioner of the department shall establish a data management  
488 technology plan for data collection on 24-7 sobriety program participants.

489 (b) All required data related to participants in the 24-7 sobriety program shall be  
490 received into the data management technology plan.



491 (c) The data collected under this Subsection (6) is owned by the state.

492 (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
493 the department shall make rules to implement this section.

494 (b) The rules under Subsection (7)(a) shall:

495 (i) provide for the nature and manner of testing and the procedures and apparatus to be  
496 used for testing;

497 (ii) establish reasonable participation and testing fees for the program, including the  
498 collection of fees to pay the cost of installation, monitoring, and deactivation of any testing  
499 device;

500 (iii) establish a process for determining indigency and waiving of a portion of the  
501 participation and testing fees for indigent individuals in accordance with Subsection (8);

502 ~~[(iii)]~~ (iv) require and provide for the approval of a 24-7 sobriety program data  
503 management technology plan that shall be used by the department and participating law  
504 enforcement agencies to manage testing, data access, fees and fee payments, and any required  
505 reports; and

506 ~~[(iv)]~~ (v) establish a model sanctioning schedule for program noncompliance.

507 (8) (a) The department may waive the department's portion of the participation and  
508 testing fees, entirely or in part, for individuals who meet the requirements for indigency  
509 provided in Section [78B-22-202](#).

510 (b) The department may not waive the portion of the participation and testing fees that  
511 are retained by a participating law enforcement agency or testing program site.

512 (c) The department may periodically adjust participation and testing fees to offset lost  
513 program revenue resulting from any fee waivers.

514 (d) If an individual for whom the department waived fees under this Subsection (8)  
515 fails to successfully complete all of the requirements of the 24-7 sobriety program, a court may  
516 order the individual to pay the department for any waived fees.

517 Section 5. Section **41-6a-518.2** is amended to read:

518 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**  
519 **interlock system -- Exemptions.**

520 (1) As used in this section:

521 (a) "Ignition interlock system" means a constant monitoring device or any similar

522 device that:

523 (i) is in working order at the time of operation or actual physical control; and

524 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection  
525 [41-6a-518\(8\)](#).

526 [~~(b) (i) "Interlock restricted driver" means a person who:~~]

527 [~~(A) has been ordered by a court or the Board of Pardons and Parole as a condition of  
528 probation or parole not to operate a motor vehicle without an ignition interlock system;~~]

529 [~~(B) within the last 18 months has been convicted of a violation under Section~~

530 [41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#);]

531 [~~(C) (i) within the last three years has been convicted of an offense which would be a  
532 conviction as defined under Section [41-6a-501](#); and]~~

533 [~~(H) the offense described under Subsection (1)(b)(i)(C)(i) is committed within 10  
534 years from the date that one or more prior offenses was committed if the prior offense resulted  
535 in a conviction as defined in Section [41-6a-501](#);~~]

536 [~~(D) within the last three years has been convicted of a violation of this section;~~]

537 [~~(E) within the last three years has had the person's driving privilege revoked through  
538 an administrative action for refusal to submit to a chemical test under Section [41-6a-520](#);~~]

539 [~~(F) within the last three years has been convicted of a violation of Section [41-6a-502](#),  
540 Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#) and was under 21 years old at the time the  
541 offense was committed;~~]

542 [~~(G) within the last six years has been convicted of a felony violation of Section  
543 [41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#) for an offense that occurred after  
544 May 1, 2006; or]~~

545 [~~(H) within the last 10 years has been convicted of a violation of Section [76-5-207](#) for  
546 an offense that occurred after May 1, 2006.]~~

547 (b) (i) "Interlock restricted driver" means a person who has been ordered by a court or  
548 the Board of Pardons and Parole as a condition of probation or parole not to operate a motor  
549 vehicle without an ignition interlock system.

550 (ii) "Interlock restricted driver" includes, for the time periods described in Subsection  
551 (2), a person who:

552 (A) has been convicted of a violation under Section [41-6a-502](#), Subsection

553 41-6a-520.1(1), or Section 76-5-102.1;

554 (B) has been convicted of an offense which would be a conviction as defined under  
 555 Section 41-6a-501, and that offense is committed within 10 years from the date that one or  
 556 more prior offenses was committed if the prior offense resulted in a conviction as defined in  
 557 Section 41-6a-501;

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

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

561 (E) has been convicted of a felony violation of Section 41-6a-502, Subsection  
 562 41-6a-520.1(1), or Section 76-5-102.1;

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

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

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

567 (A) whose current conviction described in Subsection ~~[(1)(b)(i)(C)(F)]~~ (1)(b)(ii)(B) is a  
 568 conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section  
 569 41-6a-517 and whose prior convictions described in Subsection ~~[(1)(b)(i)(C)(H)]~~ (1)(b)(ii)(B)  
 570 are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under  
 571 Section 41-6a-517;

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

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

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

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

583 (ii) for a person described in Subsection (1)(b)(ii)(G), the effective date of the

584 revocation.

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

587 (i) for a violation described in Subsection (1)(b)(ii)(A), 18 months from the day the  
588 ignition interlock restricted driver:

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

590 (B) reinstates their driving privilege;

591 (ii) for a violation described in Subsections (1)(b)(ii)(B) through (D) and Subsection  
592 (1)(b)(ii)(G), two years from the date the ignition interlock restricted driver:

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

594 (B) reinstates their driving privilege;

595 (iii) for a violation described in Subsection (1)(b)(ii)(E), three years from the date the  
596 ignition interlock restricted driver:

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

598 (B) reinstates their driving privilege; and

599 (iv) for a violation described in Subsection (1)(b)(ii)(F), four years from the date the  
600 ignition interlock restricted driver:

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

602 (B) reinstates their driving privilege.

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

606 (d) An ignition interlock restricted driver may petition the Driver License Division for  
607 removal of the ignition interlock restriction related to a first offense under Section [41-6a-502](#),  
608 and the Driver License Division may grant the petition, if:

609 (i) the ignition interlock restricted driver was 21 years old or older at the time of the  
610 offense;

611 (ii) at least three years have elapsed since the date of the conviction under Section  
612 [41-6a-502](#);

613 (iii) the ignition interlock restricted driver certifies to the division that the ignition  
614 interlock restricted driver has not operated a motor vehicle during the three-year period after

615 the date of the conviction under Section 41-6a-502;

616 (iv) there is no evidence of a traffic or driving related violation on the ignition interlock  
617 restricted driver's driving record during the three-year period after the date of the conviction  
618 under Section 41-6a-502; and

619 (v) there is no evidence of a motor vehicle crash involving the interlock restricted  
620 driver where the interlock restricted driver was operating a motor vehicle during the three-year  
621 period after the date of the conviction under Section 41-6a-502.

622 [~~2~~] (3) The division shall post the ignition interlock restriction on a person's  
623 electronic record that is available to law enforcement.

624 [~~3~~] (4) For purposes of this section, a plea of guilty or no contest to a violation of  
625 Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in  
626 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been  
627 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

628 [~~4~~] (5) An interlock restricted driver who operates or is in actual physical control of a  
629 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

630 [~~5~~] (6) It is an affirmative defense to a charge of a violation of Subsection [~~4~~] (5) if:

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

633 (b) the interlock restricted driver had given written notice to the employer of the  
634 interlock restricted driver's interlock restricted status prior to the operation or actual physical  
635 control under Subsection [~~5~~](a) (6)(a);

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

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

641 [~~6~~] (7) The affirmative defense described in Subsection [~~5~~] (6) does not apply to:

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

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

646            [(7)] (8) (a) An individual with an ignition interlock restriction may petition the  
647 division for removal of the restriction if the individual's offense did not involve alcohol.

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

650            [(8)] (9) (a) (i) An individual with an ignition interlock restriction may petition the  
651 division for removal of the restriction if the individual has a medical condition that prohibits  
652 the individual from providing a deep lung breath sample.

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

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

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

661            **41-6a-520.1. Refusing a chemical test.**

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

- 663            (a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);  
664            (b) a court issues a warrant to draw and test the blood; and  
665            (c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's  
666 blood.

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

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

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

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

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

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

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

677 (B) the commission of the offense upon which the current conviction is based.  
678 (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree  
679 felony if:

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

681 (A) the current conviction; or

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

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

684 (A) a felony conviction; or

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

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

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

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

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

693 (3) As part of any sentence for a conviction of violating this section, the court shall  
694 impose the same sentencing as outlined for driving under the influence violations in Section  
695 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the  
696 following modifications:

697 (a) any jail sentence shall be 24 consecutive hours more than is required under Section  
698 41-6a-505;

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

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

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

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

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

707 (4) (a) The offense of refusing a chemical test under this section does not merge with

708 any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

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

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

714 Section 7. Section 53-3-1007 is amended to read:

715 **53-3-1007. Ignition interlock system provider -- Notification to the division upon**  
716 **installation or removal of an ignition interlock system -- Monitoring and reporting**  
717 **requirements -- Penalties.**

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

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

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

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

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

726 (b) attempted to start the motor vehicle with a measurable breath alcohol concentration,  
727 and the attempt to start the motor vehicle was prevented by the ignition interlock system,  
728 including the date and time of each attempt; or

729 (c) failed to report to the ignition interlock provider for the purpose of monitoring the  
730 device every 60 days, or more frequently if ordered by the court as described in Subsection  
731 41-6a-518(5)(a).

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

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

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



739 (4) The division shall clear a suspension described in Subsection (3) upon:  
740 (a) receipt of payment of the fee or fees required under Section 53-3-105; and  
741 (b) (i) receipt of electronic notification from an ignition interlock system provider  
742 showing proof of the installation of an ignition interlock system on the individual's vehicle or  
743 the vehicle the individual will be operating;  
744 (ii) if the individual does not own a vehicle or will not be operating a vehicle owned by  
745 another individual:  
746 (A) electronic verification that the individual does not have a vehicle registered in the  
747 individual's name in the state; and  
748 (B) receipt of employer verification, as defined in Subsection 41-6a-518(1); or  
749 (iii) if the individual is not a resident of Utah, electronic verification that the individual  
750 is licensed in the individual's state of residence or is in the process of obtaining a license in the  
751 individual's state of residence.  
752 (5) If Subsection (4)(b)(ii) applies, the division shall every six months:  
753 (a) electronically verify the individual does not have a vehicle registered in the  
754 individual's name in the state; and  
755 (b) require the individual to provide updated documentation described in Subsection  
756 (4)(b)(ii).  
757 (6) If the individual described in Subsection (5) does not provide the required  
758 documentation described in Subsection (4)(b)(ii), the division shall suspend the individual's  
759 driving privilege until:  
760 (a) the division receives payment of the fee or fees required under Section 53-3-105;  
761 and  
762 (b) (i) the division:  
763 (A) receives electronic notification from an ignition interlock system provider showing  
764 proof of the installation of an ignition interlock system on the individual's vehicle or the  
765 vehicle the individual will be operating; or  
766 (B) if the individual does not own a vehicle or will not be operating a vehicle owned by  
767 another individual, receives electronic verification that the individual does not have a vehicle  
768 registered in the individual's name in the state, and receives employer verification, as defined in  
769 Subsection 41-6a-518(1); or

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

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

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

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

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

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

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

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

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

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

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

798 (b) acceptable documentation for proof of the installation of an ignition interlock  
799 device;

800 (c) procedures for an ignition interlock system provider to electronically notify the

801 division;

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

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

807 [41-6a-518.2\(9\)](#); and

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

810 Section 8. Section **63M-7-404** is amended to read:

811 **63M-7-404. Purpose -- Duties.**

812 (1) The purpose of the commission is to develop guidelines and propose  
813 recommendations to the Legislature, the governor, and the Judicial Council regarding:

814 (a) the sentencing and release of juvenile and adult offenders in order to:

815 (i) respond to public comment;

816 (ii) relate sentencing practices and correctional resources;

817 (iii) increase equity in criminal sentencing;

818 (iv) better define responsibility in criminal sentencing; and

819 (v) enhance the discretion of sentencing judges while preserving the role of the Board  
820 of Pardons and Parole and the Youth Parole Authority;

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

822 (i) increase equity in criminal supervision lengths;

823 (ii) respond to public comment;

824 (iii) relate the length of supervision to an offender's progress;

825 (iv) take into account an offender's risk of offending again;

826 (v) relate the length of supervision to the amount of time an offender has remained  
827 under supervision in the community; and

828 (vi) enhance the discretion of the sentencing judges while preserving the role of the  
829 Board of Pardons and Parole; and

830 (c) appropriate, evidence-based probation and parole supervision policies and services  
831 that assist individuals in successfully completing supervision and reduce incarceration rates

832 from community supervision programs while ensuring public safety, including:

833 (i) treatment and intervention completion determinations based on individualized case  
834 action plans;

835 (ii) measured and consistent processes for addressing violations of conditions of  
836 supervision;

837 (iii) processes that include using positive reinforcement to recognize an individual's  
838 progress in supervision;

839 (iv) engaging with social services agencies and other stakeholders who provide  
840 services that meet offender needs; and

841 (v) identifying community violations that may not warrant revocation of probation or  
842 parole.

843 (2) (a) The commission shall modify the sentencing guidelines and supervision length  
844 guidelines for adult offenders to implement the recommendations of the State Commission on  
845 Criminal and Juvenile Justice for reducing recidivism.

846 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting  
847 the public and ensuring efficient use of state funds.

848 (3) (a) The commission shall modify the criminal history score in the sentencing  
849 guidelines for adult offenders to implement the recommendations of the State Commission on  
850 Criminal and Juvenile Justice for reducing recidivism.

851 (b) The modifications to the criminal history score under Subsection (3)(a) shall  
852 include factors in an offender's criminal history that are relevant to the accurate determination  
853 of an individual's risk of offending again.

854 (4) (a) The commission shall establish sentencing guidelines for periods of  
855 incarceration for individuals who are on probation and:

856 (i) who have violated one or more conditions of probation; and

857 (ii) whose probation has been revoked by the court.

858 (b) For a situation described in Subsection (4)(a), the guidelines shall recommend that  
859 a court consider:

860 (i) the seriousness of any violation of the condition of probation;

861 (ii) the probationer's conduct while on probation; and

862 (iii) the probationer's criminal history.

863 (5) (a) The commission shall establish sentencing guidelines for periods of  
864 incarceration for individuals who are on parole and:

- 865 (i) who have violated a condition of parole; and
- 866 (ii) whose parole has been revoked by the Board of Pardons and Parole.

867 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that  
868 the Board of Pardons and Parole consider:

- 869 (i) the seriousness of any violation of the condition of parole;
- 870 (ii) the individual's conduct while on parole; and
- 871 (iii) the individual's criminal history.

872 (6) The commission shall establish graduated and evidence-based processes to  
873 facilitate the prompt and effective response to an individual's progress in or violation of the  
874 terms of probation or parole by the adult probation and parole section of the Department of  
875 Corrections, or other supervision services provider, to implement the recommendations of the  
876 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,  
877 including:

- 878 (a) responses to be used when an individual violates a condition of probation or parole;
- 879 (b) responses to recognize positive behavior and progress related to an individual's case  
880 action plan;
- 881 (c) when a violation of a condition of probation or parole should be reported to the  
882 court or the Board of Pardons and Parole; and
- 883 (d) a range of sanctions that may not exceed a period of incarceration of more than:
  - 884 (i) three consecutive days; and
  - 885 (ii) a total of five days in a period of 30 days.

886 (7) The commission shall establish graduated incentives to facilitate a prompt and  
887 effective response by the adult probation and parole section of the Department of Corrections  
888 to an offender's:

- 889 (a) compliance with the terms of probation or parole; and
- 890 (b) positive conduct that exceeds those terms.

891 (8) (a) The commission shall establish guidelines, including sanctions and incentives,  
892 to appropriately respond to negative and positive behavior of juveniles who are:

- 893 (i) nonjudicially adjusted;

- 894 (ii) placed on diversion;
- 895 (iii) placed on probation;
- 896 (iv) placed on community supervision;
- 897 (v) placed in an out-of-home placement; or
- 898 (vi) placed in a secure care facility.
- 899 (b) In establishing guidelines under this Subsection (8), the commission shall consider:
- 900 (i) the seriousness of the negative and positive behavior;
- 901 (ii) the juvenile's conduct post-adjudication; and
- 902 (iii) the delinquency history of the juvenile.
- 903 (c) The guidelines shall include:
- 904 (i) responses that are swift and certain;
- 905 (ii) a continuum of community-based options for juveniles living at home;
- 906 (iii) responses that target the individual's criminogenic risk and needs; and
- 907 (iv) incentives for compliance, including earned discharge credits.
- 908 (9) The commission shall establish and maintain supervision length guidelines in
- 909 accordance with this section.
- 910 (10) (a) The commission shall create sentencing guidelines and supervision length
- 911 guidelines for the following financial and property offenses for which a pecuniary loss to a
- 912 victim may exceed \$50,000:
- 913 (i) securities fraud, Sections 61-1-1 and 61-1-21;
- 914 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
- 915 adviser representative, Sections 61-1-3 and 61-1-21;
- 916 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
- 917 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
- 918 Assault and Related Offenses;
- 919 (v) arson, Section 76-6-102;
- 920 (vi) burglary, Section 76-6-202;
- 921 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
- 922 (viii) forgery, Section 76-6-501;
- 923 (ix) unlawful dealing of property by a fiduciary, Section 76-6-513;
- 924 (x) insurance fraud, Section 76-6-521;

- 925 (xi) computer crimes, Section [76-6-703](#);
- 926 (xii) mortgage fraud, Section [76-6-1203](#);
- 927 (xiii) pattern of unlawful activity, Sections [76-10-1603](#) and [76-10-1603.5](#);
- 928 (xiv) communications fraud, Section [76-10-1801](#);
- 929 (xv) money laundering, Section [76-10-1904](#); and
- 930 (xvi) other offenses in the discretion of the commission.

931 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix  
932 with proportionate escalating sanctions based on the amount of a victim's loss.

933 (c) On or before August 1, 2022, the commission shall publish for public comment the  
934 guidelines described in Subsection (10)(a).

935 (11) (a) Before January 1, 2023, the commission shall study the offenses of sexual  
936 exploitation of a minor and aggravated sexual exploitation of a minor under Sections  
937 [76-5b-201](#) and [76-5b-201.1](#).

938 (b) The commission shall update sentencing and release guidelines and juvenile  
939 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection  
940 (11)(a), including the application of aggravating and mitigating factors specific to the offense.

941 (12) (a) Before July 1, 2024, the commission shall create sentencing guidelines and  
942 supervision length guidelines for the following offenses:

943 (i) an interlock restricted driver operating a vehicle without an ignition interlock  
944 system, Section [41-6a-518.2](#);

945 (ii) negligently operating a vehicle resulting in injury, Section [76-5-102.1](#); and

946 (iii) negligently operating a vehicle resulting in death, Section [76-5-207](#).

947 (b) The guidelines under Subsection (12)(a) shall consider the following:

948 (i) the current sentencing requirements for driving under the influence of alcohol,  
949 drugs, or a combination of both as identified in Section [41-6a-505](#) when injury or death do not  
950 result;

951 (ii) the degree of injury and the number of victims suffering injury or death as a result  
952 of the offense;

953 (iii) the offender's number of previous convictions for driving under the influence  
954 related offenses as defined in Subsection [41-6a-501\(2\)\(a\)](#);

955 (iv) the offender's number of convictions for an interlock restricted driver operating a

956 vehicle without an ignition interlock system as described in Section 41-6a-518.2; and  
957 (v) whether the offender had a blood or breath alcohol level of .16 or higher, had a  
958 blood or breath alcohol level of .05 or higher in addition to any measurable controlled  
959 substance, or had a combination of two or more controlled substances in the individual's body  
960 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid  
961 Research and Medical Cannabis, or prescribed.

962 Section 9. Section **76-5-102.1** is amended to read:

963 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

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

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

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

967 (iii) "Negligent" or "negligence" means the same as that term is defined in Section  
968 76-5-207.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

989 (A) the current conviction; or

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

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

993 (A) a conviction, as the term conviction is defined in Subsection 41-6a-501(2), that is a  
994 felony; or

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

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

998 (b) a separate offense for each victim suffering bodily injury as a result of the actor's  
999 violation of this section, regardless of whether the injuries arise from the same episode of  
1000 driving.

1001 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under  
1002 Subsection (2)(b) if:

1003 (a) the controlled substance was obtained under a valid prescription or order, directly  
1004 from a practitioner while acting in the course of the practitioner's professional practice, or as  
1005 otherwise authorized by Title 58, Occupations and Professions;

1006 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

1007 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
1008 58-37-4.2 if:

1009 (i) the actor is the subject of medical research conducted by a holder of a valid license  
1010 to possess controlled substances under Section 58-37-6; and

1011 (ii) the substance was administered to the actor by the medical researcher.

1012 (5) (a) A judge imposing a sentence under this section may consider:

1013 (i) the sentencing guidelines developed in accordance with Section 63M-7-404;

1014 (ii) the defendant's history;

1015 (iii) the facts of the case;

1016 (iv) aggravating and mitigating factors; or

1017 (v) any other relevant fact.

1018 (b) The judge may not impose a lesser sentence than would be required for a conviction  
1019 based on the defendant's history under Section 41-6a-505.

1020 (c) The standards for chemical breath analysis under Section 41-6a-515 and the  
1021 provisions for the admissibility of chemical test results under Section 41-6a-516 apply to  
1022 determination and proof of blood alcohol content under this section.

1023 (d) A calculation of blood or breath alcohol concentration under this section shall be  
1024 made in accordance with Subsection 41-6a-502(3).

1025 (e) Except as provided in Subsection (4), the fact that an actor charged with violating  
1026 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1027 (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
1028 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,  
1029 or the Utah Constitution.

1030 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense  
1031 described in this section may not be held in abeyance.

1032 Section 10. Section 77-20-201 is amended to read:

1033 **77-20-201. Right to bail -- Capital felony.**

1034 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to  
1035 bail as a matter of right, except if the individual is charged with:

1036 (a) a capital felony when there is substantial evidence to support the charge;

1037 (b) a felony committed while on parole or on probation for a felony conviction, or  
1038 while free on bail awaiting trial on a previous felony charge, when there is substantial evidence  
1039 to support the current felony charge;

1040 (c) a felony when there is substantial evidence to support the charge and the court  
1041 finds, by clear and convincing evidence, that:

1042 (i) the individual would constitute a substantial danger to any other individual or to the  
1043 community after considering available conditions of release that the court may impose if the  
1044 individual is released on bail; or

1045 (ii) the individual is likely to flee the jurisdiction of the court if the individual is  
1046 released on bail;

1047 (d) a felony when there is substantial evidence to support the charge and the court  
1048 finds, by clear and convincing evidence, that the individual violated a material condition of

1049 release while previously on bail;

1050 (e) a domestic violence offense if:

1051 (i) there is substantial evidence to support the charge; and

1052 (ii) the court finds, by clear and convincing evidence, that the individual would  
1053 constitute a substantial danger to an alleged victim of domestic violence after considering  
1054 available conditions of release that the court may impose if the individual is released on bail;

1055 (f) the offense of driving under the influence or driving with a measurable controlled  
1056 substance in the body if:

1057 (i) the offense results in death or serious bodily injury to an individual;

1058 (ii) there is substantial evidence to support the charge; and

1059 (iii) the court finds, by clear and convincing evidence, that the individual would  
1060 constitute a substantial danger to the community after considering available conditions of  
1061 release that the court may impose if the individual is released on bail; [or]

1062 (g) a felony violation of Section 76-9-101 if:

1063 (i) there is substantial evidence to support the charge; and

1064 (ii) the court finds, by clear and convincing evidence, that the individual is not likely to  
1065 appear for a subsequent court appearance[-]; or

1066 (h) except as provided in Subsection (4), the offense of driving under the influence or  
1067 driving with a measurable controlled substance in the body:

1068 (i) if committed while on parole or on probation for a driving under the influence or  
1069 driving with a measurable controlled substance in the body conviction; or

1070 (ii) while the individual is out of custody awaiting trial on a previous driving under the  
1071 influence or driving with a measurable controlled substance in the body charge, when the court  
1072 finds there is substantial evidence to support the current charge.

1073 (2) Notwithstanding any other provision of this section, there is a rebuttable  
1074 presumption that an individual is a substantial danger to the community under Subsection

1075 (1)(f)(iii):

1076 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or  
1077 greater if the individual is arrested for, or charged with, the offense of driving under the  
1078 influence and the offense resulted in death or serious bodily injury to an individual; or

1079 (b) if the individual has a measurable amount of controlled substance in the

1080 individual's body, the individual is arrested for, or charged with, the offense of driving with a  
1081 measurable controlled substance in the body and the offense resulted in death or serious bodily  
1082 injury to an individual.

1083 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section  
1084 [76-5-202](#), aggravated murder, is a capital felony unless:

1085 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

1086 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting  
1087 attorney has not filed a notice to seek the death penalty.

1088 (4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an  
1089 individual would not constitute a substantial danger to any other person or the community if:

1090 (a) the court orders the person to participate in an inpatient drug and alcohol treatment  
1091 program; or

1092 (b) the court orders the person to participate in home confinement through the use of  
1093 electronic monitoring as described in Section [41-6a-506](#).

1094 Section 11. **Effective date.**

1095 This bill takes effect on July 1, 2024.