

1 **SENTENCING MODIFICATIONS FOR CERTAIN DUI OFFENSES**
2 2024 GENERAL SESSION
3 STATE OF UTAH
4 **Chief Sponsor: Andrew Stoddard**
5 Senate Sponsor: Todd D. Weiler

6
7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to negligently operating a vehicle resulting in death
10 and who may become an ignition interlock restricted driver.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ renames the offense of negligently operating a vehicle resulting in death;
- 14 ▶ creates a sentencing guideline for automobile homicide;
- 15 ▶ modifies the fee for an impounded vehicle;
- 16 ▶ modifies who may elect to become an ignition interlock restricted driver; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

- 24 **41-6a-501**, as last amended by Laws of Utah 2023, Chapters 328, 415
- 25 **41-6a-521**, as last amended by Laws of Utah 2023, Chapter 384
- 26 **41-6a-1406**, as last amended by Laws of Utah 2023, Chapter 335
- 27 **41-6a-1901**, as last amended by Laws of Utah 2022, Chapter 116
- 53-3-220**, as last amended by Laws of Utah 2023, Chapter 415
- 53-3-414**, as last amended by Laws of Utah 2022, Chapters 46, 116
- 53-10-403**, as last amended by Laws of Utah 2023, Chapters 328, 457
- 75-2-803**, as last amended by Laws of Utah 2022, Chapters 116, 157 and 430 and last

28 amended by Coordination Clause, Laws of Utah 2022, Chapter 157
 29 **76-5-201**, as last amended by Laws of Utah 2022, Chapters 116, 181 and last amended by
 30 Coordination Clause, Laws of Utah 2022, Chapters 116, 181
 31 **76-5-207**, as last amended by Laws of Utah 2023, Chapter 415
 32 **78B-9-402**, as last amended by Laws of Utah 2022, Chapters 116, 430
 33 **80-6-712**, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430
 34 **80-6-804**, as last amended by Laws of Utah 2023, Chapter 236

35

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

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

38 **41-6a-501 . Definitions.**

39 (1) As used in this part:

- 40 (a) "Actual physical control" is determined by a consideration of the totality of the
 41 circumstances, but does not include a circumstance in which:
 42 (i) the person is asleep inside the vehicle;
 43 (ii) the person is not in the driver's seat of the vehicle;
 44 (iii) the engine of the vehicle is not running;
 45 (iv) the vehicle is lawfully parked; and
 46 (v) under the facts presented, it is evident that the person did not drive the vehicle to
 47 the location while under the influence of alcohol, a drug, or the combined
 48 influence of alcohol and any drug.
- 49 (b) "Assessment" means an in-depth clinical interview with a licensed mental health
 50 therapist:
 51 (i) used to determine if a person is in need of:
 52 (A) substance abuse treatment that is obtained at a substance abuse program;
 53 (B) an educational series; or
 54 (C) a combination of Subsections (1)(b)(i)(A) and (B); and
 55 (ii) that is approved by the Division of Integrated Healthcare in accordance with
 56 Section 26B-5-104.
- 57 (c) "Driving under the influence court" means a court that is approved as a driving under
 58 the influence court by the Judicial Council according to standards established by the
 59 Judicial Council.
- 60 (d) "Drug" or "drugs" means:
 61 (i) a controlled substance as defined in Section 58-37-2;

- 62 (ii) a drug as defined in Section 58-17b-102; or
63 (iii) a substance that, when knowingly, intentionally, or recklessly taken into the
64 human body, can impair the ability of a person to safely operate a motor vehicle.
- 65 (e) "Educational series" means an educational series obtained at a substance abuse
66 program that is approved by the Division of Integrated Healthcare in accordance with
67 Section 26B-5-104.
- 68 (f) "Negligence" means simple negligence, the failure to exercise that degree of care that
69 an ordinarily reasonable and prudent person exercises under like or similar
70 circumstances.
- 71 (g) "Novice learner driver" means an individual who:
72 (i) has applied for a Utah driver license;
73 (ii) has not previously held a driver license in this state or another state; and
74 (iii) has not completed the requirements for issuance of a Utah driver license.
- 75 (h) "Screening" means a preliminary appraisal of a person:
76 (i) used to determine if the person is in need of:
77 (A) an assessment; or
78 (B) an educational series; and
79 (ii) that is approved by the Division of Integrated Healthcare in accordance with
80 Section 26B-5-104.
- 81 (i) "Serious bodily injury" means bodily injury that creates or causes:
82 (i) serious permanent disfigurement;
83 (ii) protracted loss or impairment of the function of any bodily member or organ; or
84 (iii) a substantial risk of death.
- 85 (j) "Substance abuse treatment" means treatment obtained at a substance abuse program
86 that is approved by the Division of Integrated Healthcare in accordance with Section
87 26B-5-104.
- 88 (k) "Substance abuse treatment program" means a state licensed substance abuse
89 program.
- 90 (l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in
91 Section 41-6a-102; and
92 (ii) "Vehicle" or "motor vehicle" includes:
93 (A) an off-highway vehicle as defined under Section 41-22-2; and
94 (B) a motorboat as defined in Section 73-18-2.
- 95 (2) As used in Sections 41-6a-502 and 41-6a-520.1:

- 96 (a) "Conviction" means any conviction arising from a separate episode of driving for a
97 violation of:
- 98 (i) driving under the influence under Section 41-6a-502;
- 99 (ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a
100 combination of both-related reckless driving under Sections 41-6a-512 and
101 41-6a-528; or
102 (B) for an offense committed on or after July 1, 2008, impaired driving under
103 Section 41-6a-502.5;
- 104 (iii) driving with any measurable controlled substance that is taken illegally in the
105 body under Section 41-6a-517;
- 106 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a
107 combination of both-related reckless driving, or impaired driving under Section
108 41-6a-502.5 adopted in compliance with Section 41-6a-510;
- 109 (v) Section 76-5-207;
- 110 (vi) operating a motor vehicle with any amount of a controlled substance in an
111 individual's body and causing serious bodily injury or death, as codified before
112 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
113 (2)(g);
- 114 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;
- 115 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of
116 conviction is reduced under Section 76-3-402;
- 117 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or
- 118 (x) statutes or ordinances previously in effect in this state or in effect in any other
119 state, the United States, or any district, possession, or territory of the United States
120 which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a
121 combination of both-related reckless driving if committed in this state, including
122 punishments administered under 10 U.S.C. Sec. 815.
- 123 (b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i)
124 through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in
125 Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge
126 has been subsequently reduced or dismissed in accordance with the plea in abeyance
127 agreement, for purposes of:
- 128 (i) enhancement of penalties under this part; and
- 129 (ii) expungement under Title 77, Chapter 40a, Expungement.

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

134 (i) this part;

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

136 (iii) [~~negligently operating a vehicle resulting in death~~] automobile homicide under
137 Section 76-5-207.

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

140 Section 2. Section **41-6a-521** is amended to read:

141 **41-6a-521 . Revocation hearing for refusal -- Appeal.**

142 (1) (a) A person who has been notified of the Driver License Division's intention to
143 revoke the person's license under Section 41-6a-520 is entitled to a hearing.

144 (b) A request for the hearing shall be made in writing within 10 calendar days after the
145 day on which notice is provided.

146 (c) Upon request in a manner specified by the Driver License Division, the Driver
147 License Division shall grant to the person an opportunity to be heard within 29 days
148 after the date of arrest.

149 (d) If the person does not make a request for a hearing before the Driver License
150 Division under this Subsection (1), the person's privilege to operate a motor vehicle
151 in the state is revoked beginning on the 45th day after the date of arrest:

152 (i) for a person 21 years old or older on the date of arrest, for a period of:

153 (A) except as provided in Subsection (1)(d)(i)(B) or (9), 18 months; or

154 (B) 36 months if the person previously committed an offense that occurred within
155 the preceding 10 years from the date of the arrest that resulted in a:

156 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223,
157 or 53-3-231;

158 (II) conviction under Section 41-6a-502 or a statute previously in effect in this
159 state that would constitute a violation of Section 41-6a-502;

160 (III) conviction for an offense under Section 76-5-102.1; or

161 (IV) conviction for an offense under Section 76-5-207; or

162 (ii) for a person under 21 years old on the date of arrest:

163 (A) except as provided in Subsection (1)(d)(ii)(B), until the person is 21 years old

- 164 or for a period of two years, whichever is longer; or
- 165 (B) until the person is 21 years old or for a period of 36 months, whichever is
- 166 longer, if the person previously committed an offense that occurred within the
- 167 preceding 10 years from the date of the arrest that resulted in a:
- 168 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223,
- 169 or 53-3-231; or
- 170 (II) conviction for an offense under Section 41-6a-502 or a statute previously
- 171 in effect in this state that would constitute a violation of Section 41-6a-502;
- 172 (III) conviction for an offense under Section 76-5-102.1; or
- 173 (IV) conviction for an offense under Section 76-5-207.
- 174 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,
- 175 the hearing shall be conducted by the Driver License Division in:
- 176 (i) the county in which the offense occurred; or
- 177 (ii) a county which is adjacent to the county in which the offense occurred.
- 178 (b) The Driver License Division may hold a hearing in some other county if the Driver
- 179 License Division and the person both agree.
- 180 (3) The hearing shall be documented and shall cover the issues of:
- 181 (a) whether a peace officer had reasonable grounds to believe that a person was
- 182 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or
- 183 53-3-231; and
- 184 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.
- 185 (4) (a) In connection with the hearing, the division or its authorized agent:
- 186 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and
- 187 the production of relevant books and papers; and
- 188 (ii) shall issue subpoenas for the attendance of necessary peace officers.
- 189 (b) The Driver License Division shall pay witness fees and mileage from the
- 190 Transportation Fund in accordance with the rates established in Section 78B-1-119.
- 191 (5) (a) If after a hearing, the Driver License Division determines that the person was
- 192 requested to submit to a chemical test or tests and refused to submit to the test or
- 193 tests, or if the person fails to appear before the Driver License Division as required in
- 194 the notice, the Driver License Division shall revoke the person's license or permit to
- 195 operate a motor vehicle in Utah beginning on the date the hearing is held:
- 196 (i) for a person 21 years old or older on the date of arrest, for a period of:
- 197 (A) except as provided in Subsection (5)(a)(i)(B) or (9), 18 months; or

- 198 (B) 36 months if the person previously committed an offense that occurred within
199 the preceding 10 years from the date of the arrest that resulted in a:
- 200 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223,
201 or 53-3-231;
- 202 (II) conviction under Section 41-6a-502 or a statute previously in effect in this
203 state that would constitute a violation of Section 41-6a-502;
- 204 (III) conviction for an offense under Section 76-5-102.1; or
205 (IV) conviction for an offense under Section 76-5-207; or
- 206 (ii) for a person under 21 years of age on the date of arrest:
- 207 (A) except as provided in Subsection (5)(a)(ii)(B), until the person is 21 years old
208 or for a period of two years, whichever is longer; or
- 209 (B) until the person is 21 years old or for a period of 36 months, whichever is
210 longer, if the person previously committed an offense that occurred within the
211 preceding 10 years from the date of the arrest that resulted in a:
- 212 (I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223,
213 or 53-3-231;
- 214 (II) conviction under Section 41-6a-502 or a statute previously in effect in this
215 state that would constitute a violation of Section 41-6a-502;
- 216 (III) conviction for an offense under Section 76-5-102.1; or
217 (IV) conviction for an offense under Section 76-5-207.
- 218 (b) The Driver License Division shall also assess against the person, in addition to any
219 fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which
220 shall be paid before the person's driving privilege is reinstated, to cover
221 administrative costs.
- 222 (c) The fee shall be cancelled if the person obtains an unappealed court decision
223 following a proceeding allowed under Subsection (2) that the revocation was
224 improper.
- 225 (6) (a) Any person whose license has been revoked by the Driver License Division under
226 this section following an administrative hearing may seek judicial review.
- 227 (b) Judicial review of an informal adjudicative proceeding is a trial.
- 228 (c) Venue is in the district court in the county in which the offense occurred.
- 229 (7) If the Driver License Division revokes a person's driving privilege under Subsection
230 (1)(d)(i)(A) ~~[or] , (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A)~~, the person may petition the
231 division and elect to become an ignition interlock restricted driver after the driver serves

- 232 at least 90 days of the revocation if the person:
- 233 (a) has a valid driving privilege, with the exception of the revocation under Subsection
- 234 (1)(d)(i)(A) [or], (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A);
- 235 (b) installs an ignition interlock device in any vehicle owned or driven by the person in
- 236 accordance with Section 53-3-1007;
- 237 (c) pays the license reinstatement application fees described in Subsections 53-3-105(26)
- 238 and (27);
- 239 (d) pays the appropriate original license fees under Section 53-3-105; and
- 240 (e) completes the license application process including successful completion of
- 241 required testing.
- 242 (8) (a) A person who elects to become an ignition interlock restricted driver under
- 243 Subsection (7) shall remain an ignition interlock restricted driver for a period of three
- 244 years.
- 245 (b) If the person described under Subsection (8)(a) removes an ignition interlock device
- 246 from a vehicle owned or driven by the person prior to the expiration of the three-year
- 247 ignition interlock restriction period and does not install a new ignition interlock
- 248 device from the same or a different ignition interlock provider within 24 hours:
- 249 (i) the person's driving privilege shall be revoked under Subsection (1)(d)(i)(A) [or],
- 250 (1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A) for a period of 18 months from the date
- 251 the ignition interlock device was removed from the vehicle;
- 252 (ii) no days may be subtracted from the 18-month revocation period under Subsection
- 253 (8)(b)(i) for any days the person was in compliance with the interlock restriction
- 254 under Subsection (7);
- 255 (iii) the person is required to pay the license reinstatement application fee under
- 256 Subsection 53-3-105(26); and
- 257 (iv) the person may not elect to become an ignition interlock restricted driver under
- 258 this section.
- 259 (9) (a) Notwithstanding the provisions in Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the
- 260 division shall reinstate a person's driving privilege before completion of the
- 261 revocation period imposed under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) if:
- 262 (i) the reporting court notifies the Driver License Division that the person is
- 263 participating in or has successfully completed a 24-7 sobriety program as defined
- 264 in Section 41-6a-515.5;
- 265 (ii) the person has served at least 90 days of the revocation under Subsection

- 266 (1)(d)(i)(A) or (5)(a)(i)(A); and
- 267 (iii) the person has a valid driving privilege, with the exception of the revocation
- 268 under Subsection (1)(d)(i)(A) or (5)(a)(i)(A).
- 269 (b) If a person's driving privilege is reinstated under Subsection (9)(a), the person is
- 270 required to:
- 271 (i) install an ignition interlock device in any vehicle owned or driven by the person in
- 272 accordance with Section 53-3-1007;
- 273 (ii) pay the license reinstatement application fees described in Subsections 53-3-105
- 274 (26) and (27);
- 275 (iii) pay the appropriate original license fees under Section 53-3-105; and
- 276 (iv) complete the license application process including successful completion of
- 277 required testing.
- 278 (c) If the reporting court notifies the Driver License Division that a person has failed to
- 279 complete all requirements of the 24-7 sobriety program, the division:
- 280 (i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or
- 281 (5)(a)(i)(A) for a period of 18 months from the date of the notice; and
- 282 (ii) may not subtract any days from the 18-month revocation period for:
- 283 (A) days during which the person's driving privilege previously was revoked; or
- 284 (B) days during which the person was compliant with the 24-7 sobriety program.

285 Section 3. Section **41-6a-1406** is amended to read:

286 **41-6a-1406 . Removal and impoundment of vehicles -- Reporting and notification**

287 **requirements -- Administrative impound fee -- Refunds -- Possessory lien**

288 **-- Rulemaking.**

- 289 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
- 290 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a
- 291 peace officer or by an order of a person acting on behalf of a law enforcement agency or
- 292 highway authority, the removal or impoundment of the vehicle, vessel, or outboard
- 293 motor shall be at the expense of the owner.
- 294 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
- 295 impounded to a state impound yard.
- 296 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be
- 297 removed by a tow truck motor carrier that meets standards established:
- 298 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 299 (b) by the department under Subsection (10).

- 300 (4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or
301 outboard motor that is:
- 302 (i) removed or impounded as described in Subsection (1); or
 - 303 (ii) removed or impounded by any law enforcement or government entity.
- 304 (b) Before noon on the next business day after the date of the removal of the vehicle,
305 vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle
306 Division by:
- 307 (i) the peace officer or agency by whom the peace officer is employed; and
 - 308 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
309 operator is employed.
- 310 (c) The report shall be in a form specified by the Motor Vehicle Division and shall
311 include:
- 312 (i) the operator's name, if known;
 - 313 (ii) a description of the vehicle, vessel, or outboard motor;
 - 314 (iii) the vehicle identification number or vessel or outboard motor identification
315 number;
 - 316 (iv) the license number, temporary permit number, or other identification number
317 issued by a state agency;
 - 318 (v) the date, time, and place of impoundment;
 - 319 (vi) the reason for removal or impoundment;
 - 320 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
321 outboard motor; and
 - 322 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 323 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
324 State Tax Commission shall make rules to establish proper format and information
325 required on the form described in this Subsection (4).
- 326 (e) Until the tow truck operator or tow truck motor carrier reports the removal as
327 required under this Subsection (4), a tow truck motor carrier or impound yard may
328 not:
- 329 (i) collect any fee associated with the removal; and
 - 330 (ii) begin charging storage fees.
- 331 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor
332 Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to
333 the following parties with an interest in the vehicle, vessel, or outboard motor, as

- 334 applicable:
- 335 (i) the registered owner;
- 336 (ii) any lien holder; or
- 337 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard
- 338 motor is currently operating under a temporary permit issued by the dealer, as
- 339 described in Section 41-3-302.
- 340 (b) The notice shall:
- 341 (i) state the date, time, and place of removal, the name, if applicable, of the person
- 342 operating the vehicle, vessel, or outboard motor at the time of removal, the reason
- 343 for removal, and the place where the vehicle, vessel, or outboard motor is stored;
- 344 (ii) state that the registered owner is responsible for payment of towing, impound,
- 345 and storage fees charged against the vehicle, vessel, or outboard motor;
- 346 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
- 347 motor is released; and
- 348 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
- 349 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal
- 350 or impoundment under this section, one of the parties fails to make a claim for
- 351 release of the vehicle, vessel, or outboard motor.
- 352 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor
- 353 is not registered in this state, the Motor Vehicle Division shall make a reasonable
- 354 effort to notify the parties described in Subsection (5)(a) of the removal and the place
- 355 where the vehicle, vessel, or outboard motor is stored.
- 356 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where the
- 357 vehicle, vessel, or outboard motor is stored.
- 358 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if
- 359 a report was received by a tow truck operator or tow truck motor carrier reporting a
- 360 tow truck service in accordance with Subsection 72-9-603(1)(a)(i).
- 361 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in
- 362 Subsection (5)(a):
- 363 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
- 364 the State Tax Commission;
- 365 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
- 366 vessel, or outboard motor;
- 367 (iii) completes the registration, if needed, and pays the appropriate fees;

- 368 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
369 impound fee of [~~\$400~~] \$425; and
- 370 (v) pays all towing and storage fees to the place where the vehicle, vessel, or
371 outboard motor is stored.
- 372 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
373 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;
- 374 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
375 be deposited into the Department of Public Safety Restricted Account created in
376 Section 53-3-106;
- 377 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
378 be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and
- 379 (iv) the remainder of the administrative impound fee assessed under Subsection
380 (6)(a)(iv) shall be deposited into the General Fund.
- 381 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived
382 or refunded by the State Tax Commission if the registered owner, lien holder, or
383 owner's agent presents written evidence to the State Tax Commission that:
- 384 (i) the Driver License Division determined that the arrested person's driver license
385 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as
386 shown by a letter or other report from the Driver License Division presented
387 within 180 days after the day on which the Driver License Division mailed the
388 final notification; or
- 389 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
390 stolen vehicle report presented within 180 days after the day of the impoundment.
- 391 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
392 payment by cash and debit or credit card for a removal or impoundment under
393 Subsection (1) or any service rendered, performed, or supplied in connection with a
394 removal or impoundment under Subsection (1).
- 395 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
396 impounded vehicle, vessel, or outboard motor if:
- 397 (i) the vehicle, vessel, or outboard motor is being held as evidence; and
398 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
399 Subsection (5)(a), even if the party satisfies the requirements to release the
400 vehicle, vessel, or outboard motor under this Subsection (6).
- 401 (7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party

402 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the
403 Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle,
404 vessel, or outboard motor as described in Section 41-1a-1103.

405 (b) The date of impoundment is considered the date of seizure for computing the time
406 period provided under Section 41-1a-1103.

407 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the
408 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for
409 all the fees and charges, together with damages, court costs, and attorney fees, against
410 the operator of the vehicle, vessel, or outboard motor whose actions caused the removal
411 or impoundment.

412 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or
413 outboard motor.

414 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
415 department shall make rules setting the performance standards for towing companies to
416 be used by the department.

417 (11) (a) The Motor Vehicle Division may specify that a report required under Subsection
418 (4) be submitted in electronic form utilizing a database for submission, storage, and
419 retrieval of the information.

420 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
421 administrator of the database may adopt a schedule of fees assessed for utilizing
422 the database.

423 (ii) The fees under this Subsection (11)(b) shall:

424 (A) be reasonable and fair; and

425 (B) reflect the cost of administering the database.

426 Section 4. Section **41-6a-1901** is amended to read:

427 **41-6a-1901 . Applicability -- Law enforcement officer duties -- Documents and**
428 **records -- Notice to Department of State.**

429 (1) As used in this section, "diplomat" means an individual who:

430 (a) has a driver license issued by the United States Department of State; or

431 (b) claims immunities or privileges under 22 U.S.C. [~~Sections~~] Secs. 254a through 258a
432 with respect to:

433 (i) a moving traffic violation under this title or a moving traffic violation of an
434 ordinance of a local authority; or

435 (ii) operating a motor vehicle while committing any of the following offenses:

- 436 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide under
437 Section 76-5-207;
- 438 (B) manslaughter under Section 76-5-205;
- 439 (C) negligent homicide under Section 76-5-206;
- 440 (D) aggravated assault under Section 76-5-103; or
- 441 (E) reckless endangerment under Section 76-5-112.
- 442 (2) A law enforcement officer who stops a motor vehicle and has probable cause to believe
443 that the driver is a diplomat that has committed a violation described under Subsection
444 (1)(b)(i) or (ii) shall:
- 445 (a) as soon as practicable, contact the United States Department of State in order to
446 verify the driver's status and immunity, if any;
- 447 (b) record all relevant information from any driver license or identification card,
448 including a driver license or identification card issued by the United States
449 Department of State; and
- 450 (c) within five working days after the date the officer stops the driver, forward all of the
451 following to the Department of Public Safety:
- 452 (i) if the driver is involved in a vehicle accident, the vehicle accident report;
- 453 (ii) if a citation or other charging document was issued to the driver, a copy of the
454 citation or other charging document; and
- 455 (iii) if a citation or other charging document was not issued to the driver, a written
456 report of the incident.
- 457 (3) The Department of Public Safety shall:
- 458 (a) file each vehicle accident report, citation or other charging document, and incident
459 report that the Department of Public Safety receives under this section;
- 460 (b) keep convenient records or make suitable notations showing each:
- 461 (i) conviction;
- 462 (ii) finding of responsibility; and
- 463 (iii) vehicle accident; and
- 464 (c) within five working days after receipt, send a copy of each document and record
465 described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign
466 Missions, of the United States Department of State.
- 467 (4) This section does not prohibit or limit the application of any law to a criminal or motor
468 vehicle violation committed by a diplomat.
- 469 Section 5. Section **53-3-220** is amended to read:

470 **53-3-220 . Offenses requiring mandatory revocation, denial, suspension, or**
471 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
472 **Limited driving privileges.**

473 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a,
474 Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or
475 disqualification, the division shall deny, suspend, or disqualify the license of a person
476 upon receiving a record of the person's conviction for:

- 477 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, [
478 ~~negligently operating a vehicle resulting in death~~] automobile homicide under
479 Section 76-5-207, or automobile homicide involving using a handheld wireless
480 communication device while driving under Section 76-5-207.5;
- 481 (ii) driving or being in actual physical control of a motor vehicle while under the
482 influence of alcohol, any drug, or combination of them to a degree that renders the
483 person incapable of safely driving a motor vehicle as prohibited in Section
484 41-6a-502 or as prohibited in an ordinance that complies with the requirements of
485 Subsection 41-6a-510(1);
- 486 (iii) driving or being in actual physical control of a motor vehicle while having a
487 blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited
488 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 489 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
490 41, Motor Vehicles, or any other law of this state requiring the registration of
491 motor vehicles or regulating driving on highways;
- 492 (v) any felony under the motor vehicle laws of this state;
- 493 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 494 (vii) failure to stop and render aid as required under the laws of this state if a motor
495 vehicle accident results in the death or personal injury of another;
- 496 (viii) two charges of reckless driving, impaired driving, or any combination of
497 reckless driving and impaired driving committed within a period of 12 months;
498 but if upon a first conviction of reckless driving or impaired driving the judge or
499 justice recommends suspension of the convicted person's license, the division may
500 after a hearing suspend the license for a period of three months;
- 501 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement
502 officer as required in Section 41-6a-210;
- 503 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that

- 504 requires disqualification;
- 505 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
- 506 allowing the discharge of a firearm from a vehicle;
- 507 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
- 508 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 509 (xiii) operating or being in actual physical control of a motor vehicle while having
- 510 any measurable controlled substance or metabolite of a controlled substance in the
- 511 person's body in violation of Section 41-6a-517;
- 512 (xiv) operating or being in actual physical control of a motor vehicle while having
- 513 any measurable or detectable amount of alcohol in the person's body in violation
- 514 of Section 41-6a-530;
- 515 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
- 516 violation of Section 41-6a-606;
- 517 (xvi) operating or being in actual physical control of a motor vehicle in this state
- 518 without an ignition interlock system in violation of Section 41-6a-518.2; or
- 519 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).
- 520 (b) The division shall immediately revoke the license of a person upon receiving a
- 521 record of an adjudication under Section 80-6-701 for:
- 522 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or
- 523 allowing the discharge of a firearm from a vehicle; or
- 524 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
- 525 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).
- 526 (c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon
- 527 receiving a record of conviction, the division shall immediately suspend for six
- 528 months the license of the convicted person if the person was convicted of
- 529 violating any one of the following offenses while the person was an operator of a
- 530 motor vehicle, and the court finds that a driver license suspension is likely to
- 531 reduce recidivism and is in the interest of public safety:
- 532 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 533 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 534 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- 535 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 536 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
- 537 (F) any criminal offense that prohibits possession, distribution, manufacture,

- 538 cultivation, sale, or transfer of any substance that is prohibited under the acts
539 described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy
540 to possess, distribute, manufacture, cultivate, sell, or transfer any substance that
541 is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).
- 542 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate
543 a person's driving privilege before completion of the suspension period imposed
544 under Subsection (1)(c)(i) if the reporting court notifies the Driver License
545 Division, in a manner specified by the division, that the defendant is participating
546 in or has successfully completed a drug court program as defined in Section
547 78A-5-201.
- 548 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person
549 is required to pay the license reinstatement fees under Subsection 53-3-105(26).
- 550 (iv) The court shall notify the division, in a manner specified by the division, if a
551 person fails to complete all requirements of the drug court program.
- 552 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division
553 shall suspend the person's driving privilege for a period of six months from the
554 date of the notice, and no days shall be subtracted from the six-month suspension
555 period for which a driving privilege was previously suspended under Subsection
556 (1)(c)(i).
- 557 (d) (i) The division shall immediately suspend a person's driver license for conviction
558 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the
559 division receives:
- 560 (A) an order from the sentencing court requiring that the person's driver license be
561 suspended; and
- 562 (B) a record of the conviction.
- 563 (ii) An order of suspension under this section is at the discretion of the sentencing
564 court, and may not be for more than 90 days for each offense.
- 565 (e) (i) The division shall immediately suspend for one year the license of a person
566 upon receiving a record of:
- 567 (A) conviction for the first time for a violation under Section 32B-4-411; or
568 (B) an adjudication under Section 80-6-701 for a violation under Section
569 32B-4-411.
- 570 (ii) The division shall immediately suspend for a period of two years the license of a
571 person upon receiving a record of:

- 572 (A) (I) conviction for a second or subsequent violation under Section
573 32B-4-411; and
- 574 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a
575 prior conviction for a violation under Section 32B-4-411; or
- 576 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a
577 violation under Section 32B-4-411; and
- 578 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years
579 of a prior adjudication under Section 80-6-701 for a violation under Section
580 32B-4-411.
- 581 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:
- 582 (A) for a conviction or adjudication described in Subsection (1)(e)(i):
- 583 (I) impose a suspension for one year beginning on the date of conviction; or
- 584 (II) if the person is under the age of eligibility for a driver license, impose a
585 suspension that begins on the date of conviction and continues for one year
586 beginning on the date of eligibility for a driver license; or
- 587 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):
- 588 (I) impose a suspension for a period of two years; or
- 589 (II) if the person is under the age of eligibility for a driver license, impose a
590 suspension that begins on the date of conviction and continues for two years
591 beginning on the date of eligibility for a driver license.
- 592 (iv) Upon receipt of the first order suspending a person's driving privileges under
593 Section 32B-4-411, the division shall reduce the suspension period under
594 Subsection (1)(e)(i) if ordered by the court in accordance with Subsection
595 32B-4-411(3)(a).
- 596 (v) Upon receipt of the second or subsequent order suspending a person's driving
597 privileges under Section 32B-4-411, the division shall reduce the suspension
598 period under Subsection (1)(e)(ii) if ordered by the court in accordance with
599 Subsection 32B-4-411(3)(b).
- 600 (2) The division shall extend the period of the first denial, suspension, revocation, or
601 disqualification for an additional like period, to a maximum of one year for each
602 subsequent occurrence, upon receiving:
- 603 (a) a record of the conviction of any person on a charge of driving a motor vehicle while
604 the person's license is denied, suspended, revoked, or disqualified;
- 605 (b) a record of a conviction of the person for any violation of the motor vehicle law in

- 606 which the person was involved as a driver;
- 607 (c) a report of an arrest of the person for any violation of the motor vehicle law in which
608 the person was involved as a driver; or
- 609 (d) a report of an accident in which the person was involved as a driver.
- 610 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
611 driving while the person's license is denied, suspended, disqualified, or revoked, the
612 person is entitled to a hearing regarding the extension of the time of denial, suspension,
613 disqualification, or revocation originally imposed under Section 53-3-221.
- 614 (4) (a) The division may extend to a person the limited privilege of driving a motor
615 vehicle to and from the person's place of employment or within other specified limits
616 on recommendation of the judge in any case where a person is convicted of any of
617 the offenses referred to in Subsections (1) and (2) except:
- 618 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),
619 and (1)(c)(i); and
- 620 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,
621 revocation, or disqualification was imposed because of a violation of Section
622 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of
623 Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207,
624 or a criminal prohibition that the person was charged with violating as a result of a
625 plea bargain after having been originally charged with violating one or more of
626 these sections or ordinances, unless:
- 627 (A) the person has had the period of the first denial, suspension, revocation, or
628 disqualification extended for a period of at least three years;
- 629 (B) the division receives written verification from the person's primary care
630 physician that:
- 631 (I) to the physician's knowledge the person has not used any narcotic drug or
632 other controlled substance except as prescribed by a licensed medical
633 practitioner within the last three years; and
- 634 (II) the physician is not aware of any physical, emotional, or mental
635 impairment that would affect the person's ability to operate a motor vehicle
636 safely; and
- 637 (C) for a period of one year prior to the date of the request for a limited driving
638 privilege:
- 639 (I) the person has not been convicted of a violation of any motor vehicle law in

640 which the person was involved as the operator of the vehicle;
 641 (II) the division has not received a report of an arrest for a violation of any
 642 motor vehicle law in which the person was involved as the operator of the
 643 vehicle; and
 644 (III) the division has not received a report of an accident in which the person
 645 was involved as an operator of a vehicle.

646 (b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege
 647 authorized in this Subsection (4):

648 (A) is limited to when undue hardship would result from a failure to grant the
 649 privilege; and

650 (B) may be granted only once to any person during any single period of denial,
 651 suspension, revocation, or disqualification, or extension of that denial,
 652 suspension, revocation, or disqualification.

653 (ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

654 (A) is limited to when the limited privilege is necessary for the person to commute
 655 to school or work; and

656 (B) may be granted only once to any person during any single period of denial,
 657 suspension, revocation, or disqualification, or extension of that denial,
 658 suspension, revocation, or disqualification.

659 (c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform
 660 Commercial Driver License Act, or whose license has been revoked, suspended,
 661 cancelled, or denied under this chapter.

662 Section 6. Section **53-3-414** is amended to read:

663 **53-3-414 . CDL disqualification or suspension -- Grounds and duration --**

664 **Procedure.**

665 (1) (a) An individual who holds or is required to hold a CDL is disqualified from driving
 666 a commercial motor vehicle for a period of not less than one year effective seven
 667 days from the date of notice to the driver if convicted of a first offense of:

668 (i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled
 669 substance, or more than one of these;

670 (ii) driving a commercial motor vehicle while the concentration of alcohol in the
 671 person's blood, breath, or urine is .04 grams or more;

672 (iii) leaving the scene of an accident involving a motor vehicle the person was
 673 driving;

- 674 (iv) failing to provide reasonable assistance or identification when involved in an
675 accident resulting in:
- 676 (A) personal injury in accordance with Section 41-6a-401.3;
677 (B) death in accordance with Section 41-6a-401.5; or
- 678 (v) using a motor vehicle in the commission of a felony;
- 679 (vi) refusal to submit to a test to determine the concentration of alcohol in the
680 person's blood, breath, or urine;
- 681 (vii) driving a commercial motor vehicle while the person's commercial driver license
682 is disqualified in accordance with the provisions of this section for violating an
683 offense described in this section; or
- 684 (viii) operating a commercial motor vehicle in a negligent manner causing the death
685 of another including the offenses of manslaughter under Section 76-5-205,
686 negligent homicide under Section 76-5-206, or ~~[negligently operating a vehicle
687 resulting in death]~~ automobile homicide under Section 76-5-207.
- 688 (b) The division shall subtract from any disqualification period under Subsection
689 (1)(a)(i) the number of days for which a license was previously disqualified under
690 Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same
691 occurrence upon which the record of conviction is based.
- 692 (2) If any of the violations under Subsection (1) occur while the driver is transporting a
693 hazardous material required to be placarded, the driver is disqualified for not less than
694 three years.
- 695 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds
696 or is required to hold a CDL is disqualified for life from driving a commercial motor
697 vehicle if convicted of or administrative action is taken for two or more of any of the
698 offenses under Subsection (1), (5), or (14) arising from two or more separate
699 incidents.
- 700 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.
- 701 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under
702 this section may apply to the division for reinstatement of the driver's CDL if the
703 driver:
- 704 (i) has both voluntarily enrolled in and successfully completed an appropriate
705 rehabilitation program that:
- 706 (A) meets the standards of the division; and
707 (B) complies with 49 C.F.R. Sec. 383.51;

- 708 (ii) has served a minimum disqualification period of 10 years; and
709 (iii) has fully met the standards for reinstatement of commercial motor vehicle
710 driving privileges established by rule of the division.
- 711 (b) If a reinstated driver is subsequently convicted of another disqualifying offense
712 under this section, the driver is permanently disqualified for life and is ineligible to
713 again apply for a reduction of the lifetime disqualification.
- 714 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for
715 life from driving a commercial motor vehicle if the driver uses a motor vehicle in the
716 commission of any felony involving:
- 717 (a) the manufacturing, distributing, or dispensing of a controlled substance, or
718 possession with intent to manufacture, distribute, or dispense a controlled substance
719 and is ineligible to apply for a reduction of the lifetime disqualification under
720 Subsection (4); or
- 721 (b) an act or practice of severe forms of trafficking in persons as defined and described
722 in 22 U.S.C. Sec. 7102(11).
- 723 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or
724 is required to hold a CDL is disqualified for not less than:
- 725 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
726 serious traffic violations; and
- 727 (ii) 120 days if the driver is convicted of three or more serious traffic violations.
- 728 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic
729 violations:
- 730 (i) occur within three years of each other;
- 731 (ii) arise from separate incidents; and
- 732 (iii) involve the use or operation of a commercial motor vehicle.
- 733 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is
734 disqualified from driving a commercial motor vehicle and the division receives notice
735 of a subsequent conviction for a serious traffic violation that results in an additional
736 disqualification period under this Subsection (6), the subsequent disqualification
737 period is effective beginning on the ending date of the current serious traffic violation
738 disqualification period.
- 739 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an
740 out-of-service order while driving a commercial motor vehicle is disqualified from
741 driving a commercial motor vehicle for a period not less than:

- 742 (i) 180 days if the driver is convicted of a first violation;
743 (ii) two years if, during any 10 year period, the driver is convicted of two violations
744 of out-of-service orders in separate incidents;
745 (iii) three years but not more than five years if, during any 10 year period, the driver
746 is convicted of three or more violations of out-of-service orders in separate
747 incidents;
748 (iv) 180 days but not more than two years if the driver is convicted of a first violation
749 of an out-of-service order while transporting hazardous materials required to be
750 placarded or while operating a motor vehicle designed to transport 16 or more
751 passengers, including the driver; or
752 (v) three years but not more than five years if, during any 10 year period, the driver is
753 convicted of two or more violations, in separate incidents, of an out-of-service
754 order while transporting hazardous materials required to be placarded or while
755 operating a motor vehicle designed to transport 16 or more passengers, including
756 the driver.
- 757 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an
758 out-of-service order is subject to a civil penalty of not less than \$2,500.
- 759 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent
760 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.
- 761 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is
762 disqualified for not less than 60 days if the division determines, in its check of the
763 driver's driver license status, application, and record prior to issuing a CDL or at any
764 time after the CDL is issued, that the driver has falsified information required to apply
765 for a CDL in this state.
- 766 (9) A driver of a commercial motor vehicle who is convicted of violating a
767 railroad-highway grade crossing provision under Section 41-6a-1205, while driving a
768 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a
769 period not less than:
- 770 (a) 60 days if the driver is convicted of a first violation;
771 (b) 120 days if, during any three-year period, the driver is convicted of a second
772 violation in separate incidents; or
773 (c) one year if, during any three-year period, the driver is convicted of three or more
774 violations in separate incidents.
- 775 (10) (a) The division shall update its records and notify the CDLIS within 10 days of

- 776 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the
777 action taken.
- 778 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the
779 division shall notify the licensing authority of the issuing state or other jurisdiction
780 and the CDLIS within 10 days after the action is taken.
- 781 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this
782 state, the division shall notify the CDLIS within 10 days after the action is taken.
- 783 (11) (a) The division may immediately suspend or disqualify the CDL of a driver
784 without a hearing or receiving a record of the driver's conviction when the division
785 has reason to believe that the:
- 786 (i) CDL was issued by the division through error or fraud;
 - 787 (ii) applicant provided incorrect or incomplete information to the division;
 - 788 (iii) applicant cheated on any part of a CDL examination;
 - 789 (iv) driver no longer meets the fitness standards required to obtain a CDL; or
 - 790 (v) driver poses an imminent hazard.
- 791 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section
792 53-3-221.
- 793 (c) If a hearing is held under Section 53-3-221, the division shall then rescind the
794 suspension order or cancel the CDL.
- 795 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is
796 required to hold a CDL is disqualified for not less than:
- 797 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two
798 serious traffic violations; and
 - 799 (ii) 120 days if the driver is convicted of three or more serious traffic violations.
- 800 (b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic
801 violations:
- 802 (i) occur within three years of each other;
 - 803 (ii) arise from separate incidents; and
 - 804 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving
805 privilege from at least one of the violations.
- 806 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified
807 from driving a commercial motor vehicle and the division receives notice of a
808 subsequent conviction for a serious traffic violation that results in an additional
809 disqualification period under this Subsection (12), the subsequent disqualification

810 period is effective beginning on the ending date of the current serious traffic violation
811 disqualification period.

812 (13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no
813 contest to a violation of a disqualifying offense described in this section which plea is
814 held in abeyance pursuant to a plea in abeyance agreement, the division shall
815 disqualify, suspend, cancel, or revoke the person's CDL for the period required under
816 this section for a conviction of that disqualifying offense, even if the charge has been
817 subsequently reduced or dismissed in accordance with the plea in abeyance
818 agreement.

819 (b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking
820 the action under Subsection (13)(a).

821 (c) A plea which is held in abeyance may not be removed from a person's driving record
822 for 10 years from the date of the plea in abeyance agreement, even if the charge is:

- 823 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or
824 (ii) expunged under Title 77, Chapter 40a, Expungement.

825 (14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section
826 41-6a-502 when administrative action is taken against the operator's driving privilege
827 pursuant to Section 53-3-223 for a period of:

828 (a) one year; or

829 (b) three years if the violation occurred while transporting hazardous materials.

830 (15) The division may concurrently impose any disqualification periods that arise under this
831 section while a driver is disqualified by the Secretary of the United States Department of
832 Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

833 Section 7. Section **53-10-403** is amended to read:

834 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**

835 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any
836 person who:

837 (a) has pled guilty to or has been convicted of any of the offenses under Subsection
838 (2)(a) or (b) on or after July 1, 2002;

839 (b) has pled guilty to or has been convicted by any other state or by the United States
840 government of an offense which if committed in this state would be punishable as
841 one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

842 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
843 offense under Subsection (2)(c);

- 844 (d) has been booked:
- 845 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May
- 846 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any
- 847 felony offense; or
- 848 (ii) on or after January 1, 2015, for any felony offense; or
- 849 (e) is a minor under Subsection (3).
- 850 (2) Offenses referred to in Subsection (1) are:
- 851 (a) any felony or class A misdemeanor under the Utah Code;
- 852 (b) any offense under Subsection (2)(a):
- 853 (i) for which the court enters a judgment for conviction to a lower degree of offense
- 854 under Section 76-3-402; or
- 855 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
- 856 defined in Section 77-2a-1; or
- 857 (c) (i) any violent felony as defined in Section 53-10-403.5;
- 858 (ii) sale or use of body parts, Section 26B-8-315;
- 859 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 860 (iv) operating a motor vehicle with any amount of a controlled substance in an
- 861 individual's body and causing serious bodily injury or death, as codified before
- 862 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8
- 863 (2)(g);
- 864 (v) a felony violation of enticing a minor, Section 76-4-401;
- 865 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 866 (vii) a felony violation of propelling a substance or object at a correctional officer, a
- 867 peace officer, or an employee or a volunteer, including health care providers,
- 868 Section 76-5-102.6;
- 869 (viii) [~~negligently operating a vehicle resulting in death~~] automobile homicide,
- 870 Subsection 76-5-207(2)(b);
- 871 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
- 872 smuggling, Section 76-5-310.1;
- 873 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 874 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 875 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 876 (xiii) sale of a child, Section 76-7-203;
- 877 (xiv) aggravated escape, Subsection 76-8-309(2);

- 878 (xv) a felony violation of assault on an elected official, Section 76-8-315;
- 879 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of
- 880 Pardons and Parole, Section 76-8-316;
- 881 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 882 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 883 (xix) a felony violation of sexual battery, Section 76-9-702.1;
- 884 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 885 (xxi) a felony violation of abuse or desecration of a dead human body, Section
- 886 76-9-704;
- 887 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section
- 888 76-10-402;
- 889 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
- 890 Section 76-10-403;
- 891 (xxiv) possession of a concealed firearm in the commission of a violent felony,
- 892 Subsection 76-10-504(4);
- 893 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,
- 894 Subsection 76-10-1504(3);
- 895 (xxvi) commercial obstruction, Subsection 76-10-2402(2);
- 896 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section
- 897 77-41-107;
- 898 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or
- 899 (xxix) violation of condition for release after arrest under Section 78B-7-802.
- 900 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the
- 901 juvenile court due to the commission of any offense described in Subsection (2), and
- 902 who:
- 903 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
- 904 court on or after July 1, 2002; or
- 905 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or
- 906 after July 1, 2002, for an offense under Subsection (2).
- 907 Section 8. Section **75-2-803** is amended to read:
- 908 **75-2-803 . Definitions -- Effect of homicide on intestate succession, wills, trusts,**
- 909 **joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture**
- 910 **-- Revocation.**
- 911 (1) As used in this section:

- 912 (a) "Conviction" means the same as that term is defined in Section 77-38b-102.
- 913 (b) "Decedent" means a deceased individual.
- 914 (c) "Disposition or appointment of property" includes a transfer of an item of property or
915 any other benefit to a beneficiary designated in a governing instrument.
- 916 (d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means
917 any felony homicide offense described in Title 76, Chapter 5, Offenses Against
918 the Individual, for which the elements are established by a preponderance of the
919 evidence and by applying the same principles of culpability and defenses
920 described in Title 76, Utah Criminal Code.
- 921 (ii) "Disqualifying homicide" does not include an offense for:
- 922 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide, as
923 described in Section 76-5-207; and
- 924 (B) automobile homicide involving using a handheld wireless communication
925 device while driving, as described in Section 76-5-207.5.
- 926 (e) "Governing instrument" means a governing instrument executed by the decedent.
- 927 (f) "Killer" means an individual who commits a disqualifying homicide.
- 928 (g) "Revocable" means a disposition, appointment, provision, or nomination under
929 which the decedent, at the time of or immediately before death, was alone
930 empowered, by law or under the governing instrument, to cancel the designation in
931 favor of the killer regardless of whether at the time or immediately before death:
- 932 (i) the decedent was empowered to designate the decedent in place of the decedent's
933 killer; or
- 934 (ii) the decedent had the capacity to exercise the power.
- 935 (2) (a) An individual who commits a disqualifying homicide of the decedent forfeits all
936 benefits under this chapter with respect to the decedent's estate, including an intestate
937 share, an elective share, an omitted spouse's or child's share, a homestead allowance,
938 exempt property, and a family allowance.
- 939 (b) If the decedent died intestate, the decedent's intestate estate passes as if the killer
940 disclaimed the killer's intestate share.
- 941 (3) The killing of the decedent by means of a disqualifying homicide:
- 942 (a) revokes any revocable:
- 943 (i) disposition or appointment of property made by the decedent to the killer in a
944 governing instrument;
- 945 (ii) provision in a governing instrument conferring a general or nongeneral power of

- 946 appointment on the killer; and
- 947 (iii) nomination of the killer in a governing instrument, nominating or appointing the
948 killer to serve in any fiduciary or representative capacity, including a personal
949 representative, executor, trustee, or agent; and
- 950 (b) severs the interests of the decedent and killer in property held by them at the time of
951 the killing as joint tenants with the right of survivorship, transforming the interests of
952 the decedent and killer into tenancies in common.
- 953 (4) A severance under Subsection (3)(b) does not affect any third-party interest in property
954 acquired for value and in good faith reliance on an apparent title by survivorship in the
955 killer unless a writing declaring the severance has been noted, registered, filed, or
956 recorded in records appropriate to the kind and location of the property which are relied
957 upon, in the ordinary course of transactions involving such property, as evidence of
958 ownership.
- 959 (5) Provisions of a governing instrument are given effect as if the killer disclaimed all
960 provisions revoked by this section or, in the case of a revoked nomination in a fiduciary
961 or representative capacity, as if the killer predeceased the decedent.
- 962 (6) A wrongful acquisition of property or interest by one who kills another under
963 circumstances not covered by this section shall be treated in accordance with the
964 principle that a killer cannot profit from the killer's wrong.
- 965 (7) (a) An interested person may petition the court to determine whether an individual
966 has committed a disqualifying homicide of the decedent.
- 967 (b) An individual has committed a disqualifying homicide of the decedent for purposes
968 of this section if:
- 969 (i) unless the court finds that disinheritance would create a manifest injustice, the
970 court finds that, by a preponderance of the evidence, the individual has committed
971 a disqualifying homicide of the decedent; or
- 972 (ii) the court finds that a judgment of conviction has been entered against the
973 individual for a disqualifying homicide of the decedent and all direct appeals for
974 the judgment have been exhausted.
- 975 (8) (a) Before a court determines whether an individual committed a disqualifying
976 homicide of the decedent under Subsection (7), the decedent's estate may petition the
977 court to:
- 978 (i) enter a temporary restraining order, an injunction, or a temporary restraining order
979 and an injunction, to preserve the property or assets of the killer or the killer's

- 980 estate;
- 981 (ii) require the execution of a trustee's bond under Section 75-7-702 for the killer's
- 982 estate;
- 983 (iii) establish a constructive trust on any property or assets of the killer or the killer's
- 984 estate that is effective from the time the killer's act caused the death of the
- 985 decedent; or
- 986 (iv) take any other action necessary to preserve the property or assets of the killer or
- 987 the killer's estate:
- 988 (A) until a court makes a determination under Subsection (7); or
- 989 (B) for the payment of all damages and judgments for conduct resulting in the
- 990 disqualifying homicide of the decedent.
- 991 (b) Upon a petition for a temporary restraining order or an injunction under Subsection
- 992 (8)(a)(i), a court may enter a temporary restraining order against an owner's property
- 993 in accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or
- 994 opportunity of a hearing, if the court determines that:
- 995 (i) there is a substantial likelihood that the property is, or will be, necessary to satisfy
- 996 a judgment or damages owed by the killer for conduct resulting in the
- 997 disqualifying homicide of the decedent; and
- 998 (ii) notice of the hearing would likely result in the property being:
- 999 (A) sold, distributed, destroyed, or removed; and
- 1000 (B) unavailable to satisfy a judgment or damages owed by the killer for conduct
- 1001 resulting in the disqualifying homicide of the decedent.
- 1002 (9) (a) (i) A payor or other third party is not liable for having made a payment or
- 1003 transferred an item of property or any other benefit to a beneficiary designated in a
- 1004 governing instrument affected by a disqualifying homicide, or for having taken
- 1005 any other action in good faith reliance on the validity of the governing instrument,
- 1006 upon request and satisfactory proof of the decedent's death, before the payor or
- 1007 other third party received written notice of a claimed forfeiture or revocation
- 1008 under this section.
- 1009 (ii) A payor or other third party is liable for a payment made or other action taken
- 1010 after the payor or other third party received written notice of a claimed forfeiture
- 1011 or revocation under this section.
- 1012 (b) (i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a)
- 1013 shall be mailed to the payor's or other third party's main office or home by

- 1014 registered or certified mail, return receipt requested, or served upon the payor or
1015 other third party in the same manner as a summons in a civil action.
- 1016 (ii) Upon receipt of written notice of a claimed forfeiture or revocation under this
1017 section, a payor or other third party may pay any amount owed or transfer or
1018 deposit any item of property held by the payor or third party to or with:
- 1019 (A) the court having jurisdiction of the probate proceedings relating to the
1020 decedent's estate; or
- 1021 (B) if no proceedings have been commenced, the court having jurisdiction of
1022 probate proceedings relating to the decedent's estates located in the county of
1023 the decedent's residence.
- 1024 (iii) The court shall hold the funds or item of property and, upon the court's
1025 determination under this section, shall order disbursement in accordance with the
1026 determination.
- 1027 (iv) Payments, transfers, or deposits made to or with the court discharge the payor or
1028 other third party from all claims for the value of amounts paid to or items of
1029 property transferred to or deposited with the court.
- 1030 (10) (a) A person who purchases property for value and without notice, or who receives
1031 a payment or other item of property in partial or full satisfaction of a legally
1032 enforceable obligation, is:
- 1033 (i) not obligated under this section to return the payment, item of property, or benefit;
1034 and
- 1035 (ii) not liable under this section for the amount of the payment or the value of the
1036 item of property or benefit.
- 1037 (b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a payment,
1038 item of property, or any other benefit to which the person is not entitled under this
1039 section is:
- 1040 (i) obligated to return the payment, item of property, or benefit to the person who is
1041 entitled to the payment, property, or benefit under this section; and
- 1042 (ii) personally liable for the amount of the payment or the value of the item of
1043 property or benefit to the person who is entitled to the payment, property, or
1044 benefit under this section.
- 1045 (c) If this section or any part of this section is preempted by federal law with respect to a
1046 payment, an item of property, or any other benefit covered by this section, a person
1047 who, not for value, receives the payment, item of property, or any other benefit to

- 1048 which the person is not entitled under this section is:
- 1049 (i) obligated to return the payment, item of property, or benefit to the person who
- 1050 would have been entitled to the payment, property, or benefit if this section or part
- 1051 were not preempted; and
- 1052 (ii) personally liable for the amount of the payment or the value of the item of
- 1053 property or benefit, to the person who would have been entitled to the payment,
- 1054 property, or benefit if this section or part were not preempted.

1055 Section 9. Section **76-5-201** is amended to read:

1056 **76-5-201 . Criminal homicide -- Designations of offenses -- Exceptions --**
1057 **Application of consensual altercation defense.**

- 1058 (1) (a) As used in this section:
- 1059 (i) "Abortion" means the same as that term is defined in Section 76-7-301.
- 1060 (ii) "Criminal homicide" means an act causing the death of another human being,
- 1061 including an unborn child at any stage of the unborn child's development.
- 1062 (b) The terms defined in Section 76-1-101.5 apply to this section.
- 1063 (2) The following are criminal homicide:
- 1064 (a) aggravated murder;
- 1065 (b) murder;
- 1066 (c) manslaughter;
- 1067 (d) child abuse homicide;
- 1068 (e) homicide by assault;
- 1069 (f) negligent homicide; and
- 1070 (g) [~~negligently operating a vehicle resulting in death~~] automobile homicide.
- 1071 (3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide if:
- 1072 (a) the death of an unborn child is caused by an abortion;
- 1073 (b) the sole reason for the death of an unborn child is that the actor:
- 1074 (i) refused to consent to:
- 1075 (A) medical treatment; or
- 1076 (B) a cesarean section; or
- 1077 (ii) failed to follow medical advice; or
- 1078 (c) a woman causes the death of her own unborn child, and the death:
- 1079 (i) is caused by a criminally negligent act or reckless act of the woman; and
- 1080 (ii) is not caused by an intentional or knowing act of the woman.
- 1081 (4) The provisions governing a defense of a consensual altercation as described in Section

1082 76-5-104 apply to this part.

1083 Section 10. Section **76-5-207** is amended to read:

1084 **76-5-207 . Automobile homicide -- Penalties -- Evidence.**

1085 (1) (a) As used in this section:

1086 (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

1087 (ii) "Criminally negligent" means the same as that term is described in Subsection
1088 76-2-103(4).

1089 (iii) "Drug" means:

1090 (A) a controlled substance;

1091 (B) a drug as defined in Section 58-37-2; or

1092 (C) a substance that, when knowingly, intentionally, or recklessly taken into the
1093 human body, can impair the ability of an individual to safely operate a vehicle.

1094 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that
1095 degree of care that reasonable and prudent persons exercise under like or similar
1096 circumstances.

1097 (v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

1098 (b) Terms defined in Section 76-1-101.5 apply to this section.

1099 (2) An actor commits [~~negligently operating a vehicle resulting in death~~] automobile
1100 homicide if the actor:

1101 (a) (i) operates a vehicle in a negligent or criminally negligent manner causing the
1102 death of another individual;

1103 (ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical
1104 test shows that the actor has a blood or breath alcohol concentration of .05
1105 grams or greater at the time of the test;

1106 (B) is under the influence of alcohol, any drug, or the combined influence of
1107 alcohol and any drug to a degree that renders the actor incapable of safely
1108 operating a vehicle; or

1109 (C) has a blood or breath alcohol concentration of .05 grams or greater at the time
1110 of operation; or

1111 (b) (i) operates a vehicle in a criminally negligent manner causing death to another;
1112 and

1113 (ii) has in the actor's body any measurable amount of a controlled substance.

1114 (3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

1115 (a) a second degree felony, punishable by a term of imprisonment of not less than five

- 1116 years nor more than 15 years; and
- 1117 (b) a separate offense for each victim suffering death as a result of the actor's violation
1118 of this section, regardless of whether the deaths arise from the same episode of
1119 driving.
- 1120 (4) An actor is not guilty of a violation of [~~negligently operating a vehicle resulting in death~~]
1121 automobile homicide under Subsection (2)(b) if:
- 1122 (a) the controlled substance was obtained under a valid prescription or order, directly
1123 from a practitioner while acting in the course of the practitioner's professional
1124 practice, or as otherwise authorized by Title 58, Occupations and Professions;
- 1125 (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
- 1126 (c) the actor possessed, in the actor's body, a controlled substance listed in Section
1127 58-37-4.2 if:
- 1128 (i) the actor is the subject of medical research conducted by a holder of a valid license
1129 to possess controlled substances under Section 58-37-6; and
- 1130 (ii) the substance was administered to the actor by the medical researcher.
- 1131 (5) (a) A judge imposing a sentence under this section may consider:
- 1132 (i) the sentencing guidelines developed in accordance with Section 63M-7-404;
- 1133 (ii) the defendant's history;
- 1134 (iii) the facts of the case;
- 1135 (iv) aggravating and mitigating factors; or
- 1136 (v) any other relevant fact.
- 1137 (b) The judge may not impose a lesser sentence than would be required for a conviction
1138 based on the defendant's history under Section 41-6a-505.
- 1139 (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the
1140 provisions for the admissibility of chemical test results as provided by Section
1141 41-6a-516 apply to determination and proof of blood alcohol content under this
1142 section.
- 1143 (d) A calculation of blood or breath alcohol concentration under this section shall be
1144 made in accordance with Subsection 41-6a-502(3).
- 1145 (e) Except as provided in Subsection (4), the fact that an actor charged with violating
1146 this section is or has been legally entitled to use alcohol or a drug is not a defense.
- 1147 (f) Evidence of a defendant's blood or breath alcohol content or drug content is
1148 admissible except when prohibited by the Utah Rules of Evidence, the United States
1149 Constitution, or the Utah Constitution.

1150 (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense
1151 described in this section may not be held in abeyance.

1152 (6) If, when imposing a sentence under this section, the court finds that it is in the interest
1153 of justice to suspend the imposition of prison, the court shall detail the finding on the
1154 record, including why a suspended prison sentence is in the interest of justice.

1155 (7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than
1156 three years nor more than 15 years if the court details on the record why it is in the
1157 interest of justice.

1158 Section 11. Section **78B-9-402** is amended to read:

1159 **78B-9-402 . Petition for determination of factual innocence -- Sufficient**
1160 **allegations -- Notification of victim -- Payment to surviving spouse.**

1161 (1) A person who has been convicted of a felony offense may petition the district court in
1162 the county in which the person was convicted for a hearing to establish that the person is
1163 factually innocent of the crime or crimes of which the person was convicted.

1164 (2) (a) The petition shall contain an assertion of factual innocence under oath by the
1165 petitioner and shall aver, with supporting affidavits or other credible documents, that:

1166 (i) newly discovered material evidence exists that, if credible, establishes that the
1167 petitioner is factually innocent;

1168 (ii) the specific evidence identified by the petitioner in the petition establishes
1169 innocence;

1170 (iii) the material evidence is not merely cumulative of evidence that was known;

1171 (iv) the material evidence is not merely impeachment evidence; and

1172 (v) viewed with all the other evidence, the newly discovered evidence demonstrates
1173 that the petitioner is factually innocent.

1174 (b) (i) The court shall review the petition in accordance with the procedures in
1175 Subsection (9)(b), and make a finding that the petition has satisfied the
1176 requirements of Subsection (2)(a).

1177 (ii) If the court finds the petition does not meet all the requirements of Subsection
1178 (2)(a), the court shall dismiss the petition without prejudice and send notice of the
1179 dismissal to the petitioner and the attorney general.

1180 (3) (a) The petition shall also contain an averment that:

1181 (i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time
1182 of trial or sentencing or in time to include the evidence in any previously filed
1183 post-trial motion or postconviction motion, and the evidence could not have been

- 1184 discovered by the petitioner or the petitioner's counsel through the exercise of
1185 reasonable diligence; or
- 1186 (ii) a court has found ineffective assistance of counsel for failing to exercise
1187 reasonable diligence in uncovering the evidence.
- 1188 (b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a),
1189 the court shall then review the petition to determine if Subsection (3)(a) has been
1190 satisfied.
- 1191 (ii) If the court finds that the requirements of Subsection (3)(a) have not been
1192 satisfied, the court may dismiss the petition without prejudice and give notice to
1193 the petitioner and the attorney general of the dismissal, or the court may waive the
1194 requirements of Subsection (3)(a) if the court finds the petition should proceed to
1195 hearing based upon the strength of the petition, and that there is other evidence
1196 that could have been discovered through the exercise of reasonable diligence by
1197 the petitioner or the petitioner's counsel at trial, and the other evidence:
1198 (A) was not discovered by the petitioner or the petitioner's counsel;
1199 (B) is material upon the issue of factual innocence; and
1200 (C) has never been presented to a court.
- 1201 (4) (a) If the conviction for which the petitioner asserts factual innocence was based
1202 upon a plea of guilty, the petition shall contain the specific nature and content of the
1203 evidence that establishes factual innocence.
- 1204 (b) The court shall review the evidence and may dismiss the petition at any time in the
1205 course of the proceedings, if the court finds that the evidence of factual innocence
1206 relies solely upon the recantation of testimony or prior statements made by a witness
1207 against the petitioner, and the recantation appears to the court to be equivocal or self
1208 serving.
- 1209 (5) A person who has already obtained postconviction relief that vacated or reversed the
1210 person's conviction or sentence may also file a petition under this part in the same
1211 manner and form as described above, if no retrial or appeal regarding this offense is
1212 pending.
- 1213 (6) If some or all of the evidence alleged to be exonerating is biological evidence subject to
1214 DNA testing, the petitioner shall seek DNA testing in accordance with Section
1215 78B-9-301.
- 1216 (7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall
1217 be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and

- 1218 shall include the underlying criminal case number.
- 1219 (8) After a petition is filed under this section, prosecutors, law enforcement officers, and
1220 crime laboratory personnel shall cooperate in preserving evidence and in determining
1221 the sufficiency of the chain of custody of the evidence which is the subject of the
1222 petition.
- 1223 (9) (a) A person who files a petition under this section shall serve notice of the petition
1224 and a copy of the petition upon the office of the prosecutor who obtained the
1225 conviction and upon the Utah attorney general.
- 1226 (b) (i) The assigned judge shall conduct an initial review of the petition.
- 1227 (ii) If it is apparent to the court that the petitioner is either merely relitigating facts,
1228 issues, or evidence presented in previous proceedings or presenting issues that
1229 appear frivolous or speculative on their face, the court shall dismiss the petition,
1230 state the basis for the dismissal, and serve notice of dismissal upon the petitioner
1231 and the attorney general.
- 1232 (iii) If, upon completion of the initial review, the court does not dismiss the petition,
1233 the court shall order the attorney general to file a response to the petition.
- 1234 (iv) The attorney general shall, within 30 days after the day on which the attorney
1235 general receives the court's order, or within any additional period of time the court
1236 allows, answer or otherwise respond to all proceedings initiated under this part.
- 1237 (c) (i) After the time for response by the attorney general under Subsection (9)(b) has
1238 passed, the court shall order a hearing if the court finds the petition meets the
1239 requirements of Subsections (2) and (3) and finds there is a bona fide and
1240 compelling issue of factual innocence regarding the charges of which the
1241 petitioner was convicted.
- 1242 (ii) No bona fide and compelling issue of factual innocence exists if the petitioner is
1243 merely relitigating facts, issues, or evidence presented in a previous proceeding or
1244 if the petitioner is unable to identify with sufficient specificity the nature and
1245 reliability of the newly discovered evidence that establishes the petitioner's factual
1246 innocence.
- 1247 (d) (i) If the parties stipulate that the evidence establishes that the petitioner is
1248 factually innocent, the court may find the petitioner is factually innocent without
1249 holding a hearing.
- 1250 (ii) If the state will not stipulate that the evidence establishes that the petitioner is
1251 factually innocent, no determination of factual innocence may be made by the

- 1252 court without first holding a hearing under this part.
- 1253 (10) The court may not grant a petition for a hearing under this part during the period in
1254 which criminal proceedings in the matter are pending before any trial or appellate court,
1255 unless stipulated to by the parties.
- 1256 (11) Any victim of a crime that is the subject of a petition under this part, and who has
1257 elected to receive notice under Section 77-38-3, shall be notified by the state's attorney
1258 of any hearing regarding the petition.
- 1259 (12) (a) A petition to determine factual innocence under this part, or Part 3,
1260 Postconviction Testing of DNA, shall be filed separately from any petition for
1261 postconviction relief under Part 1, General Provisions.
- 1262 (b) Separate petitions may be filed simultaneously in the same court.
- 1263 (13) The procedures governing the filing and adjudication of a petition to determine factual
1264 innocence apply to all petitions currently filed or pending in the district court and any
1265 new petitions filed on or after June 1, 2012.
- 1266 (14) (a) As used in this Subsection (14) and in Subsection (15):
- 1267 (i) "Married" means the legal marital relationship established between two
1268 individuals and as recognized by the law; and
- 1269 (ii) "Spouse" means an individual married to the petitioner at the time the petitioner
1270 was found guilty of the offense regarding which a petition is filed and who has
1271 since then been continuously married to the petitioner until the petitioner's death.
- 1272 (b) A claim for determination of factual innocence under this part is not extinguished
1273 upon the death of the petitioner.
- 1274 (c) (i) If any payments are already being made to the petitioner under this part at the
1275 time of the death of the petitioner, or if the finding of factual innocence occurs
1276 after the death of the petitioner, the payments due under Section 78B-9-405 shall
1277 be paid in accordance with Section 78B-9-405 to the petitioner's surviving spouse.
- 1278 (ii) Payments cease upon the death of the spouse.
- 1279 (15) The spouse under Subsection (14) forfeits all rights to receive any payment under this
1280 part if the spouse is charged with a homicide established by a preponderance of the
1281 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,
1282 Offenses Against the Individual, except [~~negligently operating a vehicle resulting in~~
1283 ~~death~~] automobile homicide under Section 76-5-207, applying the same principles of
1284 culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter
1285 2, Principles of Criminal Responsibility.

- 1286 Section 12. Section **80-6-712** is amended to read:
- 1287 **80-6-712 . Time periods for supervision of probation or placement --**
- 1288 **Termination of continuing jurisdiction.**
- 1289 (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile
- 1290 court shall establish a period of time for supervision for the minor that is:
- 1291 (a) if the minor is placed on intake probation, no more than three months; or
- 1292 (b) if the minor is placed on formal probation, from four to six months, but may not
- 1293 exceed six months.
- 1294 (2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and
- 1295 the minor's case is under the jurisdiction of the court, the juvenile court shall
- 1296 establish:
- 1297 (i) for a minor placed out of the home, a period of custody from three to six months,
- 1298 but may not exceed six months; and
- 1299 (ii) for aftercare services if the minor was placed out of the home, a period of
- 1300 supervision from three to four months, but may not exceed four months.
- 1301 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
- 1302 (i) in the home of a qualifying relative or guardian;
- 1303 (ii) at an independent living program contracted or operated by the division; or
- 1304 (iii) in a family-based setting with approval by the director or the director's designee
- 1305 if the minor does not qualify for an independent living program due to age,
- 1306 disability, or another reason or the minor cannot be placed with a qualifying
- 1307 relative or guardian.
- 1308 (3) If the juvenile court orders a minor to secure care, the authority shall:
- 1309 (a) have jurisdiction over the minor's case; and
- 1310 (b) apply the provisions of Part 8, Commitment and Parole.
- 1311 (4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at
- 1312 the end of the time period described in Subsection (1) for probation or Subsection (2)
- 1313 for commitment to the division, unless:
- 1314 (i) termination would interrupt the completion of the treatment program determined
- 1315 to be necessary by the results of a validated risk and needs assessment under
- 1316 Section 80-6-606;
- 1317 (ii) the minor commits a new misdemeanor or felony offense;
- 1318 (iii) the minor has not completed community or compensatory service hours;
- 1319 (iv) there is an outstanding fine; or

- 1320 (v) the minor has not paid restitution in full.
- 1321 (b) The juvenile court shall determine whether a minor has completed a treatment
1322 program under Subsection (4)(a)(i) by considering:
- 1323 (i) the recommendations of the licensed service provider for the treatment program;
- 1324 (ii) the minor's record in the treatment program; and
- 1325 (iii) the minor's completion of the goals of the treatment program.
- 1326 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
1327 exists the juvenile court may extend supervision for the time needed to address the
1328 specific circumstance.
- 1329 (6) If the juvenile court extends supervision solely on the ground that the minor has not yet
1330 completed community or compensatory service hours under Subsection (4)(a)(iii), the
1331 juvenile court may only extend supervision:
- 1332 (a) one time for no more than three months; and
- 1333 (b) as intake probation.
- 1334 (7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has
1335 not paid restitution in full as described in Subsection (4)(a)(v):
- 1336 (i) the juvenile court may only:
- 1337 (A) extend jurisdiction up to four times for no more than three months at a time;
- 1338 (B) consider the efforts of the minor to pay restitution in full when determining
1339 whether to extend jurisdiction under Subsection (7)(a)(i); and
- 1340 (C) make orders concerning the payment of restitution during the period for which
1341 jurisdiction is extended;
- 1342 (ii) the juvenile court shall terminate any intake probation or formal probation of the
1343 minor; and
- 1344 (iii) a designated staff member of the juvenile court shall submit a report to the
1345 juvenile court every three months regarding the minor's efforts to pay restitution.
- 1346 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
1347 juvenile court shall:
- 1348 (i) terminate jurisdiction over the minor's case; and
- 1349 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
1350 Subsection 80-6-709(8).
- 1351 (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds
1352 for the extension and the length of any extension shall be recorded in the court records
1353 and tracked in the data system used by the Administrative Office of the Courts and the

- 1354 division.
- 1355 (9) If a minor leaves supervision without authorization for more than 24 hours, the
1356 supervision period for the minor shall toll until the minor returns.
- 1357 (10) This section does not apply to any minor adjudicated under this chapter for:
- 1358 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 1359 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 1360 (c) Section 76-5-203, murder or attempted murder;
- 1361 (d) Section 76-5-205, manslaughter;
- 1362 (e) Section 76-5-206, negligent homicide;
- 1363 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile
1364 homicide;
- 1365 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
1366 device while operating a motor vehicle;
- 1367 (h) Section 76-5-208, child abuse homicide;
- 1368 (i) Section 76-5-209, homicide by assault;
- 1369 (j) Section 76-5-302, aggravated kidnapping;
- 1370 (k) Section 76-5-405, aggravated sexual assault;
- 1371 (l) a felony violation of Section 76-6-103, aggravated arson;
- 1372 (m) Section 76-6-203, aggravated burglary;
- 1373 (n) Section 76-6-302, aggravated robbery;
- 1374 (o) Section 76-10-508.1, felony discharge of a firearm;
- 1375 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
1376 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
1377 a felony; and
- 1378 (ii) the minor has been previously adjudicated or convicted of an offense involving
1379 the use of a dangerous weapon; or
- 1380 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
1381 the minor has been previously committed to the division for secure care.
- 1382 Section 13. Section **80-6-804** is amended to read:
- 1383 **80-6-804 . Review and termination of secure care.**
- 1384 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile
1385 offender shall appear before the authority within 45 days after the day on which the
1386 juvenile offender is ordered to secure care for review of a treatment plan and to establish
1387 parole release guidelines.

- 1388 (2) (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is
1389 ordered to secure care under Section 80-6-705, the authority shall set a presumptive
1390 term of secure care for the juvenile offender from three to six months, but the
1391 presumptive term may not exceed six months.
- 1392 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1393 authority may immediately release the juvenile offender on parole if there is a
1394 treatment program available for the juvenile offender in a community-based setting.
- 1395 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile
1396 offender on parole at the end of the presumptive term of secure care unless:
- 1397 (i) termination would interrupt the completion of a treatment program determined to
1398 be necessary by the results of a validated risk and needs assessment under Section
1399 80-6-606; or
- 1400 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 1401 (d) The authority shall determine whether a juvenile offender has completed a treatment
1402 program under Subsection (2)(c)(i) by considering:
- 1403 (i) the recommendations of the licensed service provider for the treatment program;
1404 (ii) the juvenile offender's record in the treatment program; and
1405 (iii) the juvenile offender's completion of the goals of the treatment program.
- 1406 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
1407 secure care and delay parole release for the time needed to address the specific
1408 circumstance if one of the circumstances under Subsection (2)(c) exists.
- 1409 (f) The authority shall:
- 1410 (i) record the length of the extension and the grounds for the extension; and
1411 (ii) report annually the length and grounds of extension to the commission.
- 1412 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
1413 juvenile court and the division.
- 1414 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
1415 authority may not:
- 1416 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)
1417 that would result in a term of secure care that exceeds a term of incarceration for
1418 an adult under Section 76-3-204 for the same misdemeanor offense; or
1419 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)
1420 if the extension would result in a term of secure care that exceeds the term of
1421 incarceration for an adult under Section 76-3-204 for the same misdemeanor

- 1422 offense.
- 1423 (3) (a) If a juvenile offender is ordered to secure care, the authority shall set a
1424 presumptive term of parole supervision, including aftercare services, from three to
1425 four months, but the presumptive term may not exceed four months.
- 1426 (b) If the authority determines that a juvenile offender is unable to return home
1427 immediately upon release, the juvenile offender may serve the term of parole:
1428 (i) in the home of a qualifying relative or guardian;
1429 (ii) at an independent living program contracted or operated by the division; or
1430 (iii) in a family-based setting with approval by the director or the director's designee
1431 if the minor does not qualify for an independent living program due to age,
1432 disability, or another reason or the minor cannot be placed with a qualifying
1433 relative or guardian.
- 1434 (c) The authority shall release a juvenile offender from parole and terminate the
1435 authority's jurisdiction at the end of the presumptive term of parole, unless:
1436 (i) termination would interrupt the completion of a treatment program that is
1437 determined to be necessary by the results of a validated risk and needs assessment
1438 under Section 80-6-606;
1439 (ii) the juvenile offender commits a new misdemeanor or felony offense; or
1440 (iii) restitution has not been completed.
- 1441 (d) The authority shall determine whether a juvenile offender has completed a treatment
1442 program under Subsection (3)(c)(i) by considering:
1443 (i) the recommendations of the licensed service provider;
1444 (ii) the juvenile offender's record in the treatment program; and
1445 (iii) the juvenile offender's completion of the goals of the treatment program.
- 1446 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
1447 parole release only for the time needed to address the specific circumstance.
- 1448 (f) The authority shall:
1449 (i) record the grounds for extension of the presumptive length of parole and the
1450 length of the extension; and
1451 (ii) report annually the extension and the length of the extension to the commission.
- 1452 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
1453 juvenile court and the division.
- 1454 (h) If a juvenile offender leaves parole supervision without authorization for more than
1455 24 hours, the term of parole shall toll until the juvenile offender returns.

- 1456 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
1457 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
1458 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
1459 (c) Section 76-5-203, murder or attempted murder;
1460 (d) Section 76-5-205, manslaughter;
1461 (e) Section 76-5-206, negligent homicide;
1462 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile
1463 homicide;
1464 (g) Section 76-5-207.5, automobile homicide involving using a wireless communication
1465 device while operating a motor vehicle;
1466 (h) Section 76-5-208, child abuse homicide;
1467 (i) Section 76-5-209, homicide by assault;
1468 (j) Section 76-5-302, aggravated kidnapping;
1469 (k) Section 76-5-405, aggravated sexual assault;
1470 (l) a felony violation of Section 76-6-103, aggravated arson;
1471 (m) Section 76-6-203, aggravated burglary;
1472 (n) Section 76-6-302, aggravated robbery;
1473 (o) Section 76-10-508.1, felony discharge of a firearm;
1474 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
1475 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is
1476 a felony; and
1477 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
1478 involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
1479 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
1480 juvenile offender has been previously ordered to secure care.

1481 Section 14. **Effective date.**

1482 This bill takes effect on May 1, 2024.