

1                                   **INTERMITTENT SENTENCING AMENDMENTS**

2   2024 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Doug Owens**

5   Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends provisions related to alternative incarceration programs and sentencing  
10 requirements.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ clarifies terms;
- 14           ▶ provides that a county sheriff may implement a sheriff's work program in which  
15 prisoners participate in supervised community service instead of serving time in jail;
- 16           ▶ amends the eligibility requirements for alternative incarceration programs and  
17 sheriffs' work programs;
- 18           ▶ amends the sentencing requirements for driving under the influence of alcohol,  
19 drugs, or a combination of both; and
- 20           ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           None

25 **Utah Code Sections Affected:**

26 AMENDS:

27           **17-22-5**, as last amended by Laws of Utah 2004, Chapter 301



28 **41-6a-505**, as last amended by Laws of Utah 2023, Chapters 328, 415



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

31 Section 1. Section **17-22-5** is amended to read:

32 **17-22-5. Sheriff's classification of jail inmates -- Classification criteria --**  
33 **Alternative incarceration programs -- Limitation.**

34 (1) Except as provided in Subsection ~~[(4)]~~ (6), the sheriff shall adopt and implement  
35 written policies for admission of prisoners to the county jail and the classification of persons  
36 incarcerated in the jail which shall provide for the separation of prisoners by gender and by  
37 such other factors as may reasonably provide for the safety and well-being of inmates and the  
38 community. To the extent authorized by law, any written admission policies shall be applied  
39 equally to all entities using the county correctional facilities.

40 (2) Except as provided in Subsection ~~[(4)]~~ (6), each county sheriff shall assign  
41 prisoners to a facility or section of a facility based on classification criteria that the sheriff  
42 develops and maintains.

43 (3) ~~[(a)]~~ Except as provided in Subsection ~~[(4)]~~ (6), a county sheriff may develop and  
44 implement alternative incarceration programs that may or may not involve housing a prisoner  
45 in a jail facility, including a sheriff's work program as described in Subsection (4).

46 (4) (a) A county sheriff may implement a sheriff's work program that allows a prisoner  
47 to participate in public works projects or community service under the county sheriff's  
48 supervision and in lieu of incarceration.

49 (b) If a county sheriff implements a sheriff's work program, the county sheriff shall  
50 establish policies and procedures related to a sheriff's work program, including:

- 51 (i) notwithstanding Subsection (5), program eligibility criteria;
- 52 (ii) reasonable participation fees;
- 53 (iii) the type of public works projects and community service assignments;
- 54 (iv) the timeline within which the work assignments must be completed;
- 55 (v) participant dress code and code of conduct;
- 56 (vi) work safety protocols;
- 57 (vii) supervision of participants;
- 58 (viii) disciplinary measures for program noncompliance; and

- 59 (ix) criteria for successful completion or termination.  
 60 (c) When assigning and scheduling work under a sheriff's work program, a county  
 61 sheriff may consider:  
 62 (i) a prisoner's ability to perform the work assignment; and  
 63 (ii) a prisoner's existing employment, education, training, treatment, medical needs,  
 64 family care obligations, and other similar obligations.  
 65 (d) Eight hours of participation in a sheriff's work program shall constitute credit for  
 66 one day of incarceration.

67 ~~[(b)]~~ (5) (a) A prisoner [housed under] participating in an alternative incarceration  
 68 program under Subsection ~~[(3)(a)]~~ (3) or a sheriff's work program under Subsection (4) shall be  
 69 considered to be in the full custody and control of the sheriff for purposes of Section 76-8-309.

70 ~~[(c)]~~ (b) A prisoner may [not] be placed in an alternative incarceration program under  
 71 Subsection ~~[(3)(a) unless]~~ (3) or a sheriff's work program under Subsection (4):

72 ~~[(i) the jail facility is at maximum operating capacity, as established under Subsection~~  
 73 ~~17-22-5.5(2); or]~~

74 ~~[(ii)]~~ (i) if ordered by the court[-], provided that a program is available in the county in  
 75 which the court resides; or

- 76 (ii) at the discretion of the county sheriff if:  
 77 (A) the prisoner was convicted of a non-violent offense and sentenced to a jail term;  
 78 (B) the prisoner voluntarily agrees to participate in the program; and  
 79 (C) there is not a court order prohibiting the prisoner's participation in the program.

80 ~~[(4)]~~ (6) This section may not be construed to authorize a sheriff to modify provisions  
 81 of a contract with the Department of Corrections to house in a county jail persons sentenced to  
 82 the Department of Corrections.

83 Section 2. Section **41-6a-505** is amended to read:

84 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
 85 **drugs, or a combination of both violations.**

86 (1) As part of any sentence for a first conviction of Section **41-6a-502** where there is  
 87 admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had  
 88 a blood or breath alcohol level of .05 or higher in addition to any measurable controlled  
 89 substance, or had a combination of two or more controlled substances in the individual's body

90 that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid  
91 Research and Medical Cannabis, or prescribed:

92 (a) the court shall:

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

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

97 (C) provided that a program is available in the county in which the court resides,  
98 require the individual to participate in a sheriff's work program as described in Section [17-22-5](#)  
99 for not less than 40 hours;

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

101 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
102 screening under Subsection (1)(a)(ii);

103 (iv) order the individual to participate in an educational series if the court does not  
104 order substance abuse treatment as described under Subsection (1)(b);

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

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

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

109 (B) if the administrative impound fee was paid by a party described in Subsection  
110 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to  
111 reimburse the party;

112 (viii) (A) order the individual to pay the towing and storage fees described in Section  
113 [72-9-603](#); or

114 (B) if the towing and storage fees were paid by a party described in Subsection  
115 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to  
116 reimburse the party; or

117 (ix) unless the court determines and states on the record that an ignition interlock  
118 system is not necessary for the safety of the community and in the best interest of justice, order  
119 the installation of an ignition interlock system as described in Section [41-6a-518](#); and

120 (b) the court may:

- 121 (i) order the individual to obtain substance abuse treatment if the substance abuse  
122 treatment program determines that substance abuse treatment is appropriate;
- 123 (ii) order the individual to participate in a [24/7] 24-7 sobriety program as defined in  
124 Section 41-6a-515.5 if the individual is 21 years old or older; or
- 125 (iii) order a combination of Subsections (1)(b)(i) and (ii).
- 126 (2) (a) If an individual described in Subsection (1) is participating in a [24/7] 24-7  
127 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence  
128 imposed under Subsection (1)(a).
- 129 (b) If an individual described in Subsection (1) fails to successfully complete all of the  
130 requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail  
131 sentence described in Subsection (2)(a).
- 132 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described  
133 in Subsection (1):
- 134 (a) the court shall:
- 135 (i) (A) impose a jail sentence of not less than two days; or
- 136 (B) provided that a program is available in the county in which the court resides,  
137 require the individual to [work] participate in [a compensatory-service work program] a  
138 sheriff's work program as described in Section 17-22-5 for not less than [48] 16 hours;
- 139 (ii) order the individual to participate in a screening;
- 140 (iii) order the individual to participate in an assessment, if it is found appropriate by a  
141 screening under Subsection (3)(a)(ii);
- 142 (iv) order the individual to participate in an educational series if the court does not  
143 order substance abuse treatment as described under Subsection (3)(b);
- 144 (v) impose a fine of not less than \$700;
- 145 (vi) (A) order the individual to pay the administrative impound fee described in Section  
146 41-6a-1406; or
- 147 (B) if the administrative impound fee was paid by a party described in Subsection  
148 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
149 reimburse the party; or
- 150 (vii) (A) order the individual to pay the towing and storage fees described in Section  
151 72-9-603; or

152 (B) if the towing and storage fees were paid by a party described in Subsection  
153 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
154 reimburse the party; and

155 (b) the court may:

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

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

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

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

162 (4) (a) If an individual described in Subsection (3) is participating in a [24/7] 24-7  
163 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence  
164 imposed under Subsection (3)(a).

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

168 (5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within  
169 10 years of the current conviction under Section 41-6a-502 or the commission of the offense  
170 upon which the current conviction is based and where there is admissible evidence that the  
171 individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol  
172 level of .05 or higher in addition to any measurable controlled substance, or had a combination  
173 of two or more controlled substances in the individual's body that were not recommended in  
174 accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or  
175 prescribed:

176 (a) the court shall:

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

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

181 (C) impose a jail sentence of not less than 10 days in addition to ordering the  
182 individual to obtain substance abuse treatment, if the court finds that substance abuse treatment

183 is more likely to reduce recidivism and is in the interests of public safety; or  
184 (D) provided that a program is available in the county in which the court resides,  
185 require the individual to participate in a sheriff's work program as described in Section 17-22-5  
186 for not less than 160 hours;

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

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

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

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

194 (vii) order the installation of an ignition interlock system as described in Section  
195 41-6a-518;

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

198 (B) if the administrative impound fee was paid by a party described in Subsection  
199 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
200 reimburse the party; or

201 (ix) (A) order the individual to pay the towing and storage fees described in Section  
202 72-9-603; or

203 (B) if the towing and storage fees were paid by a party described in Subsection  
204 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
205 reimburse the party; and

206 (b) the court may:

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

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

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

212 (6) (a) If an individual described in Subsection (5) is participating in a [24/7] 24-7  
213 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence

214 imposed under Subsection (5)(a) after the individual has served a minimum of:

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

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

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

220 (7) If an individual has a prior conviction as defined in Section [41-6a-501](#) that is within  
221 10 years of the current conviction under Section [41-6a-502](#) or the commission of the offense  
222 upon which the current conviction is based and that does not qualify under Subsection (5):

223 (a) the court shall:

224 (i) (A) impose a jail sentence of not less than 10 days; ~~[or]~~

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

228 (C) provided that a program is available in the county in which the court resides,  
229 require the individual to participate in a sheriff's work program as described in Section [17-22-5](#)  
230 for not less than 80 hours.

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

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

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

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

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

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

240 (B) if the administrative impound fee was paid by a party described in Subsection  
241 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to  
242 reimburse the party; or

243 (viii) (A) order the individual to pay the towing and storage fees described in Section  
244 [72-9-603](#); or



245 (B) if the towing and storage fees were paid by a party described in Subsection  
246 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to  
247 reimburse the party; and

248 (b) the court may:

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

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

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

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

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

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

259 (b) If an individual described in Subsection (8)(a) fails to successfully complete all of  
260 the requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail  
261 sentence described in Subsection (8)(a).

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

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

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

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

274 (d) supervised probation.

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

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

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

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

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

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

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

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

291 (d) supervised probation.

292 (12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the  
293 requirements of this section.

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

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

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

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

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

306 (b) one or more of the following:

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

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

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

313 Section 3. **Effective date.**

314 This bill takes effect on May 1, 2024.