

DUI OFFENSE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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



28 ▶ amends sentencing requirements for certain offenses of negligent operation of a
29 vehicle that results in injury when there is evidence that the individual was also
30 driving under the influence;

31 ▶ amends sentencing requirements for an offense of negligent operation of a vehicle
32 that results in death;

33 ▶ amends provisions related to pretrial detention of an individual arrested for driving
34 under the influence with another case pending or while on probation for a previous
35 offense of driving under the influence;

36 ▶ requires pretrial detention or electronic monitoring for an individual that is arrested
37 for driving under the influence while already on probation for or while another case
38 is pending for driving under the influence; and

39 ▶ makes technical changes.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **41-6a-502**, as last amended by Laws of Utah 2023, Chapter 415

47 **41-6a-502.5**, as last amended by Laws of Utah 2023, Chapter 328

48 **41-6a-518.2**, as last amended by Laws of Utah 2023, Chapters 384, 415

49 **41-6a-520.1**, as enacted by Laws of Utah 2023, Chapter 415

50 **53-3-1007**, as last amended by Laws of Utah 2023, Chapter 384

51 **76-5-102.1**, as last amended by Laws of Utah 2023, Chapters 111, 415

52 **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415

53 **77-20-201**, as last amended by Laws of Utah 2023, Chapter 408

54 **77-40a-303**, as last amended by Laws of Utah 2023, Chapter 265

55 ENACTS:

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



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

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

60 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
61 **both or with specified or unsafe blood alcohol concentration -- Penalties -- Reporting of**
62 **convictions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

88 (A) the current conviction; or

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

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

91 (A) a felony conviction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 (a) the defendant completes court ordered probation requirements; or
122 (b) (i) the prosecutor agrees as part of a negotiated plea; and
123 (ii) the court finds the plea to be in the interest of justice.
124 (2) A conviction entered under this section is a class B misdemeanor.
125 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of
126 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.
127 (ii) If the defendant fails to appear before the court and establish successful completion
128 of the court ordered probation requirements under Subsection (1)(a), the court shall enter an
129 amended conviction of Section 41-6a-502.
130 (iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of
131 conviction.
132 (b) The court may enter a conviction of impaired driving immediately under
133 Subsection (1)(b).
134 (4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor
135 violation of Section 41-6a-502 as impaired driving under this section is a reduction of one
136 degree.
137 (5) (a) The court shall notify the Driver License Division of each conviction entered
138 under this section.
139 (b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of
140 Professional Licensing, created in Section 58-1-103, a report containing the name, case
141 number, and, if known, the date of birth of each person convicted during the preceding month
142 of a violation of this section for whom there is evidence that the person was driving while
143 impaired, in whole or in part, by a prescribed controlled substance.
144 (6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a
145 sentencing court to order a convicted person to participate in a screening, an assessment, or an
146 educational series, or obtain substance abuse treatment or do a combination of those things,
147 apply to a conviction entered under this section.
148 (b) The court shall render the same order regarding screening, assessment, an
149 educational series, or substance abuse treatment in connection with a first, second, or
150 subsequent conviction under this section as the court would render in connection with applying
151 respectively, the first, second, or subsequent conviction requirements of Subsections

152 41-6a-505(1), (3), (5), and (7).

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

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

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

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

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

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

- 164 (i) had a blood or breath alcohol level of $[\neq]11$ or higher;
- 165 (ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable
166 controlled substance; or

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

- 169 (A) prescribed by a licensed physician; or
- 170 (B) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
171 Research and Medical Cannabis.

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

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

175 (1) As used in this section:

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

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

180 41-6a-518(8).

181 (b) (i) "Interlock restricted driver" means a person who:

182 (A) has been ordered by a court or the Board of Pardons and Parole as a condition of

183 probation or parole not to operate a motor vehicle without an ignition interlock system;

184 (B) ~~[within the last 18 months]~~ has been convicted of a violation under Section
185 [41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#);

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

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

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

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

194 ~~[(F)]~~ (E) ~~[within the last three years]~~ has been convicted of a violation of Section
195 [41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#) and was under 21 years old at the
196 time the offense was committed;

197 ~~[(G)]~~ (F) ~~[within the last six years]~~ has been convicted of a felony violation of Section
198 [41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#) ~~[for an offense that occurred after
199 May 1, 2006; or];~~

200 ~~[(H)]~~ (G) ~~[within the last 10 years]~~ has been convicted of a violation of Section
201 [76-5-207](#) ~~[for an offense that occurred after May 1, 2006.];~~ or

202 (H) has had the persons driving privilege revoked through an administrative action for
203 refusal to submit to a chemical test under Section [41-6a-520](#).

204 (ii) "Interlock restricted driver" does not include a person:

205 (A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under
206 Section [41-6a-502](#) that does not involve alcohol or a conviction under Section [41-6a-517](#) and
207 whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under
208 Section [41-6a-502](#) that did not involve alcohol or convictions under Section [41-6a-517](#);

209 (B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under
210 Section [41-6a-502](#) that does not involve alcohol and the convicting court notifies the Driver
211 License Division at the time of sentencing that the conviction does not involve alcohol; or

212 (C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction
213 under Section [41-6a-502](#) that does not involve alcohol and the ignition interlock restriction is

214 removed as described in Subsection [~~7~~] (8).

215 (2) (a) An ignition interlock restriction period begins on the:

216 (i) date of conviction for a violation described in Subsection (1)(b)(A) through (G); or

217 (ii) effective date of the revocation described in Subsection (1)(b)(H).

218 (b) The ignition interlock restriction period ends:

219 (i) 18 months from the day the ignition interlock restricted driver provides proof of
220 installation of the ignition interlock system for a violation described in Subsection (1)(b)(B);

221 (ii) three years from the date the ignition interlock restricted driver provides proof of
222 installation of the ignition interlock system for a violation described in Subsections (1)(b)(C)
223 through (E) and Subsection (1)(b)(H);

224 (iii) six years from the date the ignition interlock restricted driver provides proof of
225 installation of the ignition interlock system for a violation described in Subsection (1)(b)(F);
226 and

227 (iv) 10 years from the date the ignition interlock restricted driver provides proof of
228 installation of the ignition interlock system for a violation described in Subsection (1)(b)(G).

229 (c) If the ignition interlock restricted driver removes the ignition interlock system
230 before the restriction period under Subsection (2)(b) has ended, the ignition interlock
231 restriction period is extended by the number of days the ignition interlock system was removed
232 from the persons vehicle.

233 [~~2~~] (3) The division shall post the ignition interlock restriction on a person's
234 electronic record that is available to law enforcement.

235 [~~3~~] (4) For purposes of this section, a plea of guilty or no contest to a violation of
236 Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
237 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been
238 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

239 [~~4~~] (5) An interlock restricted driver who operates or is in actual physical control of a
240 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

241 [~~5~~] (6) It is an affirmative defense to a charge of a violation of Subsection [~~4~~] (5) if:

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

244 (b) the interlock restricted driver had given written notice to the employer of the

245 interlock restricted driver's interlock restricted status prior to the operation or actual physical
246 control under Subsection [~~(5)(a)~~] (6)(a);

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

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

252 [~~(6)~~] (7) The affirmative defense described in Subsection [~~(5)~~] (6) does not apply to:

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

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

257 [~~(7)~~] (8) (a) An individual with an ignition interlock restriction may petition the
258 division for removal of the restriction if the individual's offense did not involve alcohol.

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

261 [~~(8)~~] (9) (a) (i) An individual with an ignition interlock restriction may petition the
262 division for removal of the restriction if the individual has a medical condition that prohibits
263 the individual from providing a deep lung breath sample.

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

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

271 (10) (a) As part of any sentence that would be a first conviction of this section, the
272 court shall impose a jail sentence of not less than two days.

273 (b) If an individual has a prior conviction under this section that is within 10 years of
274 the current conviction, the court shall impose as part of any sentence a jail sentence of:

275 (i) not less than 10 days; or

276 (ii) not less than five days, in addition to home confinement of not fewer than 30
277 consecutive days through the use of electronic monitoring that includes a substance abuse
278 testing instrument in accordance with Section 41-6a-506.

279 (c) If an individual has two or more prior convictions of this section that are within 10
280 years of the current conviction, the court shall impose as part of any sentence a jail sentence of
281 not less than 30 days, in addition to home confinement of not fewer than 60 consecutive days
282 through the use of electronic monitoring that includes a substance abuse testing instrument in
283 accordance with Section 41-6a-506.

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

285 **41-6a-520.1. Refusing a chemical test.**

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

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

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

289 (c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's
290 blood.

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

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

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

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

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

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

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

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

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

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

305 (A) the current conviction; or

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

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

308 (A) a felony conviction; or

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

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

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

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

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

317 (3) As part of any sentence for a conviction of violating this section, the court shall
318 impose the same sentencing as outlined for driving under the influence violations in Section
319 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the
320 following modifications:

321 (a) any jail sentence shall be 24 consecutive hours more than is required under Section
322 41-6a-505;

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

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

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

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

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

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

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

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

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

339 **53-3-1007. Ignition interlock system provider -- Notification to the division upon**
340 **installation or removal of an ignition interlock system -- Monitoring and reporting**
341 **requirements -- Penalties.**

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

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

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

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

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

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

353 (c) failed to report to the ignition interlock provider for the purpose of monitoring the
354 device every 60 days, or more frequently if ordered by the court as described in Subsection
355 41-6a-518(5)(a).

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

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

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

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

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

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

368 (ii) if the individual does not own a vehicle or will not be operating a vehicle owned by

369 another individual:

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

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

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

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

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

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

381 (6) If the individual described in Subsection (5) does not provide the required
382 documentation described in Subsection (4)(b)(ii), the division shall suspend the individual's
383 driving privilege until:

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

386 (b) (i) the division:

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

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

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

397 (7) By following the procedures in Title 63G, Chapter 4, Administrative Procedures
398 Act, the division shall suspend the license of any individual without receiving a record of the
399 individual's conviction of crime seven days after receiving electronic notification from an

400 ignition interlock system provider that an individual has removed an ignition interlock system
401 from the individual's vehicle or a vehicle owned by another individual and operated by the
402 individual if the individual is an interlock restricted driver until:

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

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

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

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

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

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

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

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

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

422 (b) acceptable documentation for proof of the installation of an ignition interlock
423 device;

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

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

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

431 [41-6a-518.2\(9\)](#); and

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

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

435 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

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

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

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

439 (iii) "Negligent" or "negligence" means the same as that term is defined in Section
440 [76-5-207](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

459 (ii) a third degree felony if the actor has two or more driving under the influence

460 related convictions under Subsection [41-6a-501\(2\)\(a\)](#), each of which is within 10 years of:

461 (A) the current conviction; or

462 (B) the commission of the offense upon which the current conviction is based;
463 (iii) a third degree felony, if the current conviction is at any time after the conviction

464 of:

465 (A) a felony conviction; or

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

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

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

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

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

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

478 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
479 58-37-4.2 if:

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

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

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

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

485 (ii) the defendant's history;

486 (iii) the facts of the case;

487 (iv) aggravating and mitigating factors; or

488 (v) any other relevant fact.

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

491 ~~[(c)]~~ (b) The standards for chemical breath analysis under Section 41-6a-515 and the
492 provisions for the admissibility of chemical test results under Section 41-6a-516 apply to

493 determination and proof of blood alcohol content under this section.

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

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

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

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

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

504 **76-5-102.10. Sentencing requirements for negligently operating a vehicle resulting**
505 **in injury.**

506 (1) As used in this section:

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

508 (b) "Educational series" means the same as that term is defined in Section [41-6a-501](#).

509 (c) "Screening" means the same as that term is defined in Section [41-6a-501](#).

510 (2) As part of any sentence for a conviction of Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) that
511 would be a first conviction of any driving under the influence related offense found under
512 Subsection [41-6a-501\(2\)\(a\)](#) where there is admissible evidence that the individual had a blood
513 or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in
514 addition to any measurable controlled substance, or had a combination of two or more
515 controlled substances in the individual's body that were not recommended in accordance with
516 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

517 (a) the court shall:

518 (i) impose a jail sentence of not less than ten days;

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

520 (iii) order the individual to participate in an assessment, if it is found appropriate by a
521 screening under Subsection (2)(a)(ii);

522 (iv) order the individual to participate in an educational series if the court does not
523 order substance abuse treatment as described under Subsection (2)(b);

524 (v) impose a fine of not less than \$700;
525 (vi) order probation for the individual in accordance with Section 41-6a-507;
526 (vii) (A) order the individual to pay the administrative impound fee described in
527 Section 41-6a-1406; or
528 (B) if the administrative impound fee was paid by a party described in Subsection
529 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
530 reimburse the party;
531 (viii) (A) order the individual to pay the towing and storage fees described in Section
532 72-9-603; or
533 (B) if the towing and storage fees were paid by a party described in Subsection
534 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
535 reimburse the party; or
536 (ix) unless the court determines and states on the record that an ignition interlock
537 system is not necessary for the safety of the community and in the best interest of justice, order
538 the installation of an ignition interlock system as described in Section 41-6a-518; and
539 (b) the court may:
540 (i) order the individual to obtain substance abuse treatment if the substance abuse
541 treatment program determines that substance abuse treatment is appropriate;
542 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
543 41-6a-515.5 if the individual is 21 years old or older; or
544 (iii) order a combination of Subsections (2)(b)(i) and (ii).
545 (3) As part of any sentence for any first conviction of Subsection 76-5-102.1(3)(a)(i)
546 that would be a first conviction of any driving under the influence related offense found under
547 Subsection 41-6a-501(2)(a) not described in Subsection (2):
548 (a) the court shall:
549 (i) impose a jail sentence of not less than five days;
550 (ii) order the individual to participate in a screening;
551 (iii) order the individual to participate in an assessment, if it is found appropriate by a
552 screening under Subsection (3)(a)(ii);
553 (iv) order the individual to participate in an educational series if the court does not
554 order substance abuse treatment as described under Subsection (3)(b);

555 (v) impose a fine of not less than \$700;
556 (vi) (A) order the individual to pay the administrative impound fee described in Section
557 41-6a-1406; or
558 (B) if the administrative impound fee was paid by a party described in Subsection
559 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
560 reimburse the party; or
561 (vii) (A) order the individual to pay the towing and storage fees described in Section
562 72-9-603; or
563 (B) if the towing and storage fees were paid by a party described in Subsection
564 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
565 reimburse the party; and
566 (b) the court may:
567 (i) order the individual to obtain substance abuse treatment if the substance abuse
568 treatment program determines that substance abuse treatment is appropriate;
569 (ii) order probation for the individual in accordance with Section 41-6a-507;
570 (iii) order the individual to participate in a 24/7 sobriety program as defined in Section
571 41-6a-515.5 if the individual is 21 years old or older; or
572 (iv) order a combination of Subsections (3)(b)(i) through (iii).
573 (4) If an individual has a prior conviction as defined in Section 41-6a-501 that is within
574 10 years of the current conviction under Subsection 76-5-102.1(3)(a)(ii) or the commission of
575 the offense upon which the current conviction is based and where there is admissible evidence
576 that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath
577 alcohol level of .05 or higher in addition to any measurable controlled substance, or had a
578 combination of two or more controlled substances in the individual's body that were not
579 recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and
580 Medical Cannabis, or prescribed:
581 (a) the court shall:
582 (i) impose a jail sentence of not less than 40 days;
583 (ii) order the individual to participate in a screening;
584 (iii) order the individual to participate in an assessment, if it is found appropriate by a
585 screening under Subsection (4)(a)(ii);

586 (iv) order the individual to participate in an educational series if the court does not
587 order substance abuse treatment as described under Subsection (4)(b);
588 (v) impose a fine of not less than \$800;
589 (vi) order probation for the individual in accordance with Section 41-6a-507;
590 (vii) order the installation of an ignition interlock system as described in Section
591 41-6a-518;
592 (viii) (A) order the individual to pay the administrative impound fee described in
593 Section 41-6a-1406; or
594 (B) if the administrative impound fee was paid by a party described in Subsection
595 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
596 reimburse the party; or
597 (ix) (A) order the individual to pay the towing and storage fees described in Section
598 72-9-603; or
599 (B) if the towing and storage fees were paid by a party described in Subsection
600 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
601 reimburse the party; and
602 (b) the court may:
603 (i) order the individual to obtain substance abuse treatment if the substance abuse
604 treatment program determines that substance abuse treatment is appropriate;
605 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
606 41-6a-515.5 if the individual is 21 years old or older; or
607 (iii) order a combination of Subsections (4)(b)(i) and (ii).
608 (5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within
609 10 years of the current conviction under Subsection 76-5-102.1(3)(a)(ii) or the commission of
610 the offense upon which the current conviction is based and that does not qualify under
611 Subsection (4):
612 (a) the court shall:
613 (i) impose a jail sentence of not less than 20 days;
614 (ii) order the individual to participate in a screening;
615 (iii) order the individual to participate in an assessment, if it is found appropriate by a
616 screening under Subsection (5)(a)(ii);

617 (iv) order the individual to participate in an educational series if the court does not
618 order substance abuse treatment as described under Subsection (5)(b);
619 (v) impose a fine of not less than \$800;
620 (vi) order probation for the individual in accordance with Section 41-6a-507;
621 (vii) (A) order the individual to pay the administrative impound fee described in
622 Section 41-6a-1406; or
623 (B) if the administrative impound fee was paid by a party described in Subsection
624 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
625 reimburse the party; or
626 (viii) (A) order the individual to pay the towing and storage fees described in Section
627 72-9-603; or
628 (B) if the towing and storage fees were paid by a party described in Subsection
629 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
630 reimburse the party; and
631 (b) the court may:
632 (i) order the individual to obtain substance abuse treatment if the substance abuse
633 treatment program determines that substance abuse treatment is appropriate;
634 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
635 41-6a-515.5 if the individual is 21 years old or older; or
636 (iii) order a combination of Subsections (5)(b)(i) and (ii).
637 (6) If the court suspends the execution of a prison sentence and places the defendant on
638 probation as part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) where
639 there is admissible evidence that the individual had a blood or breath alcohol level of .16 or
640 higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable
641 controlled substance, or had a combination of two or more controlled substances in the
642 individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2,
643 Cannabinoid Research and Medical Cannabis, or prescribed:
644 (a) the court shall:
645 (i) impose a jail sentence of not less than 240 days;
646 (ii) order the individual to participate in a screening;
647 (iii) order the individual to participate in an assessment, if it is found appropriate by a

648 screening under Subsection (6)(a)(ii);
649 (iv) order the individual to participate in an educational series if the court does not
650 order substance abuse treatment as described under Subsection (6)(b);
651 (v) impose a fine of not less than \$800;
652 (vi) order probation for the individual in accordance with Section [41-6a-507](#);
653 (vii) order the installation of an ignition interlock system as described in Section
654 [41-6a-518](#);
655 (viii) (A) order the individual to pay the administrative impound fee described in
656 Section [41-6a-1406](#); or
657 (B) if the administrative impound fee was paid by a party described in Subsection
658 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
659 reimburse the party; or
660 (ix) (A) order the individual to pay the towing and storage fees described in Section
661 [72-9-603](#); or
662 (B) if the towing and storage fees were paid by a party described in Subsection
663 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
664 reimburse the party; and
665 (b) the court may:
666 (i) order the individual to obtain substance abuse treatment if the substance abuse
667 treatment program determines that substance abuse treatment is appropriate;
668 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
669 [41-6a-515.5](#) if the individual is 21 years old or older; or
670 (iii) order a combination of Subsections (6)(b)(i) and (ii).
671 (7) If the court suspends the execution of a prison sentence and places the defendant on
672 probation as part of any sentence for a conviction of Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) not
673 described in Subsection (6):
674 (a) the court shall:
675 (i) impose a jail sentence of not less than 120 days;
676 (ii) order the individual to participate in a screening;
677 (iii) order the individual to participate in an assessment, if it is found appropriate by a
678 screening under Subsection (7)(a)(ii);

679 (iv) order the individual to participate in an educational series if the court does not
680 order substance abuse treatment as described under Subsection (7)(b);
681 (v) impose a fine of not less than \$800;
682 (vi) order probation for the individual in accordance with Section 41-6a-507;
683 (vii) order the installation of an ignition interlock system as described in Section
684 41-6a-518;
685 (viii) (A) order the individual to pay the administrative impound fee described in
686 Section 41-6a-1406; or
687 (B) if the administrative impound fee was paid by a party described in Subsection
688 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
689 reimburse the party; or
690 (ix) (A) order the individual to pay the towing and storage fees described in Section
691 72-9-603; or
692 (B) if the towing and storage fees were paid by a party described in Subsection
693 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
694 reimburse the party; and
695 (b) the court may:
696 (i) order the individual to obtain substance abuse treatment if the substance abuse
697 treatment program determines that substance abuse treatment is appropriate;
698 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
699 41-6a-515.5 if the individual is 21 years old or older; or
700 (iii) order a combination of Subsections (7)(b)(i) and (ii).
701 (8) If the court suspends the execution of a prison sentence and places the defendant on
702 probation as part of any sentence for a conviction of Subsection 76-5-102.1(3)(a)(ii) that would
703 be a first conviction of any DUI related offense found under Subsection 41-6a-501(2)(a) where
704 there is admissible evidence that the individual had a blood or breath alcohol level of .16 or
705 higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable
706 controlled substance, or had a combination of two or more controlled substances in the
707 individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2,
708 Cannabinoid Research and Medical Cannabis, or prescribed:
709 (a) the court shall:

- 710 (i) impose a jail sentence of not less than 180 days;
- 711 (ii) order the individual to participate in a screening;
- 712 (iii) order the individual to participate in an assessment, if it is found appropriate by a
- 713 screening under Subsection (8)(a)(ii);
- 714 (iv) order the individual to participate in an educational series if the court does not
- 715 order substance abuse treatment as described under Subsection (8)(b);
- 716 (v) impose a fine of not less than \$800;
- 717 (vi) order probation for the individual in accordance with Section [41-6a-507](#);
- 718 (vii) order the installation of an ignition interlock system as described in Section
- 719 [41-6a-518](#);
- 720 (viii) (A) order the individual to pay the administrative impound fee described in
- 721 Section [41-6a-1406](#); or
- 722 (B) if the administrative impound fee was paid by a party described in Subsection
- 723 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
- 724 reimburse the party; or
- 725 (ix) (A) order the individual to pay the towing and storage fees described in Section
- 726 [72-9-603](#); or
- 727 (B) if the towing and storage fees were paid by a party described in Subsection
- 728 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
- 729 reimburse the party; and
- 730 (b) the court may:
- 731 (i) order the individual to obtain substance abuse treatment if the substance abuse
- 732 treatment program determines that substance abuse treatment is appropriate;
- 733 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
- 734 [41-6a-515.5](#) if the individual is 21 years old or older; or
- 735 (iii) order a combination of Subsections (8)(b)(i) and (ii).
- 736 (9) If the court suspends the execution of a prison sentence and places the defendant on
- 737 probation as part of any sentence for a conviction of Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) that would
- 738 be a first conviction of any DUI related offense found under Subsection [41-6a-501\(2\)\(a\)](#) and
- 739 not described in Subsection (8):
- 740 (a) the court shall:

- 741 (i) impose a jail sentence of not less than 90 days;
742 (ii) order the individual to participate in a screening;
743 (iii) order the individual to participate in an assessment, if it is found appropriate by a
744 screening under Subsection (9)(a)(ii);
745 (iv) order the individual to participate in an educational series if the court does not
746 order substance abuse treatment as described under Subsection (9)(b);
747 (v) impose a fine of not less than \$800;
748 (vi) order probation for the individual in accordance with Section [41-6a-507](#);
749 (vii) order the installation of an ignition interlock system as described in Section
750 [41-6a-518](#);
751 (viii) (A) order the individual to pay the administrative impound fee described in
752 Section [41-6a-1406](#); or
753 (B) if the administrative impound fee was paid by a party described in Subsection
754 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
755 reimburse the party; or
756 (ix) (A) order the individual to pay the towing and storage fees described in Section
757 [72-9-603](#); or
758 (B) if the towing and storage fees were paid by a party described in Subsection
759 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
760 reimburse the party; and
761 (b) the court may:
762 (i) order the individual to obtain substance abuse treatment if the substance abuse
763 treatment program determines that substance abuse treatment is appropriate;
764 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
765 [41-6a-515.5](#) if the individual is 21 years old or older; or
766 (iii) order a combination of Subsections (9)(b)(i) and (ii).
767 (10) If the court suspends the execution of a prison sentence and places the defendant
768 on probation as part of any sentence for a conviction where an individual has a prior conviction
769 as defined in Section [41-6a-501](#) that is within 10 years of the current conviction under
770 Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) or the commission of the offense upon which the current
771 conviction is based and where there is admissible evidence that the individual had a blood or

772 breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in
773 addition to any measurable controlled substance, or had a combination of two or more
774 controlled substances in the individual's body that were not recommended in accordance with
775 Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

776 (a) the court shall:

777 (i) impose a jail sentence of not less than 360 days;

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

779 (iii) order the individual to participate in an assessment, if it is found appropriate by a
780 screening under Subsection (10)(a)(ii);

781 (iv) order the individual to participate in an educational series if the court does not
782 order substance abuse treatment as described under Subsection (10)(b);

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

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

785 (vii) order the installation of an ignition interlock system as described in Section
786 [41-6a-518](#);

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

789 (B) if the administrative impound fee was paid by a party described in Subsection
790 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
791 reimburse the party; or

792 (ix) (A) order the individual to pay the towing and storage fees described in Section
793 [72-9-603](#); or

794 (B) if the towing and storage fees were paid by a party described in Subsection
795 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
796 reimburse the party; and

797 (b) the court may:

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

800 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
801 [41-6a-515.5](#) if the individual is 21 years old or older; or

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

803 (11) If the court suspends the execution of a prison sentence and places the defendant
804 on probation as part of any sentence for a conviction where an individual has a prior conviction
805 as defined in Section [41-6a-501](#) that is within 10 years of the current conviction under
806 Subsection [76-5-102.1\(3\)\(a\)\(ii\)](#) or the commission of the offense upon which the current
807 conviction is based and that does not qualify under Subsection (10):

808 (a) the court shall:

809 (i) impose a jail sentence of not less than 270 days;
810 (ii) order the individual to participate in a screening;
811 (iii) order the individual to participate in an assessment, if it is found appropriate by a
812 screening under Subsection (11)(a)(ii);

813 (iv) order the individual to participate in an educational series if the court does not
814 order substance abuse treatment as described under Subsection (11)(b);

815 (v) impose a fine of not less than \$800;
816 (vi) order probation for the individual in accordance with Section [41-6a-507](#);
817 (vii) (A) order the individual to pay the administrative impound fee described in
818 Section [41-6a-1406](#); or

819 (B) if the administrative impound fee was paid by a party described in Subsection
820 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
821 reimburse the party; or

822 (viii) (A) order the individual to pay the towing and storage fees described in Section
823 [72-9-603](#); or

824 (B) if the towing and storage fees were paid by a party described in Subsection
825 [41-6a-1406\(5\)\(a\)](#), other than the individual sentenced, order the individual sentenced to
826 reimburse the party; and

827 (b) the court may:

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

830 (ii) order the individual to participate in a 24/7 sobriety program as defined in Section
831 [41-6a-515.5](#) if the individual is 21 years old or older; or

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

833 (12) If an individual has two or more prior convictions as defined in Section [41-6a-501](#)

834 that is within 10 years of the current conviction under Subsection 76-5-102.1(3)(a)(ii) or the
835 commission of the offense upon which the current conviction is based and that does not qualify
836 under Subsection (10) the court shall impose, and may not suspend, a prison sentence.

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

838 **76-5-207. Negligently operating a vehicle resulting in death -- Penalties --**
839 **Evidence.**

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

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

842 (ii) "Criminally negligent" means the same as that term is described in Subsection
843 76-2-103(4).

844 (iii) "Drug" means:

845 (A) a controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

867 (a) a second degree felony; and

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

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

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

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

876 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
877 [58-37-4.2](#) if:

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

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

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

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

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

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

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

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

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

890 [~~(c)~~] (b) The standards for chemical breath analysis as provided by Section [41-6a-515](#)
891 and the provisions for the admissibility of chemical test results as provided by Section
892 [41-6a-516](#) apply to determination and proof of blood alcohol content under this section.

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

895 [~~(e)~~] (d) Except as provided in Subsection (4), the fact that an actor charged with

896 violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

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

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

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

903 **77-20-201. Right to bail -- Capital felony.**

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

- 906 (a) a capital felony when there is substantial evidence to support the charge;
- 907 (b) a felony committed while on parole or on probation for a felony conviction, or
908 while free on bail awaiting trial on a previous felony charge, when there is substantial evidence
909 to support the current felony charge;

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

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

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

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

920 (e) a domestic violence offense if:

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

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

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

- 927 (i) the offense results in death or serious bodily injury to an individual;
- 928 (ii) there is substantial evidence to support the charge; and
- 929 (iii) the court finds, by clear and convincing evidence, that the individual would
- 930 constitute a substantial danger to the community after considering available conditions of
- 931 release that the court may impose if the individual is released on bail; ~~or~~
- 932 (g) a felony violation of Section 76-9-101 if:
- 933 (i) there is substantial evidence to support the charge; and
- 934 (ii) the court finds, by clear and convincing evidence, that the individual is not likely to
- 935 appear for a subsequent court appearance[-]; or
- 936 (h) except as provided in Subsection (4), the offense of driving under the influence or
- 937 driving with a measurable controlled substance in the body:
- 938 (i) if committed while on parole or on probation for a driving under the influence or
- 939 driving with a measurable controlled substance in the body conviction; or
- 940 (ii) while the individual is out of custody awaiting trial on a previous driving under the
- 941 influence or driving with a measurable controlled substance in the body charge, when the court
- 942 finds there is substantial evidence to support the current charge.
- 943 (2) Notwithstanding any other provision of this section, there is a rebuttable
- 944 presumption that an individual is a substantial danger to the community under Subsection
- 945 (1)(f)(iii):
- 946 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or
- 947 greater if the individual is arrested for, or charged with, the offense of driving under the
- 948 influence and the offense resulted in death or serious bodily injury to an individual; or
- 949 (b) if the individual has a measurable amount of controlled substance in the
- 950 individual's body, the individual is arrested for, or charged with, the offense of driving with a
- 951 measurable controlled substance in the body and the offense resulted in death or serious bodily
- 952 injury to an individual.
- 953 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
- 954 76-5-202, aggravated murder, is a capital felony unless:
- 955 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or
- 956 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting
- 957 attorney has not filed a notice to seek the death penalty.

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

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

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

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

965 **77-40a-303. Requirements for a certificate of eligibility to expunge records of a**
966 **conviction.**

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

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

971 (b) the petitioner has paid in full all restitution ordered by the court under Section
972 [77-38b-205](#); and

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

976 (i) 10 years for the conviction of a misdemeanor under Subsection [41-6a-501\(2\)](#);

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

980 Chapter 236, Section 1, Subsection [58-37-8\(2\)\(g\)](#);

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

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

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

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

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

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

988 (a) except as provided in Subsection (3), the conviction for which expungement is

989 sought is:

990 (i) a capital felony;

991 (ii) a first degree felony;

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

993 [76-3-203.5\(1\)\(c\)\(i\)](#);

994 (iv) (A) a felony conviction described in Subsection [41-6a-501\(2\)](#); or

995 (B) any conviction described in Subsection (2)(a)(iv)(A) for which judgment of
996 conviction is reduced under Section [76-3-402](#);

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

999 (vi) a registerable child abuse offense as defined in Subsection [77-43-102\(2\)](#);

1000 (b) there is a criminal proceeding for a misdemeanor or felony offense pending against
1001 the petitioner, unless the criminal proceeding is for a traffic offense;

1002 (c) there is a plea in abeyance for a misdemeanor or felony offense pending against the
1003 petitioner, unless the plea in abeyance is for a traffic offense;

1004 (d) the petitioner is currently incarcerated, on parole, or on probation, unless the
1005 petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory
1006 offense;

1007 (e) the petitioner intentionally or knowingly provides false or misleading information
1008 on the application for a certificate of eligibility;

1009 (f) there is a criminal protective order or a criminal stalking injunction in effect for the
1010 case; or

1011 (g) the bureau determines that the petitioner's criminal history makes the petitioner
1012 ineligible for a certificate of eligibility under Subsection (4) or (5).

1013 (3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as
1014 defined in Section [76-3-209](#), if, at the time of the offense, a petitioner who committed the
1015 offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by
1016 a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District
1017 Court.

1018 (4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a
1019 certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the

1020 bureau determines that the petitioner's criminal history, including previously expunged
1021 convictions, contains any of the following:

1022 (a) two or more felony convictions other than for drug possession offenses, each of
1023 which is contained in a separate criminal episode;

1024 (b) any combination of three or more convictions other than for drug possession
1025 offenses that include two class A misdemeanor convictions, each of which is contained in a
1026 separate criminal episode;

1027 (c) any combination of four or more convictions other than for drug possession
1028 offenses that include three class B misdemeanor convictions, each of which is contained in a
1029 separate criminal episode; or

1030 (d) five or more convictions other than for drug possession offenses of any degree
1031 whether misdemeanor or felony, each of which is contained in a separate criminal episode.

1032 (5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate
1033 of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau
1034 determines that the petitioner's criminal history, including previously expunged convictions,
1035 contains any of the following:

1036 (a) three or more felony convictions for drug possession offenses, each of which is
1037 contained in a separate criminal episode; or

1038 (b) any combination of five or more convictions for drug possession offenses, each of
1039 which is contained in a separate criminal episode.

1040 (6) If the petitioner's criminal history contains convictions for both a drug possession
1041 offense and a non-drug possession offense arising from the same criminal episode, the bureau
1042 shall count that criminal episode as a conviction under Subsection (4) if any non-drug
1043 possession offense in that episode:

1044 (a) is a felony or class A misdemeanor; or

1045 (b) has the same or a longer waiting period under Subsection (1)(c) than any drug
1046 possession offense in that episode.

1047 (7) Except as provided in Subsection (8), if at least 10 years have passed after the day
1048 on which the petitioner was convicted or released from incarceration, parole, or probation,
1049 whichever occurred last, for all convictions:

1050 (a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased

1051 by one; and

1052 (b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if
1053 the highest level of convicted offense in the criminal episode is:

1054 (i) a class B misdemeanor;

1055 (ii) a class C misdemeanor;

1056 (iii) a drug possession offense if none of the non-drug possession offenses in the
1057 criminal episode are a felony or a class A misdemeanor; or

1058 (iv) an infraction.

1059 (8) When determining whether a petitioner is eligible for a certificate of eligibility
1060 under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or
1061 prior conviction for:

1062 (a) an infraction;

1063 (b) a traffic offense;

1064 (c) a minor regulatory offense; or

1065 (d) a clean slate eligible case that was automatically expunged in accordance with
1066 Section [77-40a-201](#).

1067 (9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of
1068 Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes
1069 in accordance with Section [77-27-5.1](#).

1070 Section 11. **Effective date.**

1071 This bill takes effect on May 1, 2024.