

Representative Steve Eliason proposes the following substitute bill:

DUI OFFENSE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that an actor is guilty of a class A misdemeanor when the actor commits driving under the influence while also operating a vehicle in the opposite direction of traffic on a one-way highway with more than one lane of traffic;
- ▶ reduces the blood alcohol concentration allowed for an individual to plea down to impaired driving;
- ▶ requires the Department of Public Safety to waive participation and testing fees entirely or in part for indigent individuals participating in the 24-7 sobriety program;
- ▶ requires an individual for whom the Department of Public Safety waived fees to reimburse the Department of Public Safety under certain circumstances;
- ▶ amends provisions related to sentences for certain individuals with prior convictions for driving under the influence who violate ignition interlock requirements;



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

46 **Money Appropriated in this Bill:**

47 None

48 **Other Special Clauses:**

49 This bill provides a special effective date.

50 This bill provides a coordination clause.

51 **Utah Code Sections Affected:**

52 AMENDS:

53 **41-6a-501**, as last amended by Laws of Utah 2023, Chapters 328, 415

54 **41-6a-502**, as last amended by Laws of Utah 2023, Chapter 415

55 **41-6a-502.5**, as last amended by Laws of Utah 2023, Chapter 328

56 **41-6a-505**, as last amended by Laws of Utah 2023, Chapters 328, 415

- 57 [41-6a-515.5](#), as last amended by Laws of Utah 2021, Chapter 83
- 58 [41-6a-518.2](#), as last amended by Laws of Utah 2023, Chapters 384, 415
- 59 [41-6a-520.1](#), as enacted by Laws of Utah 2023, Chapter 415
- 60 [53-3-1007](#), as last amended by Laws of Utah 2023, Chapter 384
- 61 [63M-7-404](#), as last amended by Laws of Utah 2023, Chapter 111
- 62 [76-5-102.1](#), as last amended by Laws of Utah 2023, Chapters 111, 415
- 63 [77-20-201](#), as last amended by Laws of Utah 2023, Chapter 408

64 **Utah Code Sections Affected By Coordination Clause:**

65 [63M-7-404.3](#), as Utah Code Annotated 1953



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

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

69 **41-6a-501. Definitions.**

70 (1) As used in this part:

71 (a) "Actual physical control" is determined by a consideration of the totality of the
72 circumstances, but does not include a circumstance in which:

- 73 (i) the person is asleep inside the vehicle;
- 74 (ii) the person is not in the driver's seat of the vehicle;
- 75 (iii) the engine of the vehicle is not running;
- 76 (iv) the vehicle is lawfully parked; and
- 77 (v) under the facts presented, it is evident that the person did not drive the vehicle to

78 the location while under the influence of alcohol, a drug, or the combined influence of alcohol
79 and any drug.

80 (b) "Assessment" means an in-depth clinical interview with a licensed mental health
81 therapist:

- 82 (i) used to determine if a person is in need of:
 - 83 (A) substance abuse treatment that is obtained at a substance abuse program;
 - 84 (B) an educational series; or
 - 85 (C) a combination of Subsections (1)(b)(i)(A) and (B); and
- 86 (ii) that is approved by the Division of Integrated Healthcare in accordance with

87 Section [26B-5-104](#).

88 (c) "Driving under the influence court" means a court that is approved as a driving
89 under the influence court by the Judicial Council according to standards established by the
90 Judicial Council.

91 (d) "Drug" or "drugs" means:

92 (i) a controlled substance as defined in Section [58-37-2](#);

93 (ii) a drug as defined in Section [58-17b-102](#); or

94 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the human
95 body, can impair the ability of a person to safely operate a motor vehicle.

96 (e) "Educational series" means an educational series obtained at a substance abuse
97 program that is approved by the Division of Integrated Healthcare in accordance with Section
98 [26B-5-104](#).

99 (f) "Extreme DUI" means an offense of driving under the influence under Section
100 [41-1a-502](#) where there is admissible evidence that the individual:

101 (i) had a blood or breath alcohol level of .16 or higher;

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

104 (iii) had a combination of two or more controlled substances in the individual's body
105 that were not:

106 (A) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
107 Research and Medical Cannabis; or

108 (B) prescribed.

109 [(f)] (g) "Negligence" means simple negligence, the failure to exercise that degree of
110 care that an ordinarily reasonable and prudent person exercises under like or similar
111 circumstances.

112 [(g)] (h) "Novice learner driver" means an individual who:

113 (i) has applied for a Utah driver license;

114 (ii) has not previously held a driver license in this state or another state; and

115 (iii) has not completed the requirements for issuance of a Utah driver license.

116 [(h)] (i) "Screening" means a preliminary appraisal of a person:

117 (i) used to determine if the person is in need of:

118 (A) an assessment; or

- 119 (B) an educational series; and
- 120 (ii) that is approved by the Division of Integrated Healthcare in accordance with
- 121 Section [26B-5-104](#).
- 122 ~~[(j)]~~ (j) "Serious bodily injury" means bodily injury that creates or causes:
- 123 (i) serious permanent disfigurement;
- 124 (ii) protracted loss or impairment of the function of any bodily member or organ; or
- 125 (iii) a substantial risk of death.
- 126 ~~[(j)]~~ (k) "Substance abuse treatment" means treatment obtained at a substance abuse
- 127 program that is approved by the Division of Integrated Healthcare in accordance with Section
- 128 [26B-5-104](#).
- 129 ~~[(k)]~~ (l) "Substance abuse treatment program" means a state licensed substance abuse
- 130 program.
- 131 ~~[(j)]~~ (m) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined
- 132 in Section [41-6a-102](#); and
- 133 (ii) "Vehicle" or "motor vehicle" includes:
- 134 (A) an off-highway vehicle as defined under Section [41-22-2](#); and
- 135 (B) a motorboat as defined in Section [73-18-2](#).
- 136 (2) As used in Sections [41-6a-502](#) and [41-6a-520.1](#):
- 137 (a) "Conviction" means any conviction arising from a separate episode of driving for a
- 138 violation of:
- 139 (i) driving under the influence under Section [41-6a-502](#);
- 140 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
- 141 combination of both-related reckless driving under Sections [41-6a-512](#) and [41-6a-528](#); or
- 142 (B) for an offense committed on or after July 1, 2008, impaired driving under Section
- 143 [41-6a-502.5](#);
- 144 (iii) driving with any measurable controlled substance that is taken illegally in the body
- 145 under Section [41-6a-517](#);
- 146 (iv) local ordinances similar to Section [41-6a-502](#), alcohol, any drug, or a combination
- 147 of both-related reckless driving, or impaired driving under Section [41-6a-502.5](#) adopted in
- 148 compliance with Section [41-6a-510](#);
- 149 (v) Section [76-5-207](#);

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

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

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

156 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

157 (x) statutes or ordinances previously in effect in this state or in effect in any other state,
158 the United States, or any district, possession, or territory of the United States which would
159 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of
160 both-related reckless driving if committed in this state, including punishments administered
161 under 10 U.S.C. Sec. 815.

162 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
163 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,
164 prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently
165 reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

166 (i) enhancement of penalties under this part; and

167 (ii) expungement under Title 77, Chapter 40a, Expungement.

168 (c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent
169 of a conviction even if the charge has been subsequently dismissed in accordance with the Utah
170 Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

171 (i) this part;

172 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

173 (iii) negligently operating a vehicle resulting in death under Section 76-5-207.

174 (3) As used in Section 41-6a-505, "controlled substance" does not include an inactive
175 metabolite of a controlled substance.

176 Section 2. Section 41-6a-502 is amended to read:

177 **41-6a-502. Driving under the influence of alcohol, drugs, or a combination of**
178 **both or with specified or unsafe blood alcohol concentration -- Penalties -- Reporting of**
179 **convictions.**

180 (1) An actor commits driving under the influence if the actor operates or is in actual

181 physical control of a vehicle within this state if the actor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

205 (A) the current conviction; or

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

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

208 (A) a felony conviction; or

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

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

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

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

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

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

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

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

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

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

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

232 Section 3. Section 41-6a-502.5 is amended to read:

233 **41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing**
234 **requirements.**

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

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

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

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

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

242 (3) (a) (i) If the entry of an impaired driving plea is based on successful completion of

243 probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

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

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

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

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

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

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

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

265 (b) The court shall render the same order regarding screening, assessment, an
266 educational series, or substance abuse treatment in connection with a first, second, or
267 subsequent conviction under this section as the court would render in connection with applying
268 respectively, the first, second, or subsequent conviction requirements of Subsections
269 41-6a-505(1), (3), (5), and (7).

270 (7) (a) Except as provided in Subsection (7)(b), a report authorized by Section
271 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the
272 reporting court notifies the Driver License Division that the defendant is participating in or has
273 successfully completed the program of a driving under the influence court.

274 (b) The provisions of Subsection (7)(a) do not apply to a report concerning:
275 (i) a CDL license holder; or
276 (ii) a violation that occurred in a commercial motor vehicle.
277 (8) The provisions of this section are not available:
278 (a) to a person who has a prior conviction as that term is defined in Subsection
279 ~~41-6a-501(2); or~~
280 (b) to a person charged with extreme DUI.
281 ~~[(b) where there is admissible evidence that the individual:]~~
282 ~~[(i) had a blood or breath alcohol level of .16 or higher;]~~
283 ~~[(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable~~
284 ~~controlled substance; or]~~
285 ~~[(iii) had a combination of two or more controlled substances in the person's body that~~
286 ~~were not:]~~
287 ~~[(A) prescribed by a licensed physician; or]~~
288 ~~[(B) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid~~
289 ~~Research and Medical Cannabis.]~~

290 Section 4. Section **41-6a-505** is amended to read:

291 **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**
292 **drugs, or a combination of both violations.**

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

299 (a) the court shall:
300 (i) (A) impose a jail sentence of not less than five days; or
301 (B) impose a jail sentence of not less than two days in addition to home confinement of
302 not fewer than 30 consecutive days through the use of electronic monitoring that includes a
303 substance abuse testing instrument in accordance with Section ~~41-6a-506~~;
304 (ii) order the individual to participate in a screening;

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

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

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

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

311 (vii) (A) order the individual to pay the administrative impound fee described in
312 Section 41-6a-1406; or

313 (B) if the administrative impound fee was paid by a party described in Subsection
314 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
315 reimburse the party;

316 (viii) (A) order the individual to pay the towing and storage fees described in Section
317 72-9-603; or

318 (B) if the towing and storage fees were paid by a party described in Subsection
319 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
320 reimburse the party; or

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

324 (b) the court may:

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

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

329 (iii) order a combination of Subsections (1)(b)(i) and (ii).

330 (2) (a) If an individual described in Subsection (1) is participating in a [24/7] 24-7
331 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence
332 imposed under Subsection (1)(a).

333 (b) If an individual described in Subsection (1) fails to successfully complete all of the
334 requirements of the [24/7] 24-7 sobriety program, the court shall impose the suspended jail
335 sentence described in Subsection (2)(a).

336 (3) As part of any sentence for any first conviction of Section 41-6a-502 not described
337 in Subsection (1):
338 (a) the court shall:
339 (i) (A) impose a jail sentence of not less than two days; or
340 (B) require the individual to work in a compensatory-service work program for not less
341 than 48 hours;
342 (ii) order the individual to participate in a screening;
343 (iii) order the individual to participate in an assessment, if it is found appropriate by a
344 screening under Subsection (3)(a)(ii);
345 (iv) order the individual to participate in an educational series if the court does not
346 order substance abuse treatment as described under Subsection (3)(b);
347 (v) impose a fine of not less than \$700;
348 (vi) (A) order the individual to pay the administrative impound fee described in Section
349 41-6a-1406; or
350 (B) if the administrative impound fee was paid by a party described in Subsection
351 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
352 reimburse the party; or
353 (vii) (A) order the individual to pay the towing and storage fees described in Section
354 72-9-603; or
355 (B) if the towing and storage fees were paid by a party described in Subsection
356 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
357 reimburse the party; and
358 (b) the court may:
359 (i) order the individual to obtain substance abuse treatment if the substance abuse
360 treatment program determines that substance abuse treatment is appropriate;
361 (ii) order probation for the individual in accordance with Section 41-6a-507;
362 (iii) order the individual to participate in a [24/7] 24-7 sobriety program as defined in
363 Section 41-6a-515.5 if the individual is 21 years old or older; or
364 (iv) order a combination of Subsections (3)(b)(i) through (iii).
365 (4) (a) If an individual described in Subsection (3) is participating in a [24/7] 24-7
366 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence

367 imposed under Subsection (3)(a).

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

371 (5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within
372 10 years of the current conviction under Section 41-6a-502 or the commission of the offense
373 upon which the current conviction ~~[is] [based and where there is admissible evidence that the~~
374 ~~individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol~~
375 ~~level of .05 or higher in addition to any measurable controlled substance, or had a combination~~
376 ~~of two or more controlled substances in the individual's body that were not recommended in~~
377 ~~accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or~~
378 ~~prescribed]~~ amounts to extreme DUI:

379 (a) the court shall:

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

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

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

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

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

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

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

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

394 (vii) order the installation of an ignition interlock system as described in Section
395 41-6a-518;

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

398 (B) if the administrative impound fee was paid by a party described in Subsection
399 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
400 reimburse the party; or

401 (ix) (A) order the individual to pay the towing and storage fees described in Section
402 72-9-603; or

403 (B) if the towing and storage fees were paid by a party described in Subsection
404 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
405 reimburse the party; and

406 (b) the court may:

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

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

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

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

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

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

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

420 (7) If an individual has a prior conviction as defined in Section 41-6a-501 that is within
421 10 years of the current conviction under Section 41-6a-502 or the commission of the offense
422 upon which the current conviction is based and that does not qualify under Subsection (5):

423 (a) the court shall:

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

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

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

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

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

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

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

435 (vii) (A) order the individual to pay the administrative impound fee described in
436 Section 41-6a-1406; or

437 (B) if the administrative impound fee was paid by a party described in Subsection
438 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
439 reimburse the party; or

440 (viii) (A) order the individual to pay the towing and storage fees described in Section
441 72-9-603; or

442 (B) if the towing and storage fees were paid by a party described in Subsection
443 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
444 reimburse the party; and

445 (b) the court may:

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

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

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

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

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

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

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

459 (9) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison

460 sentence and places the defendant on probation [~~where there is admissible evidence that the~~
461 ~~individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol~~
462 ~~level of .05 in addition to any measurable controlled substance, or had a combination of two or~~
463 ~~more controlled substances in the person's body that were not recommended in accordance with~~
464 ~~Title 26B, Chapter 4, Part 2, Cannabinoid Research Medical Cannabis, or prescribed,] for a
465 conviction of extreme DUI, the court shall impose:~~

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

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

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

471 (d) supervised probation.

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

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

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

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

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

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

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

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

488 (d) supervised probation.

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

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

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

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

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

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

503 (b) one or more of the following:

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

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

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

510 Section 5. Section 41-6a-515.5 is amended to read:

511 **41-6a-515.5. Sobriety program for DUI.**

512 (1) As used in this section:

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

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

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

517 (iii) requires the individual to be subject to testing to determine the presence of
518 alcohol:

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

520 (B) by continuous remote sensing or transdermal alcohol monitoring by means of an
521 electronic monitoring device that allows timely sanctions to be applied; or

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

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

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

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

528 (B) drug patch testing;

529 (C) urinalysis testing;

530 (D) saliva testing;

531 (E) continuous remote sensing;

532 (F) transdermal alcohol monitoring; or

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

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

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

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

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

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

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

544 (i) whether a device is available;

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

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

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

550 (v) other factors the commissioner considers relevant.

551 (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and
552 satisfy at least two of the following categories:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

610 **41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition**
611 **interlock system -- Exemptions.**

612 (1) As used in this section:

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

615 (i) is in working order at the time of operation or actual physical control; and
616 (ii) is certified by the Commissioner of Public Safety in accordance with Subsection
617 [41-6a-518\(8\)](#).

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

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

621 [~~(B) within the last 18 months has been convicted of a violation under Section~~
622 ~~[41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#);~~]

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

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

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

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

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

634 [~~(G) within the last six years has been convicted of a felony violation of Section~~
635 ~~[41-6a-502](#), Subsection [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#) for an offense that occurred after~~
636 ~~May 1, 2006; or]~~

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

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

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

644 (A) has been convicted of a violation under Section [41-6a-502](#), Subsection
645 [41-6a-520.1\(1\)](#), or Section [76-5-102.1](#);

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

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

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

653 (E) has been convicted of a felony violation of Section 41-6a-502, Subsection
654 41-6a-520.1(1), or Section 76-5-102.1;

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

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

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

659 (A) whose current conviction described in Subsection [(1)(b)(i)(C)(F)] (1)(b)(ii)(B) is a
660 conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section
661 41-6a-517 and whose prior convictions described in Subsection [(1)(b)(i)(C)(H)] (1)(b)(ii)(B)
662 are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under
663 Section 41-6a-517;

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

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

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

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

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

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

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

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

682 (B) reinstates their driving privilege;

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

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

686 (B) reinstates their driving privilege;

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

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

690 (B) reinstates their driving privilege; and

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

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

694 (B) reinstates their driving privilege.

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

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

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

703 (ii) the individual does not have a prior conviction, as defined in Section [41-6a-501](#),
704 that is within 10 years of the current conviction under Section [41-6a-502](#) or the commission of
705 the offense upon which the current conviction is based;

706 (iii) at least two years have elapsed since the date of the conviction under Section
707 [41-6a-502](#); and

708 (iv) during the time frame from the date of conviction under Section 41-6a-502 to the
709 date the person petitions the Driver License Division for removal of the ignition interlock
710 restriction:

711 (A) the ignition interlock restricted driver certifies to the division that the ignition
712 interlock restricted driver has not operated a motor vehicle;

713 (B) there is no evidence of a traffic or driving related violation on the ignition interlock
714 restricted driver's driving record; and

715 (C) there is no evidence of a motor vehicle crash involving the interlock restricted
716 driver where the interlock restricted driver was operating a motor vehicle.

717 ~~[(2)]~~ (3) The division shall post the ignition interlock restriction on a person's
718 electronic record that is available to law enforcement.

719 ~~[(3)]~~ (4) For purposes of this section, a plea of guilty or no contest to a violation of
720 Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
721 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been
722 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

723 ~~[(4)]~~ (5) An interlock restricted driver who operates or is in actual physical control of a
724 vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

725 ~~[(5)]~~ (6) It is an affirmative defense to a charge of a violation of Subsection ~~[(4)]~~ (5) if:

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

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

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

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

736 ~~[(6)]~~ (7) The affirmative defense described in Subsection ~~[(5)]~~ (6) does not apply to:

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

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

741 ~~[(7)]~~ (8) (a) An individual with an ignition interlock restriction may petition the
742 division for removal of the restriction if the individual's offense did not involve alcohol.

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

745 ~~[(8)]~~ (9) (a) (i) An individual with an ignition interlock restriction may petition the
746 division for removal of the restriction if the individual has a medical condition that prohibits
747 the individual from providing a deep lung breath sample.

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

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

755 Section 7. Section **41-6a-520.1** is amended to read:

756 **41-6a-520.1. Refusing a chemical test.**

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

758 (a) a peace officer issues the warning required in Subsection [41-6a-520\(2\)\(a\)](#);

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

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

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

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

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

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

769 (iii) also violated Section [41-6a-712](#) or [41-6a-714](#) at the time of the offense; or

- 770 (iv) has one prior conviction within 10 years of:
771 (A) the current conviction under Subsection (1); or
772 (B) the commission of the offense upon which the current conviction is based.
773 (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree
774 felony if:
775 (i) the actor has two or more prior convictions, each of which is within 10 years of:
776 (A) the current conviction; or
777 (B) the commission of the offense upon which the current conviction is based; or
778 (ii) the current conviction is at any time after:
779 (A) a felony conviction; or
780 (B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of
781 conviction is reduced under Section [76-3-402](#).
782 ~~[(ii) the current conviction is at any time after a conviction of:]~~
783 ~~[(A) a violation of Section [76-5-207](#);~~
784 ~~[(B) a felony violation of this section, Section [76-5-102.1](#), [41-6a-502](#), or a statute~~
785 ~~previously in effect in this state that would constitute a violation of this section; or]~~
786 ~~[(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of~~
787 ~~conviction is reduced under Section [76-3-402](#).]~~
788 (3) As part of any sentence for a conviction of violating this section, the court shall
789 impose the same sentencing as outlined for driving under the influence violations in Section
790 [41-6a-505](#), based on whether this is a first, second, or subsequent conviction, with the
791 following modifications:
792 (a) any jail sentence shall be 24 consecutive hours more than is required under Section
793 [41-6a-505](#);
794 (b) any fine imposed shall be \$100 more than is required under Section [41-6a-505](#); and
795 (c) the court shall order one or more of the following:
796 (i) the installation of an ignition interlock system as a condition of probation for the
797 individual, in accordance with Section [41-6a-518](#);
798 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring
799 device as a condition of probation for the individual; or
800 (iii) the imposition of home confinement through the use of electronic monitoring, in

801 accordance with Section 41-6a-506.

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

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

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

809 Section 8. Section 53-3-1007 is amended to read:

810 **53-3-1007. Ignition interlock system provider -- Notification to the division upon**
811 **installation or removal of an ignition interlock system -- Monitoring and reporting**
812 **requirements -- Penalties.**

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

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

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

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

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

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

824 (c) failed to report to the ignition interlock provider for the purpose of monitoring the
825 device every 60 days, or more frequently if ordered by the court as described in Subsection
826 41-6a-518(5)(a).

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

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

831 (b) notify the individual of the suspension period in place and the requirements for

832 reinstatement of the driving privilege with respect to the ignition interlock restriction
833 suspension.

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

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

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

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

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

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

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

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

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

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

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

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

857 (b) (i) the division:

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

861 (B) if the individual does not own a vehicle or will not be operating a vehicle owned by
862 another individual, receives electronic verification that the individual does not have a vehicle

863 registered in the individual's name in the state, and receives employer verification, as defined in
864 Subsection 41-6a-518(1); or

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

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

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

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

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

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

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

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

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

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

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

893 (b) acceptable documentation for proof of the installation of an ignition interlock

894 device;

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

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

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

902 ~~41-6a-518.2(9)~~; and

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

905 Section 9. Section ~~63M-7-404~~ is amended to read:

906 **~~63M-7-404. Purpose -- Duties.~~**

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

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

910 (i) respond to public comment;

911 (ii) relate sentencing practices and correctional resources;

912 (iii) increase equity in criminal sentencing;

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

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

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

917 (i) increase equity in criminal supervision lengths;

918 (ii) respond to public comment;

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

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

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

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

925 (c) appropriate, evidence-based probation and parole supervision policies and services
926 that assist individuals in successfully completing supervision and reduce incarceration rates
927 from community supervision programs while ensuring public safety, including:

928 (i) treatment and intervention completion determinations based on individualized case
929 action plans;

930 (ii) measured and consistent processes for addressing violations of conditions of
931 supervision;

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

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

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

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

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

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

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

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

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

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

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

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

- 956 (ii) the probationer's conduct while on probation; and
957 (iii) the probationer's criminal history.
- 958 (5) (a) The commission shall establish sentencing guidelines for periods of
959 incarceration for individuals who are on parole and:
960 (i) who have violated a condition of parole; and
961 (ii) whose parole has been revoked by the Board of Pardons and Parole.
- 962 (b) For a situation described in Subsection (5)(a), the guidelines shall recommend that
963 the Board of Pardons and Parole consider:
964 (i) the seriousness of any violation of the condition of parole;
965 (ii) the individual's conduct while on parole; and
966 (iii) the individual's criminal history.
- 967 (6) The commission shall establish graduated and evidence-based processes to
968 facilitate the prompt and effective response to an individual's progress in or violation of the
969 terms of probation or parole by the adult probation and parole section of the Department of
970 Corrections, or other supervision services provider, to implement the recommendations of the
971 State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration,
972 including:
973 (a) responses to be used when an individual violates a condition of probation or parole;
974 (b) responses to recognize positive behavior and progress related to an individual's case
975 action plan;
976 (c) when a violation of a condition of probation or parole should be reported to the
977 court or the Board of Pardons and Parole; and
978 (d) a range of sanctions that may not exceed a period of incarceration of more than:
979 (i) three consecutive days; and
980 (ii) a total of five days in a period of 30 days.
- 981 (7) The commission shall establish graduated incentives to facilitate a prompt and
982 effective response by the adult probation and parole section of the Department of Corrections
983 to an offender's:
984 (a) compliance with the terms of probation or parole; and
985 (b) positive conduct that exceeds those terms.
- 986 (8) (a) The commission shall establish guidelines, including sanctions and incentives,

987 to appropriately respond to negative and positive behavior of juveniles who are:

- 988 (i) nonjudicially adjusted;
- 989 (ii) placed on diversion;
- 990 (iii) placed on probation;
- 991 (iv) placed on community supervision;
- 992 (v) placed in an out-of-home placement; or
- 993 (vi) placed in a secure care facility.

994 (b) In establishing guidelines under this Subsection (8), the commission shall consider:

- 995 (i) the seriousness of the negative and positive behavior;
- 996 (ii) the juvenile's conduct post-adjudication; and
- 997 (iii) the delinquency history of the juvenile.

998 (c) The guidelines shall include:

- 999 (i) responses that are swift and certain;
- 1000 (ii) a continuum of community-based options for juveniles living at home;
- 1001 (iii) responses that target the individual's criminogenic risk and needs; and
- 1002 (iv) incentives for compliance, including earned discharge credits.

1003 (9) The commission shall establish and maintain supervision length guidelines in
1004 accordance with this section.

1005 (10) (a) The commission shall create sentencing guidelines and supervision length
1006 guidelines for the following financial and property offenses for which a pecuniary loss to a
1007 victim may exceed \$50,000:

- 1008 (i) securities fraud, Sections 61-1-1 and 61-1-21;
- 1009 (ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
1010 adviser representative, Sections 61-1-3 and 61-1-21;
- 1011 (iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;
- 1012 (iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1,
1013 Assault and Related Offenses;
- 1014 (v) arson, Section 76-6-102;
- 1015 (vi) burglary, Section 76-6-202;
- 1016 (vii) theft under Title 76, Chapter 6, Part 4, Theft;
- 1017 (viii) forgery, Section 76-6-501;

- 1018 (ix) unlawful dealing of property by a fiduciary, Section [76-6-513](#);
- 1019 (x) insurance fraud, Section [76-6-521](#);
- 1020 (xi) computer crimes, Section [76-6-703](#);
- 1021 (xii) mortgage fraud, Section [76-6-1203](#);
- 1022 (xiii) pattern of unlawful activity, Sections [76-10-1603](#) and [76-10-1603.5](#);
- 1023 (xiv) communications fraud, Section [76-10-1801](#);
- 1024 (xv) money laundering, Section [76-10-1904](#); and
- 1025 (xvi) other offenses in the discretion of the commission.
- 1026 (b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix
- 1027 with proportionate escalating sanctions based on the amount of a victim's loss.
- 1028 (c) On or before August 1, 2022, the commission shall publish for public comment the
- 1029 guidelines described in Subsection (10)(a).
- 1030 (11) (a) Before January 1, 2023, the commission shall study the offenses of sexual
- 1031 exploitation of a minor and aggravated sexual exploitation of a minor under Sections
- 1032 [76-5b-201](#) and [76-5b-201.1](#).
- 1033 (b) The commission shall update sentencing and release guidelines and juvenile
- 1034 disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection
- 1035 (11)(a), including the application of aggravating and mitigating factors specific to the offense.
- 1036 (12) (a) Before July 1, 2024, the commission shall review and revise the commission's
- 1037 sentencing guidelines and supervision length guidelines to reflect appropriate penalties for the
- 1038 following offenses:
- 1039 (i) an interlock restricted driver operating a vehicle without an ignition interlock
- 1040 system, Section [41-6a-518.2](#);
- 1041 (ii) negligently operating a vehicle resulting in injury, Section [76-5-102.1](#); and
- 1042 (iii) negligently operating a vehicle resulting in death, Section [76-5-207](#).
- 1043 (b) The guidelines under Subsection (12)(a) shall consider the following:
- 1044 (i) the current sentencing requirements for driving under the influence of alcohol,
- 1045 drugs, or a combination of both as identified in Section [41-6a-505](#) when injury or death do not
- 1046 result;
- 1047 (ii) the degree of injury and the number of victims suffering injury or death as a result
- 1048 of the offense;

1049 (iii) the offender's number of previous convictions for driving under the influence
 1050 related offenses including those defined in Subsection 41-6a-501(2)(a); and
 1051 (iv) whether the offense amounts to extreme DUI, as that term is defined in Section
 1052 41-6a-501.

1053 Section 10. Section **76-5-102.1** is amended to read:

1054 **76-5-102.1. Negligently operating a vehicle resulting in injury.**

1055 (1) (a) As used in this section:

1056 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.
 1057 (ii) "Drug" means the same as that term is defined in Section 76-5-207.
 1058 (iii) "Negligent" or "negligence" means the same as that term is defined in Section
 1059 76-5-207.

1060 (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1061 (b) Terms defined in Section 76-1-101.5 apply to this section.

1062 (2) An actor commits negligently operating a vehicle resulting in injury if the actor:

1063 (a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and
 1064 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test
 1065 shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the
 1066 time of the test;

1067 (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and
 1068 a drug to a degree that renders the actor incapable of safely operating a vehicle; or

1069 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of
 1070 operation; or

1071 (b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to
 1072 another; and

1073 (ii) has in the actor's body any measurable amount of a controlled substance.

1074 (3) Except as provided in Subsection (4), a violation of Subsection (2) is:

1075 ~~[(a) (i) a class A misdemeanor; or]~~
 1076 ~~[(ii) a third degree felony if the bodily injury is serious bodily injury; and]~~
 1077 (a) (i) a class A misdemeanor; or
 1078 (ii) a third degree felony if the actor has two or more driving under the influence
 1079 related convictions under Subsection 41-6a-501(2)(a), each of which is within 10 years of:

1080 (A) the current conviction; or
1081 (B) the commission of the offense upon which the current conviction is based;
1082 (iii) a third degree felony, if the current conviction is at any time after the conviction
1083 of:
1084 (A) a conviction, as the term conviction is defined in Subsection [41-6a-501\(2\)](#), that is a
1085 felony; or
1086 (B) any conviction described in Subsection (3)(a)(iii)(A) for which judgment of
1087 conviction is reduced under Section [76-3-402](#); or
1088 (iv) a third degree felony if the bodily injury is serious bodily injury; and
1089 (b) a separate offense for each victim suffering bodily injury as a result of the actor's
1090 violation of this section, regardless of whether the injuries arise from the same episode of
1091 driving.
1092 (4) An actor is not guilty of negligently operating a vehicle resulting in injury under
1093 Subsection (2)(b) if:
1094 (a) the controlled substance was obtained under a valid prescription or order, directly
1095 from a practitioner while acting in the course of the practitioner's professional practice, or as
1096 otherwise authorized by Title 58, Occupations and Professions;
1097 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
1098 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
1099 [58-37-4.2](#) if:
1100 (i) the actor is the subject of medical research conducted by a holder of a valid license
1101 to possess controlled substances under Section [58-37-6](#); and
1102 (ii) the substance was administered to the actor by the medical researcher.
1103 (5) (a) A judge imposing a sentence under this section may consider:
1104 (i) the sentencing guidelines developed in accordance with Section [63M-7-404](#);
1105 (ii) the defendant's history;
1106 (iii) the facts of the case;
1107 (iv) aggravating and mitigating factors; or
1108 (v) any other relevant fact.
1109 (b) The judge may not impose a lesser sentence than would be required for a conviction
1110 based on the defendant's history under Section [41-6a-505](#).

1111 (c) The standards for chemical breath analysis under Section 41-6a-515 and the
1112 provisions for the admissibility of chemical test results under Section 41-6a-516 apply to
1113 determination and proof of blood alcohol content under this section.

1114 (d) A calculation of blood or breath alcohol concentration under this section shall be
1115 made in accordance with Subsection 41-6a-502(3).

1116 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
1117 this section is or has been legally entitled to use alcohol or a drug is not a defense.

1118 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
1119 admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution,
1120 or the Utah Constitution.

1121 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
1122 described in this section may not be held in abeyance.

1123 Section 11. Section 77-20-201 is amended to read:

1124 **77-20-201. Right to bail -- Capital felony.**

1125 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to
1126 bail as a matter of right, except if the individual is charged with:

1127 (a) a capital felony when there is substantial evidence to support the charge;

1128 (b) a felony committed while on parole or on probation for a felony conviction, or
1129 while free on bail awaiting trial on a previous felony charge, when there is substantial evidence
1130 to support the current felony charge;

1131 (c) a felony when there is substantial evidence to support the charge and the court
1132 finds, by clear and convincing evidence, that:

1133 (i) the individual would constitute a substantial danger to any other individual or to the
1134 community after considering available conditions of release that the court may impose if the
1135 individual is released on bail; or

1136 (ii) the individual is likely to flee the jurisdiction of the court if the individual is
1137 released on bail;

1138 (d) a felony when there is substantial evidence to support the charge and the court
1139 finds, by clear and convincing evidence, that the individual violated a material condition of
1140 release while previously on bail;

1141 (e) a domestic violence offense if:

1142 (i) there is substantial evidence to support the charge; and
1143 (ii) the court finds, by clear and convincing evidence, that the individual would
1144 constitute a substantial danger to an alleged victim of domestic violence after considering
1145 available conditions of release that the court may impose if the individual is released on bail;
1146 (f) the offense of driving under the influence or driving with a measurable controlled
1147 substance in the body if:
1148 (i) the offense results in death or serious bodily injury to an individual;
1149 (ii) there is substantial evidence to support the charge; and
1150 (iii) the court finds, by clear and convincing evidence, that the individual would
1151 constitute a substantial danger to the community after considering available conditions of
1152 release that the court may impose if the individual is released on bail; ~~or~~
1153 (g) a felony violation of Section 76-9-101 if:
1154 (i) there is substantial evidence to support the charge; and
1155 (ii) the court finds, by clear and convincing evidence, that the individual is not likely to
1156 appear for a subsequent court appearance[-]; or
1157 (h) except as provided in Subsection (4), the offense of driving under the influence or
1158 driving with a measurable controlled substance in the body:
1159 (i) if committed while on parole or on probation for a driving under the influence or
1160 driving with a measurable controlled substance in the body conviction; or
1161 (ii) while the individual is out of custody awaiting trial on a previous driving under the
1162 influence or driving with a measurable controlled substance in the body charge, when the court
1163 finds there is substantial evidence to support the current charge.
1164 (2) Notwithstanding any other provision of this section, there is a rebuttable
1165 presumption that an individual is a substantial danger to the community under Subsection
1166 (1)(f)(iii):
1167 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or
1168 greater if the individual is arrested for, or charged with, the offense of driving under the
1169 influence and the offense resulted in death or serious bodily injury to an individual; or
1170 (b) if the individual has a measurable amount of controlled substance in the
1171 individual's body, the individual is arrested for, or charged with, the offense of driving with a
1172 measurable controlled substance in the body and the offense resulted in death or serious bodily

1173 injury to an individual.

1174 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
1175 [76-5-202](#), aggravated murder, is a capital felony unless:

1176 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

1177 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting
1178 attorney has not filed a notice to seek the death penalty.

1179 (4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an
1180 individual would not constitute a substantial danger to any other person or the community if:

1181 (a) the court orders the person to participate in an inpatient drug and alcohol treatment
1182 program; or

1183 (b) the court orders the person to participate in home confinement through the use of
1184 electronic monitoring as described in Section [41-6a-506](#).

1185 Section 12. **Effective date.**

1186 This bill takes effect on July 1, 2024.

1187 Section 13. **Coordinating H.B. 395 with S.B. 200 if S.B. 213 does not pass and**
1188 **become law.**

1189 If H.B. 395, DUI Offense Amendments, and S.B. 200, State Commission on Criminal
1190 and Juvenile Justice Amendments, both pass and become law, and S.B. 213, Criminal Justice
1191 Modifications, does not pass and become law, the Legislature intends that, on July 1, 2024,
1192 Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

1193 "63M-7-404.3. Adult sentencing and supervision length guidelines.

1194 (1) The sentencing commission shall establish and maintain adult sentencing and
1195 supervision length guidelines regarding:

1196 (a) the sentencing and release of offenders in order to:

1197 (i) respond to public comment;

1198 (ii) relate sentencing practices and correctional resources;

1199 (iii) increase equity in sentencing;

1200 (iv) better define responsibility in sentencing; and

1201 (v) enhance the discretion of the sentencing court while preserving the role of the
1202 Board of Pardons and Parole;

1203 (b) the length of supervision of offenders on probation or parole in order to:

- 1204 (i) respond to public comment;
- 1205 (ii) increase equity in criminal supervision lengths;
- 1206 (iii) relate the length of supervision to an offender's progress;
- 1207 (iv) take into account an offender's risk of offending again;
- 1208 (v) relate the length of supervision to the amount of time an offender has remained
- 1209 under supervision in the community; and
- 1210 (vi) enhance the discretion of the sentencing court while preserving the role of the
- 1211 Board of Pardons and Parole; and
- 1212 (c) appropriate, evidence-based probation and parole supervision policies and services
- 1213 that assist offenders in successfully completing supervision and reduce incarceration rates from
- 1214 community supervision programs while ensuring public safety, including:
- 1215 (i) treatment and intervention completion determinations based on individualized case
- 1216 action plans;
- 1217 (ii) measured and consistent processes for addressing violations of conditions of
- 1218 supervision;
- 1219 (iii) processes that include using positive reinforcement to recognize an offender's
- 1220 progress in supervision;
- 1221 (iv) engaging with social services agencies and other stakeholders who provide
- 1222 services that meet the needs of an offender; and
- 1223 (v) identifying community violations that may not warrant revocation of probation or
- 1224 parole.
- 1225 (2) The sentencing commission shall modify:
- 1226 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
- 1227 purposes of protecting the public and ensuring efficient use of state funds; and
- 1228 (b) the criminal history score in the adult sentencing and supervision length guidelines
- 1229 to reduce recidivism, including factors in an offender's criminal history that are relevant to the
- 1230 accurate determination of an individual's risk of offending again.
- 1231 (3) (a) Before July 1, 2024, the commission shall review and revise the commission's
- 1232 sentencing guidelines and supervision length guidelines to reflect appropriate penalties for the
- 1233 following offenses:
- 1234 (i) an interlock restricted driver operating a vehicle without an ignition interlock

1235 system, Section [41-6a-518.2](#);

1236 (ii) negligently operating a vehicle resulting in injury, Section [76-5-102.1](#); and

1237 (iii) negligently operating a vehicle resulting in death, Section [76-5-207](#).

1238 (b) The guidelines under Subsection (3)(a) shall consider the following:

1239 (i) the current sentencing requirements for driving under the influence of alcohol,

1240 drugs, or a combination of both as identified in Section [41-6a-505](#) when injury or death do not

1241 result;

1242 (ii) the degree of injury and the number of victims suffering injury or death as a result

1243 of the offense;

1244 (iii) the offender's number of previous convictions for driving under the influence

1245 related offenses including those defined in Subsection [41-6a-501\(2\)\(a\)](#); and

1246 (iv) whether the offense amounts to extreme DUI, as that term is defined in Section

1247 [41-6a-501](#)."