

1 **SENTENCING MODIFICATIONS FOR CERTAIN DUI**

2 **OFFENSES**

3 2024 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Andrew Stoddard**

6 Senate Sponsor: \_\_\_\_\_

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**8 LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to negligently operating a vehicle resulting in  
11 death.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ renames the offense of negligently operating a vehicle resulting in death;
- 15 ▶ creates a sentencing guideline for automobile homicide; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **41-6a-501**, as last amended by Laws of Utah 2023, Chapters 328, 415

24 **41-6a-1901**, as last amended by Laws of Utah 2022, Chapter 116

25 **53-3-220**, as last amended by Laws of Utah 2023, Chapter 415

26 **53-3-414**, as last amended by Laws of Utah 2022, Chapters 46, 116

27 **53-10-403**, as last amended by Laws of Utah 2023, Chapters 328, 457



28 75-2-803, as last amended by Laws of Utah 2022, Chapters 116, 157 and 430 and last  
29 amended by Coordination Clause, Laws of Utah 2022, Chapter 157

30 76-5-201, as last amended by Laws of Utah 2022, Chapters 116, 181 and last amended  
31 by Coordination Clause, Laws of Utah 2022, Chapters 116, 181

32 76-5-207, as last amended by Laws of Utah 2023, Chapter 415

33 78B-9-402, as last amended by Laws of Utah 2022, Chapters 116, 430

34 80-6-712, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430

35 80-6-804, as last amended by Laws of Utah 2023, Chapter 236



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

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

39 **41-6a-501. Definitions.**

40 (1) As used in this part:

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

- 43 (i) the person is asleep inside the vehicle;
- 44 (ii) the person is not in the driver's seat of the vehicle;
- 45 (iii) the engine of the vehicle is not running;
- 46 (iv) the vehicle is lawfully parked; and
- 47 (v) under the facts presented, it is evident that the person did not drive the vehicle to  
48 the location while under the influence of alcohol, a drug, or the combined influence of alcohol  
49 and any drug.

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

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

57 Section 26B-5-104.

58 (c) "Driving under the influence court" means a court that is approved as a driving

59 under the influence court by the Judicial Council according to standards established by the  
60 Judicial Council.

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

62 (i) a controlled substance as defined in Section 58-37-2;

63 (ii) a drug as defined in Section 58-17b-102; or

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

66 (e) "Educational series" means an educational series obtained at a substance abuse  
67 program that is approved by the Division of Integrated Healthcare in accordance with Section  
68 26B-5-104.

69 (f) "Negligence" means simple negligence, the failure to exercise that degree of care  
70 that an ordinarily reasonable and prudent person exercises under like or similar 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  
86 program 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 41-6a-528; or  
101 (B) for an offense committed on or after July 1, 2008, impaired driving under Section  
102 41-6a-502.5;  
103 (iii) driving with any measurable controlled substance that is taken illegally in the body  
104 under Section 41-6a-517;  
105 (iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination  
106 of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in  
107 compliance with Section 41-6a-510;  
108 (v) Section 76-5-207;  
109 (vi) operating a motor vehicle with any amount of a controlled substance in an  
110 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,  
111 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);  
112 (vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;  
113 (viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of  
114 conviction is reduced under Section 76-3-402;  
115 (ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or  
116 (x) statutes or ordinances previously in effect in this state or in effect in any other state,  
117 the United States, or any district, possession, or territory of the United States which would  
118 constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of  
119 both-related reckless driving if committed in this state, including punishments administered  
120 under 10 U.S.C. Sec. 815.

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

- 125 (i) enhancement of penalties under this part; and
- 126 (ii) expungement under Title 77, Chapter 40a, Expungement.

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

- 130 (i) this part;
- 131 (ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and
- 132 (iii) [~~negligently operating a vehicle resulting in death~~] automobile homicide under  
133 Section 76-5-207.

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

136 Section 2. Section 41-6a-1901 is amended to read:

137 **41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and**  
138 **records -- Notice to Department of State.**

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

- 140 (a) has a driver license issued by the United States Department of State; or
- 141 (b) claims immunities or privileges under 22 U.S.C. [~~Sections~~] Secs. 254a through  
142 258a with respect to:

- 143 (i) a moving traffic violation under this title or a moving traffic violation of an  
144 ordinance of a local authority; or
- 145 (ii) operating a motor vehicle while committing any of the following offenses:
  - 146 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide under  
147 Section 76-5-207;
  - 148 (B) manslaughter under Section 76-5-205;
  - 149 (C) negligent homicide under Section 76-5-206;
  - 150 (D) aggravated assault under Section 76-5-103; or
  - 151 (E) reckless endangerment under Section 76-5-112.

152 (2) A law enforcement officer who stops a motor vehicle and has probable cause to  
153 believe that the driver is a diplomat that has committed a violation described under Subsection  
154 (1)(b)(i) or (ii) shall:

155 (a) as soon as practicable, contact the United States Department of State in order to  
156 verify the driver's status and immunity, if any;

157 (b) record all relevant information from any driver license or identification card,  
158 including a driver license or identification card issued by the United States Department of  
159 State; and

160 (c) within five working days after the date the officer stops the driver, forward all of  
161 the following to the Department of Public Safety:

162 (i) if the driver is involved in a vehicle accident, the vehicle accident report;

163 (ii) if a citation or other charging document was issued to the driver, a copy of the  
164 citation or other charging document; and

165 (iii) if a citation or other charging document was not issued to the driver, a written  
166 report of the incident.

167 (3) The Department of Public Safety shall:

168 (a) file each vehicle accident report, citation or other charging document, and incident  
169 report that the Department of Public Safety receives under this section;

170 (b) keep convenient records or make suitable notations showing each:

171 (i) conviction;

172 (ii) finding of responsibility; and

173 (iii) vehicle accident; and

174 (c) within five working days after receipt, send a copy of each document and record  
175 described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign Missions,  
176 of the United States Department of State.

177 (4) This section does not prohibit or limit the application of any law to a criminal or  
178 motor vehicle violation committed by a diplomat.

179 Section 3. Section 53-3-220 is amended to read:

180 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
181 **disqualification of license -- Offense requiring an extension of period -- Hearing --**  
182 **Limited driving privileges.**

183 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter  
184 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or  
185 disqualification, the division shall deny, suspend, or disqualify the license of a person upon  
186 receiving a record of the person's conviction for:

187 (i) manslaughter or negligent homicide resulting from driving a motor vehicle,  
188 [~~negligently operating a vehicle resulting in death~~] automobile homicide under Section  
189 76-5-207, or automobile homicide involving using a handheld wireless communication device  
190 while driving under Section 76-5-207.5;

191 (ii) driving or being in actual physical control of a motor vehicle while under the  
192 influence of alcohol, any drug, or combination of them to a degree that renders the person  
193 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited  
194 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

195 (iii) driving or being in actual physical control of a motor vehicle while having a blood  
196 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance  
197 that complies with the requirements of Subsection 41-6a-510(1);

198 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
199 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
200 regulating driving on highways;

201 (v) any felony under the motor vehicle laws of this state;

202 (vi) any other felony in which a motor vehicle is used to facilitate the offense;

203 (vii) failure to stop and render aid as required under the laws of this state if a motor  
204 vehicle accident results in the death or personal injury of another;

205 (viii) two charges of reckless driving, impaired driving, or any combination of reckless  
206 driving and impaired driving committed within a period of 12 months; but if upon a first  
207 conviction of reckless driving or impaired driving the judge or justice recommends suspension  
208 of the convicted person's license, the division may after a hearing suspend the license for a  
209 period of three months;

210 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement  
211 officer as required in Section 41-6a-210;

212 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that  
213 requires disqualification;

214 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
215 allowing the discharge of a firearm from a vehicle;

216 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or  
217 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

218 (xiii) operating or being in actual physical control of a motor vehicle while having any  
219 measurable controlled substance or metabolite of a controlled substance in the person's body in  
220 violation of Section 41-6a-517;

221 (xiv) operating or being in actual physical control of a motor vehicle while having any  
222 measurable or detectable amount of alcohol in the person's body in violation of Section  
223 41-6a-530;

224 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in  
225 violation of Section 41-6a-606;

226 (xvi) operating or being in actual physical control of a motor vehicle in this state  
227 without an ignition interlock system in violation of Section 41-6a-518.2; or

228 (xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).

229 (b) The division shall immediately revoke the license of a person upon receiving a  
230 record of an adjudication under Section 80-6-701 for:

231 (i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
232 allowing the discharge of a firearm from a vehicle; or

233 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or  
234 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

235 (c) (i) Except when action is taken under Section 53-3-219 for the same offense, upon  
236 receiving a record of conviction, the division shall immediately suspend for six months the  
237 license of the convicted person if the person was convicted of violating any one of the  
238 following offenses while the person was an operator of a motor vehicle, and the court finds that  
239 a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

240 (A) Title 58, Chapter 37, Utah Controlled Substances Act;

241 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

242 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

243 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

244 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or



245 (F) any criminal offense that prohibits possession, distribution, manufacture,  
246 cultivation, sale, or transfer of any substance that is prohibited under the acts described in  
247 Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute,  
248 manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described  
249 in Subsections (1)(c)(i)(A) through (E).

250 (ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a  
251 person's driving privilege before completion of the suspension period imposed under  
252 Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner  
253 specified by the division, that the defendant is participating in or has successfully completed a  
254 drug court program as defined in Section 78A-5-201.

255 (iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is  
256 required to pay the license reinstatement fees under Subsection 53-3-105(26).

257 (iv) The court shall notify the division, in a manner specified by the division, if a  
258 person fails to complete all requirements of the drug court program.

259 (v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall  
260 suspend the person's driving privilege for a period of six months from the date of the notice,  
261 and no days shall be subtracted from the six-month suspension period for which a driving  
262 privilege was previously suspended under Subsection (1)(c)(i).

263 (d) (i) The division shall immediately suspend a person's driver license for conviction  
264 of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

265 (A) an order from the sentencing court requiring that the person's driver license be  
266 suspended; and

267 (B) a record of the conviction.

268 (ii) An order of suspension under this section is at the discretion of the sentencing  
269 court, and may not be for more than 90 days for each offense.

270 (e) (i) The division shall immediately suspend for one year the license of a person upon  
271 receiving a record of:

272 (A) conviction for the first time for a violation under Section 32B-4-411; or

273 (B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

274 (ii) The division shall immediately suspend for a period of two years the license of a  
275 person upon receiving a record of:

276 (A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and  
277 (II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior  
278 conviction for a violation under Section 32B-4-411; or

279 (B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation  
280 under Section 32B-4-411; and

281 (II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior  
282 adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

283 (iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

284 (A) for a conviction or adjudication described in Subsection (1)(e)(i):

285 (I) impose a suspension for one year beginning on the date of conviction; or

286 (II) if the person is under the age of eligibility for a driver license, impose a suspension  
287 that begins on the date of conviction and continues for one year beginning on the date of  
288 eligibility for a driver license; or

289 (B) for a conviction or adjudication described in Subsection (1)(e)(ii):

290 (I) impose a suspension for a period of two years; or

291 (II) if the person is under the age of eligibility for a driver license, impose a suspension  
292 that begins on the date of conviction and continues for two years beginning on the date of  
293 eligibility for a driver license.

294 (iv) Upon receipt of the first order suspending a person's driving privileges under  
295 Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if  
296 ordered by the court in accordance with Subsection 32B-4-411(3)(a).

297 (v) Upon receipt of the second or subsequent order suspending a person's driving  
298 privileges under Section 32B-4-411, the division shall reduce the suspension period under  
299 Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

300 (2) The division shall extend the period of the first denial, suspension, revocation, or  
301 disqualification for an additional like period, to a maximum of one year for each subsequent  
302 occurrence, upon receiving:

303 (a) a record of the conviction of any person on a charge of driving a motor vehicle  
304 while the person's license is denied, suspended, revoked, or disqualified;

305 (b) a record of a conviction of the person for any violation of the motor vehicle law in  
306 which the person was involved as a driver;

307 (c) a report of an arrest of the person for any violation of the motor vehicle law in  
308 which the person was involved as a driver; or

309 (d) a report of an accident in which the person was involved as a driver.

310 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is  
311 driving while the person's license is denied, suspended, disqualified, or revoked, the person is  
312 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,  
313 or revocation originally imposed under Section 53-3-221.

314 (4) (a) The division may extend to a person the limited privilege of driving a motor  
315 vehicle to and from the person's place of employment or within other specified limits on  
316 recommendation of the judge in any case where a person is convicted of any of the offenses  
317 referred to in Subsections (1) and (2) except:

318 (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b),  
319 and (1)(c)(i); and

320 (ii) those offenses referred to in Subsection (2) when the original denial, suspension,  
321 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,  
322 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),  
323 Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the  
324 person was charged with violating as a result of a plea bargain after having been originally  
325 charged with violating one or more of these sections or ordinances, unless:

326 (A) the person has had the period of the first denial, suspension, revocation, or  
327 disqualification extended for a period of at least three years;

328 (B) the division receives written verification from the person's primary care physician  
329 that:

330 (I) to the physician's knowledge the person has not used any narcotic drug or other  
331 controlled substance except as prescribed by a licensed medical practitioner within the last  
332 three years; and

333 (II) the physician is not aware of any physical, emotional, or mental impairment that  
334 would affect the person's ability to operate a motor vehicle safely; and

335 (C) for a period of one year prior to the date of the request for a limited driving  
336 privilege:

337 (I) the person has not been convicted of a violation of any motor vehicle law in which

338 the person was involved as the operator of the vehicle;

339 (II) the division has not received a report of an arrest for a violation of any motor  
340 vehicle law in which the person was involved as the operator of the vehicle; and

341 (III) the division has not received a report of an accident in which the person was  
342 involved as an operator of a vehicle.

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

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

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

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

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

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

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

359 Section 4. Section **53-3-414** is amended to read:

360 **53-3-414. CDL disqualification or suspension -- Grounds and duration --**

361 **Procedure.**

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

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

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

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

370 (iv) failing to provide reasonable assistance or identification when involved in an

371 accident resulting in:

372 (A) personal injury in accordance with Section 41-6a-401.3;

373 (B) death in accordance with Section 41-6a-401.5; or

374 (v) using a motor vehicle in the commission of a felony;

375 (vi) refusal to submit to a test to determine the concentration of alcohol in the person's  
376 blood, breath, or urine;

377 (vii) driving a commercial motor vehicle while the person's commercial driver license  
378 is disqualified in accordance with the provisions of this section for violating an offense

379 described in this section; or

380 (viii) operating a commercial motor vehicle in a negligent manner causing the death of  
381 another including the offenses of manslaughter under Section 76-5-205, negligent homicide  
382 under Section 76-5-206, or [~~negligently operating a vehicle resulting in death~~] automobile  
383 homicide under Section 76-5-207.

384 (b) The division shall subtract from any disqualification period under Subsection  
385 (1)(a)(i) the number of days for which a license was previously disqualified under Subsection  
386 (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which  
387 the record of conviction is based.

388 (2) If any of the violations under Subsection (1) occur while the driver is transporting a  
389 hazardous material required to be placarded, the driver is disqualified for not less than three  
390 years.

391 (3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds  
392 or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if  
393 convicted of or administrative action is taken for two or more of any of the offenses under  
394 Subsection (1), (5), or (14) arising from two or more separate incidents.

395 (b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

396 (4) (a) Any driver disqualified for life from driving a commercial motor vehicle under  
397 this section may apply to the division for reinstatement of the driver's CDL if the driver:

398 (i) has both voluntarily enrolled in and successfully completed an appropriate  
399 rehabilitation program that:

400 (A) meets the standards of the division; and  
401 (B) complies with 49 C.F.R. Sec. 383.51;  
402 (ii) has served a minimum disqualification period of 10 years; and  
403 (iii) has fully met the standards for reinstatement of commercial motor vehicle driving  
404 privileges established by rule of the division.

405 (b) If a reinstated driver is subsequently convicted of another disqualifying offense  
406 under this section, the driver is permanently disqualified for life and is ineligible to again apply  
407 for a reduction of the lifetime disqualification.

408 (5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
409 for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the  
410 commission of any felony involving:

411 (a) the manufacturing, distributing, or dispensing of a controlled substance, or  
412 possession with intent to manufacture, distribute, or dispense a controlled substance and is  
413 ineligible to apply for a reduction of the lifetime disqualification under Subsection (4); or

414 (b) an act or practice of severe forms of trafficking in persons as defined and described  
415 in 22 U.S.C. Sec. 7102(11).

416 (6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds  
417 or is required to hold a CDL is disqualified for not less than:

418 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
419 serious traffic violations; and

420 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

421 (b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic  
422 violations:

423 (i) occur within three years of each other;

424 (ii) arise from separate incidents; and

425 (iii) involve the use or operation of a commercial motor vehicle.

426 (c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is  
427 disqualified from driving a commercial motor vehicle and the division receives notice of a  
428 subsequent conviction for a serious traffic violation that results in an additional disqualification  
429 period under this Subsection (6), the subsequent disqualification period is effective beginning  
430 on the ending date of the current serious traffic violation disqualification period.

431 (7) (a) A driver of a commercial motor vehicle who is convicted of violating an  
432 out-of-service order while driving a commercial motor vehicle is disqualified from driving a  
433 commercial motor vehicle for a period not less than:

434 (i) 180 days if the driver is convicted of a first violation;

435 (ii) two years if, during any 10 year period, the driver is convicted of two violations of  
436 out-of-service orders in separate incidents;

437 (iii) three years but not more than five years if, during any 10 year period, the driver is  
438 convicted of three or more violations of out-of-service orders in separate incidents;

439 (iv) 180 days but not more than two years if the driver is convicted of a first violation  
440 of an out-of-service order while transporting hazardous materials required to be placarded or  
441 while operating a motor vehicle designed to transport 16 or more passengers, including the  
442 driver; or

443 (v) three years but not more than five years if, during any 10 year period, the driver is  
444 convicted of two or more violations, in separate incidents, of an out-of-service order while  
445 transporting hazardous materials required to be placarded or while operating a motor vehicle  
446 designed to transport 16 or more passengers, including the driver.

447 (b) A driver of a commercial motor vehicle who is convicted of a first violation of an  
448 out-of-service order is subject to a civil penalty of not less than \$2,500.

449 (c) A driver of a commercial motor vehicle who is convicted of a second or subsequent  
450 violation of an out-of-service order is subject to a civil penalty of not less than \$5,000.

451 (8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is  
452 disqualified for not less than 60 days if the division determines, in its check of the driver's  
453 driver license status, application, and record prior to issuing a CDL or at any time after the  
454 CDL is issued, that the driver has falsified information required to apply for a CDL in this  
455 state.

456 (9) A driver of a commercial motor vehicle who is convicted of violating a  
457 railroad-highway grade crossing provision under Section [41-6a-1205](#), while driving a  
458 commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period  
459 not less than:

460 (a) 60 days if the driver is convicted of a first violation;

461 (b) 120 days if, during any three-year period, the driver is convicted of a second

462 violation in separate incidents; or

463 (c) one year if, during any three-year period, the driver is convicted of three or more  
464 violations in separate incidents.

465 (10) (a) The division shall update its records and notify the CDLIS within 10 days of  
466 suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

467 (b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL,  
468 the division shall notify the licensing authority of the issuing state or other jurisdiction and the  
469 CDLIS within 10 days after the action is taken.

470 (c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this  
471 state, the division shall notify the CDLIS within 10 days after the action is taken.

472 (11) (a) The division may immediately suspend or disqualify the CDL of a driver  
473 without a hearing or receiving a record of the driver's conviction when the division has reason  
474 to believe that the:

- 475 (i) CDL was issued by the division through error or fraud;
- 476 (ii) applicant provided incorrect or incomplete information to the division;
- 477 (iii) applicant cheated on any part of a CDL examination;
- 478 (iv) driver no longer meets the fitness standards required to obtain a CDL; or
- 479 (v) driver poses an imminent hazard.

480 (b) Suspension of a CDL under this Subsection (11) shall be in accordance with  
481 Section [53-3-221](#).

482 (c) If a hearing is held under Section [53-3-221](#), the division shall then rescind the  
483 suspension order or cancel the CDL.

484 (12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is  
485 required to hold a CDL is disqualified for not less than:

486 (i) 60 days from driving a commercial motor vehicle if the driver is convicted of two  
487 serious traffic violations; and

488 (ii) 120 days if the driver is convicted of three or more serious traffic violations.

489 (b) The disqualifications under Subsection (12)(a) are effective only if the serious  
490 traffic violations:

- 491 (i) occur within three years of each other;
- 492 (ii) arise from separate incidents; and



493 (iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving  
494 privilege from at least one of the violations.

495 (c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified  
496 from driving a commercial motor vehicle and the division receives notice of a subsequent  
497 conviction for a serious traffic violation that results in an additional disqualification period  
498 under this Subsection (12), the subsequent disqualification period is effective beginning on the  
499 ending date of the current serious traffic violation disqualification period.

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

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

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

510 (i) reduced or dismissed in accordance with the plea in abeyance agreement; or

511 (ii) expunged under Title 77, Chapter 40a, Expungement.

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

515 (a) one year; or

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

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

520 Section 5. Section 53-10-403 is amended to read:

521 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

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

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

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

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

531 (d) has been booked:

532 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,  
533 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

534 (ii) on or after January 1, 2015, for any felony offense; or

535 (e) is a minor under Subsection (3).

536 (2) Offenses referred to in Subsection (1) are:

537 (a) any felony or class A misdemeanor under the Utah Code;

538 (b) any offense under Subsection (2)(a):

539 (i) for which the court enters a judgment for conviction to a lower degree of offense  
540 under Section 76-3-402; or

541 (ii) regarding which the court allows the defendant to enter a plea in abeyance as  
542 defined in Section 77-2a-1; or

543 (c) (i) any violent felony as defined in Section 53-10-403.5;

544 (ii) sale or use of body parts, Section 26B-8-315;

545 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

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

549 (v) a felony violation of enticing a minor, Section 76-4-401;

550 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

551 (vii) a felony violation of propelling a substance or object at a correctional officer, a  
552 peace officer, or an employee or a volunteer, including health care providers, Section  
553 76-5-102.6;

554 (viii) [~~negligently operating a vehicle resulting in death~~] automobile homicide,

555 Subsection 76-5-207(2)(b);  
556 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human  
557 smuggling, Section 76-5-310.1;  
558 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;  
559 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;  
560 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;  
561 (xiii) sale of a child, Section 76-7-203;  
562 (xiv) aggravated escape, Subsection 76-8-309(2);  
563 (xv) a felony violation of assault on an elected official, Section 76-8-315;  
564 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of  
565 Pardons and Parole, Section 76-8-316;  
566 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;  
567 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;  
568 (xix) a felony violation of sexual battery, Section 76-9-702.1;  
569 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;  
570 (xxi) a felony violation of abuse or desecration of a dead human body, Section  
571 76-9-704;  
572 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section  
573 76-10-402;  
574 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,  
575 Section 76-10-403;  
576 (xxiv) possession of a concealed firearm in the commission of a violent felony,  
577 Subsection 76-10-504(4);  
578 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,  
579 Subsection 76-10-1504(3);  
580 (xxvi) commercial obstruction, Subsection 76-10-2402(2);  
581 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section  
582 77-41-107;  
583 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or  
584 (xxix) violation of condition for release after arrest under Section 78B-7-802.  
585 (3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated

586 by the juvenile court due to the commission of any offense described in Subsection (2), and  
587 who:

588 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile  
589 court on or after July 1, 2002; or

590 (b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or  
591 after July 1, 2002, for an offense under Subsection (2).

592 Section 6. Section **75-2-803** is amended to read:

593 **75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts,  
594 joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture --  
595 Revocation.**

596 (1) As used in this section:

597 (a) "Conviction" means the same as that term is defined in Section [77-38b-102](#).

598 (b) "Decedent" means a deceased individual.

599 (c) "Disposition or appointment of property" includes a transfer of an item of property  
600 or any other benefit to a beneficiary designated in a governing instrument.

601 (d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any  
602 felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for  
603 which the elements are established by a preponderance of the evidence and by applying the  
604 same principles of culpability and defenses described in Title 76, Utah Criminal Code.

605 (ii) "Disqualifying homicide" does not include an offense for:

606 (A) [~~negligently operating a vehicle resulting in death~~] automobile homicide, as  
607 described in Section [76-5-207](#); and

608 (B) automobile homicide involving using a handheld wireless communication device  
609 while driving, as described in Section [76-5-207.5](#).

610 (e) "Governing instrument" means a governing instrument executed by the decedent.

611 (f) "Killer" means an individual who commits a disqualifying homicide.

612 (g) "Revocable" means a disposition, appointment, provision, or nomination under  
613 which the decedent, at the time of or immediately before death, was alone empowered, by law  
614 or under the governing instrument, to cancel the designation in favor of the killer regardless of  
615 whether at the time or immediately before death:

616 (i) the decedent was empowered to designate the decedent in place of the decedent's

617 killer; or

618 (ii) the decedent had the capacity to exercise the power.

619 (2) (a) An individual who commits a disqualifying homicide of the decedent forfeits all  
620 benefits under this chapter with respect to the decedent's estate, including an intestate share, an  
621 elective share, an omitted spouse's or child's share, a homestead allowance, exempt property,  
622 and a family allowance.

623 (b) If the decedent died intestate, the decedent's intestate estate passes as if the killer  
624 disclaimed the killer's intestate share.

625 (3) The killing of the decedent by means of a disqualifying homicide:

626 (a) revokes any revocable:

627 (i) disposition or appointment of property made by the decedent to the killer in a  
628 governing instrument;

629 (ii) provision in a governing instrument conferring a general or nongeneral power of  
630 appointment on the killer; and

631 (iii) nomination of the killer in a governing instrument, nominating or appointing the  
632 killer to serve in any fiduciary or representative capacity, including a personal representative,  
633 executor, trustee, or agent; and

634 (b) severs the interests of the decedent and killer in property held by them at the time of  
635 the killing as joint tenants with the right of survivorship, transforming the interests of the  
636 decedent and killer into tenancies in common.

637 (4) A severance under Subsection (3)(b) does not affect any third-party interest in  
638 property acquired for value and in good faith reliance on an apparent title by survivorship in the  
639 killer unless a writing declaring the severance has been noted, registered, filed, or recorded in  
640 records appropriate to the kind and location of the property which are relied upon, in the  
641 ordinary course of transactions involving such property, as evidence of ownership.

642 (5) Provisions of a governing instrument are given effect as if the killer disclaimed all  
643 provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or  
644 representative capacity, as if the killer predeceased the decedent.

645 (6) A wrongful acquisition of property or interest by one who kills another under  
646 circumstances not covered by this section shall be treated in accordance with the principle that  
647 a killer cannot profit from the killer's wrong.

648           (7) (a) An interested person may petition the court to determine whether an individual  
649 has committed a disqualifying homicide of the decedent.

650           (b) An individual has committed a disqualifying homicide of the decedent for purposes  
651 of this section if:

652           (i) unless the court finds that disinheritance would create a manifest injustice, the court  
653 finds that, by a preponderance of the evidence, the individual has committed a disqualifying  
654 homicide of the decedent; or

655           (ii) the court finds that a judgment of conviction has been entered against the  
656 individual for a disqualifying homicide of the decedent and all direct appeals for the judgment  
657 have been exhausted.

658           (8) (a) Before a court determines whether an individual committed a disqualifying  
659 homicide of the decedent under Subsection (7), the decedent's estate may petition the court to:

660           (i) enter a temporary restraining order, an injunction, or a temporary restraining order  
661 and an injunction, to preserve the property or assets of the killer or the killer's estate;

662           (ii) require the execution of a trustee's bond under Section [75-7-702](#) for the killer's  
663 estate;

664           (iii) establish a constructive trust on any property or assets of the killer or the killer's  
665 estate that is effective from the time the killer's act caused the death of the decedent; or

666           (iv) take any other action necessary to preserve the property or assets of the killer or the  
667 killer's estate:

668           (A) until a court makes a determination under Subsection (7); or

669           (B) for the payment of all damages and judgments for conduct resulting in the  
670 disqualifying homicide of the decedent.

671           (b) Upon a petition for a temporary restraining order or an injunction under Subsection  
672 (8)(a)(i), a court may enter a temporary restraining order against an owner's property in  
673 accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity  
674 of a hearing, if the court determines that:

675           (i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a  
676 judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of  
677 the decedent; and

678           (ii) notice of the hearing would likely result in the property being:

679 (A) sold, distributed, destroyed, or removed; and

680 (B) unavailable to satisfy a judgment or damages owed by the killer for conduct  
681 resulting in the disqualifying homicide of the decedent.

682 (9) (a) (i) A payor or other third party is not liable for having made a payment or  
683 transferred an item of property or any other benefit to a beneficiary designated in a governing  
684 instrument affected by a disqualifying homicide, or for having taken any other action in good  
685 faith reliance on the validity of the governing instrument, upon request and satisfactory proof of  
686 the decedent's death, before the payor or other third party received written notice of a claimed  
687 forfeiture or revocation under this section.

688 (ii) A payor or other third party is liable for a payment made or other action taken after  
689 the payor or other third party received written notice of a claimed forfeiture or revocation under  
690 this section.

691 (b) (i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a) shall  
692 be mailed to the payor's or other third party's main office or home by registered or certified  
693 mail, return receipt requested, or served upon the payor or other third party in the same manner  
694 as a summons in a civil action.

695 (ii) Upon receipt of written notice of a claimed forfeiture or revocation under this  
696 section, a payor or other third party may pay any amount owed or transfer or deposit any item  
697 of property held by the payor or third party to or with:

698 (A) the court having jurisdiction of the probate proceedings relating to the decedent's  
699 estate; or

700 (B) if no proceedings have been commenced, the court having jurisdiction of probate  
701 proceedings relating to the decedent's estates located in the county of the decedent's residence.

702 (iii) The court shall hold the funds or item of property and, upon the court's  
703 determination under this section, shall order disbursement in accordance with the  
704 determination.

705 (iv) Payments, transfers, or deposits made to or with the court discharge the payor or  
706 other third party from all claims for the value of amounts paid to or items of property  
707 transferred to or deposited with the court.

708 (10) (a) A person who purchases property for value and without notice, or who receives  
709 a payment or other item of property in partial or full satisfaction of a legally enforceable

710 obligation, is:

711 (i) not obligated under this section to return the payment, item of property, or benefit;

712 and

713 (ii) not liable under this section for the amount of the payment or the value of the item

714 of property or benefit.

715 (b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a

716 payment, item of property, or any other benefit to which the person is not entitled under this

717 section is:

718 (i) obligated to return the payment, item of property, or benefit to the person who is

719 entitled to the payment, property, or benefit under this section; and

720 (ii) personally liable for the amount of the payment or the value of the item of property

721 or benefit to the person who is entitled to the payment, property, or benefit under this section.

722 (c) If this section or any part of this section is preempted by federal law with respect to

723 a payment, an item of property, or any other benefit covered by this section, a person who, not

724 for value, receives the payment, item of property, or any other benefit to which the person is

725 not entitled under this section is:

726 (i) obligated to return the payment, item of property, or benefit to the person who

727 would have been entitled to the payment, property, or benefit if this section or part were not

728 preempted; and

729 (ii) personally liable for the amount of the payment or the value of the item of property

730 or benefit, to the person who would have been entitled to the payment, property, or benefit if

731 this section or part were not preempted.

732 Section 7. Section **76-5-201** is amended to read:

733 **76-5-201. Criminal homicide -- Designations of offenses -- Exceptions --**

734 **Application of consensual altercation defense.**

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

736 (i) "Abortion" means the same as that term is defined in Section [76-7-301](#).

737 (ii) "Criminal homicide" means an act causing the death of another human being,

738 including an unborn child at any stage of the unborn child's development.

739 (b) The terms defined in Section [76-1-101.5](#) apply to this section.

740 (2) The following are criminal homicide:



- 741 (a) aggravated murder;
  - 742 (b) murder;
  - 743 (c) manslaughter;
  - 744 (d) child abuse homicide;
  - 745 (e) homicide by assault;
  - 746 (f) negligent homicide; and
  - 747 (g) ~~[negligently operating a vehicle resulting in death]~~ automobile homicide.
- 748 (3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide if:
- 749 (a) the death of an unborn child is caused by an abortion;
  - 750 (b) the sole reason for the death of an unborn child is that the actor:
    - 751 (i) refused to consent to:
      - 752 (A) medical treatment; or
      - 753 (B) a cesarean section; or
    - 754 (ii) failed to follow medical advice; or
  - 755 (c) a woman causes the death of her own unborn child, and the death:
    - 756 (i) is caused by a criminally negligent act or reckless act of the woman; and
    - 757 (ii) is not caused by an intentional or knowing act of the woman.
- 758 (4) The provisions governing a defense of a consensual altercation as described in

759 Section 76-5-104 apply to this part.

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

761 **76-5-207. Automobile homicide -- Penalties -- Evidence.**

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

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

764 (ii) "Criminally negligent" means the same as that term is described in Subsection

765 76-2-103(4).

766 (iii) "Drug" means:

767 (A) a controlled substance;

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

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

771 (iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that

772 degree of care that reasonable and prudent persons exercise under like or similar circumstances.

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

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

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

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

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

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

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

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

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

788 (3) Except as provided in Subsection [~~(4)~~] (5), an actor who violates Subsection (2) is  
789 guilty of:

790 (a) a second degree felony; and

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

793 (4) A defendant who is convicted of automobile homicide shall be sentenced to  
794 imprisonment for an indeterminate term of not less than 5 years and which may be for 15 years.

795 [~~(4)~~] (5) An actor is not guilty of a violation of [~~negligently operating a vehicle~~  
796 ~~resulting in death~~] automobile homicide under Subsection (2)(b) if:

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

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

801 (c) the actor possessed, in the actor's body, a controlled substance listed in Section  
802 58-37-4.2 if:

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

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

806 [~~5~~] (6) (a) A judge imposing a sentence under this section may consider:

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

808 (ii) the defendant's history;

809 (iii) the facts of the case;

810 (iv) aggravating and mitigating factors; or

811 (v) any other relevant fact.

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

814 (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and  
815 the provisions for the admissibility of chemical test results as provided by Section 41-6a-516  
816 apply to determination and proof of blood alcohol content under this section.

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

819 (e) Except as provided in Subsection [~~4~~] (5), the fact that an actor charged with  
820 violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

821 (f) Evidence of a defendant's blood or breath alcohol content or drug content is  
822 admissible except when prohibited by the Utah Rules of Evidence, the United States  
823 Constitution, or the Utah Constitution.

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

826 Section 9. Section 78B-9-402 is amended to read:

827 **78B-9-402. Petition for determination of factual innocence -- Sufficient**  
828 **allegations -- Notification of victim -- Payment to surviving spouse.**

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

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

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

836 (ii) the specific evidence identified by the petitioner in the petition establishes  
837 innocence;

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

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

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

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

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

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

849 (i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of  
850 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or  
851 postconviction motion, and the evidence could not have been discovered by the petitioner or  
852 the petitioner's counsel through the exercise of reasonable diligence; or

853 (ii) a court has found ineffective assistance of counsel for failing to exercise reasonable  
854 diligence in uncovering the evidence.

855 (b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the  
856 court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

857 (ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied,  
858 the court may dismiss the petition without prejudice and give notice to the petitioner and the  
859 attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a)  
860 if the court finds the petition should proceed to hearing based upon the strength of the petition,  
861 and that there is other evidence that could have been discovered through the exercise of  
862 reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

863 (A) was not discovered by the petitioner or the petitioner's counsel;

864 (B) is material upon the issue of factual innocence; and

865 (C) has never been presented to a court.

866 (4) (a) If the conviction for which the petitioner asserts factual innocence was based  
867 upon a plea of guilty, the petition shall contain the specific nature and content of the evidence  
868 that establishes factual innocence.

869 (b) The court shall review the evidence and may dismiss the petition at any time in the  
870 course of the proceedings, if the court finds that the evidence of factual innocence relies solely  
871 upon the recantation of testimony or prior statements made by a witness against the petitioner,  
872 and the recantation appears to the court to be equivocal or self serving.

873 (5) A person who has already obtained postconviction relief that vacated or reversed  
874 the person's conviction or sentence may also file a petition under this part in the same manner  
875 and form as described above, if no retrial or appeal regarding this offense is pending.

876 (6) If some or all of the evidence alleged to be exonerating is biological evidence  
877 subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section  
878 [78B-9-301](#).

879 (7) Except as provided in Subsection (9), the petition and all subsequent proceedings  
880 shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and  
881 shall include the underlying criminal case number.

882 (8) After a petition is filed under this section, prosecutors, law enforcement officers,  
883 and crime laboratory personnel shall cooperate in preserving evidence and in determining the  
884 sufficiency of the chain of custody of the evidence which is the subject of the petition.

885 (9) (a) A person who files a petition under this section shall serve notice of the petition  
886 and a copy of the petition upon the office of the prosecutor who obtained the conviction and  
887 upon the Utah attorney general.

888 (b) (i) The assigned judge shall conduct an initial review of the petition.

889 (ii) If it is apparent to the court that the petitioner is either merely relitigating facts,  
890 issues, or evidence presented in previous proceedings or presenting issues that appear frivolous  
891 or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal,  
892 and serve notice of dismissal upon the petitioner and the attorney general.

893 (iii) If, upon completion of the initial review, the court does not dismiss the petition,  
894 the court shall order the attorney general to file a response to the petition.

895 (iv) The attorney general shall, within 30 days after the day on which the attorney

896 general receives the court's order, or within any additional period of time the court allows,  
897 answer or otherwise respond to all proceedings initiated under this part.

898 (c) (i) After the time for response by the attorney general under Subsection (9)(b) has  
899 passed, the court shall order a hearing if the court finds the petition meets the requirements of  
900 Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence  
901 regarding the charges of which the petitioner was convicted.

902 (ii) No bona fide and compelling issue of factual innocence exists if the petitioner is  
903 merely relitigating facts, issues, or evidence presented in a previous proceeding or if the  
904 petitioner is unable to identify with sufficient specificity the nature and reliability of the newly  
905 discovered evidence that establishes the petitioner's factual innocence.

906 (d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually  
907 innocent, the court may find the petitioner is factually innocent without holding a hearing.

908 (ii) If the state will not stipulate that the evidence establishes that the petitioner is  
909 factually innocent, no determination of factual innocence may be made by the court without  
910 first holding a hearing under this part.

911 (10) The court may not grant a petition for a hearing under this part during the period  
912 in which criminal proceedings in the matter are pending before any trial or appellate court,  
913 unless stipulated to by the parties.

914 (11) Any victim of a crime that is the subject of a petition under this part, and who has  
915 elected to receive notice under Section [77-38-3](#), shall be notified by the state's attorney of any  
916 hearing regarding the petition.

917 (12) (a) A petition to determine factual innocence under this part, or Part 3,  
918 Postconviction Testing of DNA, shall be filed separately from any petition for postconviction  
919 relief under Part 1, General Provisions.

920 (b) Separate petitions may be filed simultaneously in the same court.

921 (13) The procedures governing the filing and adjudication of a petition to determine  
922 factual innocence apply to all petitions currently filed or pending in the district court and any  
923 new petitions filed on or after June 1, 2012.

924 (14) (a) As used in this Subsection (14) and in Subsection (15):

925 (i) "Married" means the legal marital relationship established between two individuals  
926 and as recognized by the law; and

927 (ii) "Spouse" means an individual married to the petitioner at the time the petitioner  
928 was found guilty of the offense regarding which a petition is filed and who has since then been  
929 continuously married to the petitioner until the petitioner's death.

930 (b) A claim for determination of factual innocence under this part is not extinguished  
931 upon the death of the petitioner.

932 (c) (i) If any payments are already being made to the petitioner under this part at the  
933 time of the death of the petitioner, or if the finding of factual innocence occurs after the death  
934 of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with  
935 Section 78B-9-405 to the petitioner's surviving spouse.

936 (ii) Payments cease upon the death of the spouse.

937 (15) The spouse under Subsection (14) forfeits all rights to receive any payment under  
938 this part if the spouse is charged with a homicide established by a preponderance of the  
939 evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5,  
940 Offenses Against the Individual, except [~~negligently operating a vehicle resulting in death~~]  
941 automobile homicide under Section 76-5-207, applying the same principles of culpability and  
942 defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of  
943 Criminal Responsibility.

944 Section 10. Section 80-6-712 is amended to read:

945 **80-6-712. Time periods for supervision of probation or placement -- Termination**  
946 **of continuing jurisdiction.**

947 (1) If the juvenile court places a minor on probation under Section 80-6-702, the  
948 juvenile court shall establish a period of time for supervision for the minor that is:

949 (a) if the minor is placed on intake probation, no more than three months; or

950 (b) if the minor is placed on formal probation, from four to six months, but may not  
951 exceed six months.

952 (2) (a) If the juvenile court commits a minor to the division under Section 80-6-703,  
953 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

954 (i) for a minor placed out of the home, a period of custody from three to six months,  
955 but may not exceed six months; and

956 (ii) for aftercare services if the minor was placed out of the home, a period of  
957 supervision from three to four months, but may not exceed four months.

958 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):  
959 (i) in the home of a qualifying relative or guardian;  
960 (ii) at an independent living program contracted or operated by the division; or  
961 (iii) in a family-based setting with approval by the director or the director's designee if  
962 the minor does not qualify for an independent living program due to age, disability, or another  
963 reason or the minor cannot be placed with a qualifying relative or guardian.

964 (3) If the juvenile court orders a minor to secure care, the authority shall:

- 965 (a) have jurisdiction over the minor's case; and
- 966 (b) apply the provisions of Part 8, Commitment and Parole.

967 (4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at  
968 the end of the time period described in Subsection (1) for probation or Subsection (2) for  
969 commitment to the division, unless:

- 970 (i) termination would interrupt the completion of the treatment program determined to  
971 be necessary by the results of a validated risk and needs assessment under Section [80-6-606](#);
- 972 (ii) the minor commits a new misdemeanor or felony offense;
- 973 (iii) the minor has not completed community or compensatory service hours;
- 974 (iv) there is an outstanding fine; or
- 975 (v) the minor has not paid restitution in full.

976 (b) The juvenile court shall determine whether a minor has completed a treatment  
977 program under Subsection (4)(a)(i) by considering:

- 978 (i) the recommendations of the licensed service provider for the treatment program;
- 979 (ii) the minor's record in the treatment program; and
- 980 (iii) the minor's completion of the goals of the treatment program.

981 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)  
982 exists the juvenile court may extend supervision for the time needed to address the specific  
983 circumstance.

984 (6) If the juvenile court extends supervision solely on the ground that the minor has not  
985 yet completed community or compensatory service hours under Subsection (4)(a)(iii), the  
986 juvenile court may only extend supervision:

- 987 (a) one time for no more than three months; and
- 988 (b) as intake probation.



989 (7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has  
990 not paid restitution in full as described in Subsection (4)(a)(v):

991 (i) the juvenile court may only:

992 (A) extend jurisdiction up to four times for no more than three months at a time;

993 (B) consider the efforts of the minor to pay restitution in full when determining  
994 whether to extend jurisdiction under Subsection (7)(a)(i); and

995 (C) make orders concerning the payment of restitution during the period for which  
996 jurisdiction is extended;

997 (ii) the juvenile court shall terminate any intake probation or formal probation of the  
998 minor; and

999 (iii) a designated staff member of the juvenile court shall submit a report to the juvenile  
1000 court every three months regarding the minor's efforts to pay restitution.

1001 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the  
1002 juvenile court shall:

1003 (i) terminate jurisdiction over the minor's case; and

1004 (ii) record the amount of unpaid restitution as a civil judgment in accordance with  
1005 Subsection 80-6-709(8).

1006 (8) If the juvenile court extends supervision or jurisdiction under this section, the  
1007 grounds for the extension and the length of any extension shall be recorded in the court records  
1008 and tracked in the data system used by the Administrative Office of the Courts and the division.

1009 (9) If a minor leaves supervision without authorization for more than 24 hours, the  
1010 supervision period for the minor shall toll until the minor returns.

1011 (10) This section does not apply to any minor adjudicated under this chapter for:

1012 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

1013 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

1014 (c) Section 76-5-203, murder or attempted murder;

1015 (d) Section 76-5-205, manslaughter;

1016 (e) Section 76-5-206, negligent homicide;

1017 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile  
1018 homicide;

1019 (g) Section 76-5-207.5, automobile homicide involving using a wireless

- 1020 communication device while operating a motor vehicle;
- 1021 (h) Section 76-5-208, child abuse homicide;
- 1022 (i) Section 76-5-209, homicide by assault;
- 1023 (j) Section 76-5-302, aggravated kidnapping;
- 1024 (k) Section 76-5-405, aggravated sexual assault;
- 1025 (l) a felony violation of Section 76-6-103, aggravated arson;
- 1026 (m) Section 76-6-203, aggravated burglary;
- 1027 (n) Section 76-6-302, aggravated robbery;
- 1028 (o) Section 76-10-508.1, felony discharge of a firearm;
- 1029 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 1030 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
- 1031 (ii) the minor has been previously adjudicated or convicted of an offense involving the
- 1032 use of a dangerous weapon; or
- 1033 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 1034 the minor has been previously committed to the division for secure care.

1035 Section 11. Section 80-6-804 is amended to read:

1036 **80-6-804. Review and termination of secure care.**

1037 (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile  
1038 offender shall appear before the authority within 45 days after the day on which the juvenile  
1039 offender is ordered to secure care for review of a treatment plan and to establish parole release  
1040 guidelines.

1041 (2) (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is  
1042 ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of  
1043 secure care for the juvenile offender from three to six months, but the presumptive term may  
1044 not exceed six months.

1045 (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the  
1046 authority may immediately release the juvenile offender on parole if there is a treatment  
1047 program available for the juvenile offender in a community-based setting.

1048 (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile  
1049 offender on parole at the end of the presumptive term of secure care unless:

- 1050 (i) termination would interrupt the completion of a treatment program determined to be

- 1051 necessary by the results of a validated risk and needs assessment under Section 80-6-606; or
- 1052 (ii) the juvenile offender commits a new misdemeanor or felony offense.
- 1053 (d) The authority shall determine whether a juvenile offender has completed a
- 1054 treatment program under Subsection (2)(c)(i) by considering:
- 1055 (i) the recommendations of the licensed service provider for the treatment program;
- 1056 (ii) the juvenile offender's record in the treatment program; and
- 1057 (iii) the juvenile offender's completion of the goals of the treatment program.
- 1058 (e) Except as provided in Subsection (2)(h), the authority may extend the length of
- 1059 secure care and delay parole release for the time needed to address the specific circumstance if
- 1060 one of the circumstances under Subsection (2)(c) exists.
- 1061 (f) The authority shall:
- 1062 (i) record the length of the extension and the grounds for the extension; and
- 1063 (ii) report annually the length and grounds of extension to the commission.
- 1064 (g) Records under Subsection (2)(f) shall be tracked in the data system used by the
- 1065 juvenile court and the division.
- 1066 (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the
- 1067 authority may not:
- 1068 (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a)
- 1069 that would result in a term of secure care that exceeds a term of incarceration for an adult under
- 1070 Section 76-3-204 for the same misdemeanor offense; or
- 1071 (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e)
- 1072 if the extension would result in a term of secure care that exceeds the term of incarceration for
- 1073 an adult under Section 76-3-204 for the same misdemeanor offense.
- 1074 (3) (a) If a juvenile offender is ordered to secure care, the authority shall set a
- 1075 presumptive term of parole supervision, including aftercare services, from three to four months,
- 1076 but the presumptive term may not exceed four months.
- 1077 (b) If the authority determines that a juvenile offender is unable to return home
- 1078 immediately upon release, the juvenile offender may serve the term of parole:
- 1079 (i) in the home of a qualifying relative or guardian;
- 1080 (ii) at an independent living program contracted or operated by the division; or
- 1081 (iii) in a family-based setting with approval by the director or the director's designee if

1082 the minor does not qualify for an independent living program due to age, disability, or another  
1083 reason or the minor cannot be placed with a qualifying relative or guardian.

1084 (c) The authority shall release a juvenile offender from parole and terminate the  
1085 authority's jurisdiction at the end of the presumptive term of parole, unless:

1086 (i) termination would interrupt the completion of a treatment program that is  
1087 determined to be necessary by the results of a validated risk and needs assessment under  
1088 Section [80-6-606](#);

1089 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

1090 (iii) restitution has not been completed.

1091 (d) The authority shall determine whether a juvenile offender has completed a  
1092 treatment program under Subsection (3)(c)(i) by considering:

1093 (i) the recommendations of the licensed service provider;

1094 (ii) the juvenile offender's record in the treatment program; and

1095 (iii) the juvenile offender's completion of the goals of the treatment program.

1096 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay  
1097 parole release only for the time needed to address the specific circumstance.

1098 (f) The authority shall:

1099 (i) record the grounds for extension of the presumptive length of parole and the length  
1100 of the extension; and

1101 (ii) report annually the extension and the length of the extension to the commission.

1102 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the  
1103 juvenile court and the division.

1104 (h) If a juvenile offender leaves parole supervision without authorization for more than  
1105 24 hours, the term of parole shall toll until the juvenile offender returns.

1106 (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care  
1107 for:

1108 (a) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;

1109 (b) Section [76-5-202](#), aggravated murder or attempted aggravated murder;

1110 (c) Section [76-5-203](#), murder or attempted murder;

1111 (d) Section [76-5-205](#), manslaughter;

1112 (e) Section [76-5-206](#), negligent homicide;

1113 (f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~] automobile  
1114 homicide;

1115 (g) Section 76-5-207.5, automobile homicide involving using a wireless  
1116 communication device while operating a motor vehicle;

1117 (h) Section 76-5-208, child abuse homicide;

1118 (i) Section 76-5-209, homicide by assault;

1119 (j) Section 76-5-302, aggravated kidnapping;

1120 (k) Section 76-5-405, aggravated sexual assault;

1121 (l) a felony violation of Section 76-6-103, aggravated arson;

1122 (m) Section 76-6-203, aggravated burglary;

1123 (n) Section 76-6-302, aggravated robbery;

1124 (o) Section 76-10-508.1, felony discharge of a firearm;

1125 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)  
1126 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

1127 (ii) the juvenile offender has been previously adjudicated or convicted of an offense  
1128 involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

1129 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the  
1130 juvenile offender has been previously ordered to secure care.

1131 Section 12. **Effective date.**

1132 This bill takes effect on May 1, 2024.