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H.B. 359
2nd Sub. (Gray)

Representative Lawanna Shurtliff proposes the following substitute bill:

ASSESSMENT AND TREATMENT DECISIONS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lawanna Shurtliff

Senate Sponsor: _____

LONG TITLE

General Description:

This bill relates to assessment and treatment of a substance use disorder.

Highlighted Provisions:

This bill:

- provides that, under certain circumstances, a private entity that conducts an assessment of an individual to determine if substance use disorder treatment is necessary may not also provide substance use disorder treatment to the individual; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-4-409, as last amended by Laws of Utah 2017, Chapter 330

32B-4-410, as last amended by Laws of Utah 2017, Chapters 330 and 455

32B-4-411, as last amended by Laws of Utah 2017, Chapter 330

41-6a-505, as last amended by Laws of Utah 2018, Chapter 334

41-6a-509, as last amended by Laws of Utah 2017, Chapter 446

41-6a-517 **(Superseded 07/01/19)**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

41-6a-517 **(Effective 07/01/19)**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

53-3-220, as last amended by Laws of Utah 2018, Chapters 121 and 133

58-37-8, as last amended by Laws of Utah 2017, Chapter 330

58-37a-7, as last amended by Laws of Utah 2017, Chapter 330

76-9-701, as last amended by Laws of Utah 2017, Chapter 330

77-18-1.1, as last amended by Laws of Utah 2016, Chapter 158

78A-6-103, as last amended by Laws of Utah 2018, Chapter 415

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

Section 1. Section **32B-4-409** is amended to read:

32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable amounts in body.

(1) Unless specifically authorized by this title, it is unlawful for a minor to:

(a) purchase an alcoholic product;

(b) attempt to purchase an alcoholic product;

(c) solicit another person to purchase an alcoholic product;

(d) possess an alcoholic product;

(e) consume an alcoholic product; or

(f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

(2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic product for a minor for:

(a) a minor to misrepresent the minor's age; or

(b) any other person to misrepresent the age of a minor.

(3) It is unlawful for a minor to possess or consume an alcoholic product while riding in a limousine or chartered bus.

(4) (a) If a minor is found by a court to have violated this section and the violation is

the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(c) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under this Subsection (4) may not also provide substance use disorder treatment to the minor under this Subsection (4).

(5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the

court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a).

(6) When a minor who is younger than 18 years old is found by the court to have violated this section, Section 78A-6-606 applies to the violation.

(7) (a) Notwithstanding Subsections (5)(a) and (b), if a minor is adjudicated under Section 78A-6-117, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(b) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under this Subsection (7) may not also provide substance use disorder treatment to the minor under this Subsection (7).

(8) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(9) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

(10) This section does not apply to a minor's consumption of an alcoholic product in accordance with this title:

(a) for medicinal purposes if:

(i) the minor is at least 18 years old; or

(ii) the alcoholic product is furnished by:

(A) the parent or guardian of the minor; or

(B) the minor's health care practitioner, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 2. Section **32B-4-410** is amended to read:

32B-4-410. Unlawful admittance or attempt to gain admittance by minor.

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

(a) a tavern; or

(b) a bar licensee, except to the extent authorized by Section 32B-6-406.1.

(2) A minor who violates this section is guilty of a class C misdemeanor.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(c) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under this Subsection (3) may not also provide substance use disorder treatment to the minor under this Subsection (3).

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding Subsection (4)(a) and in accordance with Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a minor who is younger than 18 years old is found by a court to have violated this section, Section 78A-6-606 applies to the violation.

(6) (a) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under Section 78A-6-117, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(b) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under this Subsection (6) may not also provide substance use disorder treatment to the minor under this Subsection (6).

(7) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(8) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

Section 3. Section **32B-4-411** is amended to read:

32B-4-411. Minor's unlawful use of proof of age.

(1) As used in this section, "proof of age violation" means a violation by a minor of:

(a) Chapter 1, Part 4, Proof of Age Act; or

(b) if as part of the violation the minor uses a proof of age in violation of Chapter 1, Part 4, Proof of Age Act:

(i) Section 32B-4-409; or

(ii) Section 32B-4-410.

(2) If a court finds a minor engaged in a proof of age violation, notwithstanding the penalties provided for in Subsection (1):

(a) (i) for a first violation, the minor is guilty of a class B misdemeanor;

(ii) for a second violation, the minor is guilty of a class A misdemeanor; and

(iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor, except that the court may impose:

(A) a fine of up to $5,000;

(B) screening, assessment, or substance use disorder treatment, as defined in Section 41-6a-501;

(C) an educational series, as defined in Section 41-6a-501;

(D) alcoholic product related community service or compensatory service work program hours;

(E) fees for restitution and treatment costs;

(F) defensive driver education courses; or

(G) a combination of these penalties; and

(b) (i) for a minor who is younger than 18 years old:

(A) the court may forward to the Driver License Division a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under this section; and

(B) the provisions regarding suspension of a driver license under Section 78A-6-606 apply; and

(ii) for a minor who is at least 18 years old, but younger than 21 years old:

(A) the court shall forward to the Driver License Division a record of conviction for a violation under this section; and

(B) the Driver License Division shall suspend the person's license under Section 53-3-220.

[~~(c)~~] (3) Notwithstanding Subsection (2)(a), if a minor is adjudicated under Section 78A-6-117, the court may order:

[~~(i)~~] (a) substance use disorder treatment or an educational series only if the minor has an assessed need for the intervention based on the results of a validated assessment; and

[~~(ii)~~] (b) a fine, fee, service hours, or costs in accordance with Section 78A-6-117.

(4) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under Subsections (2) or (3) may not also provide substance use disorder treatment to the minor under Subsections (2) or (3).

[~~(3)~~] (5) (a) Notwithstanding Subsection (2)(b), the court may reduce the suspension period under Subsection 53-3-220(1)(e) or 78A-6-606[~~(3)~~](4)(d) if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the suspension period under Subsection 53-3-220(1)(e) or 78A-6-606[~~(3)~~](4)(d) if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the person has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or 78A-6-606[~~(3)~~](4)(d); or

(B) the minor is under 18 years of age and has the minor's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or 78A-6-606[~~(3)~~](4)(d).

[~~(4)~~] (6) When the Department of Public Safety receives the arrest or conviction record of an individual for a driving offense committed while the individual's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

[~~(5)~~] (7) A court may not fail to enter a judgment of conviction under this section under a plea in abeyance agreement.

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

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

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

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

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

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

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

(vi) order probation for the individual in accordance with Section 41-6a-507, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher;

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

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

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

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

(b) the court may:

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

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

(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 hours; or

(B) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

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

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

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

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

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

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

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

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

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

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse

treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iii) order a combination of Subsections (2)(b)(i) and (ii).

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:

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

(b) a jail sentence of not less than 1,500 hours; and

(c) supervised probation.

(4) For Subsection (3)(a) or Subsection 41-6a-503(2)(b), the court:

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

(b) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older.

(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

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

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

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

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

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

(7) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of an individual under this section based on a misdemeanor charge may not also provide substance abuse treatment to the individual under this section.

Section 5. Section **41-6a-509** is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) The Driver License Division shall, if the person is 21 years of age or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 of an offense committed on or after July 1, 2009; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current driving under the influence violation under Section 41-6a-502 is committed:

(A) within a period of 10 years from the date of the prior violation; and

(B) on or after July 1, 2009.

(2) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age or for a period of one year, whichever is longer, if the person is convicted for the first time of a driving under the influence violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a driving under the influence violation under Section 41-6a-502 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age if the person is convicted for the first time of a driving under the influence violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2009;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age if the person:

(i) is convicted for the first time of a driving under the influence violation under Section 41-6a-502 of an offense committed on or after July 1, 2009; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current driving under the influence violation under Section 41-6a-502 is committed on or after July 1, 2009, and within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (10).

(5) The Driver License Division shall:

(a) deny, suspend, or revoke the operator's license of a person convicted under Section

41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or revocation periods in effect prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Section 41-6a-502 is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(6) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(7) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(8) A court that reported a conviction of a violation of Section 41-6a-502 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (8)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (8)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (8)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (8), the court shall forward the order shortening the person's suspension period prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

(10) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (10) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502.

(b) If the court suspends or revokes the person's license under this Subsection (10), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(11) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

(E) hours of work in a compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification described in Subsection (11)(a), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension period imposed under Subsection (1) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (12), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (12)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(13) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a person under this section based on a misdemeanor charge may not also provide substance abuse treatment to the person under this section.

Section 6. Section **41-6a-517 (Superseded 07/01/19)** is amended to read:

41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

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

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(16) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a person under this section based on a misdemeanor charge may not also provide substance abuse treatment to the person under this section.

Section 7. Section **41-6a-517 (Effective 07/01/19)** is amended to read:

41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

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

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled

substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection

(11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person

convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(16) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a person under this section based on a misdemeanor charge may not also provide substance abuse treatment to the person under this section.

Section 8. Section **53-3-220** is amended to read:

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

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

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited

in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

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

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

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

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

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

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

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

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

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

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

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

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

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in

violation of Section 41-6a-606;

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

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

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

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

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

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

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

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

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

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

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

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

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

(B) a record of the conviction.

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

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

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

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

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

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

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

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

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

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

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

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

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

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

(II) if the person is under the age of eligibility for a driver license, impose a suspension

that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411[~~(3)~~](5)(a).

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

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

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

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

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

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

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

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

(i) automobile homicide under Subsection (1)(a)(i);

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

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502,

41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

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

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

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

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

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

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

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

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

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

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

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

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

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

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

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

Section 9. Section **58-37-8** is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in any violation of any provision of [~~Title 58,~~] Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of [~~Title 58,~~] Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) Any person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or

subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than seven years and which may be for life. Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for any person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for any owner, tenant, licensee, or person in control of any building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in

any of those locations; or

(iii) for any person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) Any person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the person is guilty of a third degree felony.

(e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or any public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance; and

(ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for any person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized

person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to any person known to be attempting to acquire or obtain possession of, or to procure the administration of any controlled substance by misrepresentation or failure by the person to disclose receiving any controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make any false or forged prescription or written order for a controlled substance, or to utter the same, or to alter any prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render any drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or

amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within any area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of any correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that the actor

mistakenly believed the individual to be 18 years of age or older at the time of the offense or was unaware of the individual's true age; nor that the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) Any violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) Any penalty imposed for violation of this section is in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(b) Where violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) any person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) any law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Subsection 58-37-2(1)(w).

(b) In a prosecution alleging violation of this section regarding peyote as defined in Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person:

(i) was engaged in medical research; and

(ii) was a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a

controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) (a) If a minor who is under 18 years of age is found by a court to have violated this section, the court may order the minor to complete:

[~~(a)~~] (i) [~~the minor to complete~~] a screening as defined in Section 41-6a-501;

[~~(b)~~] (ii) [~~the minor to complete~~] an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

[~~(c)~~] (iii) [~~the minor to complete~~] an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under this Subsection (19) based on a misdemeanor charge may not also provide substance use disorder treatment to the minor under this Subsection (19).

Section 10. Section **58-37a-7** is amended to read:

58-37a-7. Sentencing requirements for minors.

(1) If a minor who is under 18 years of age is found by a court to have violated this chapter, the court may order the minor to complete:

[~~(1)~~] (a) a screening as defined in Section 41-6a-501;

[~~(2)~~] (b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

[~~(3)~~] (c) an educational series as defined in Section 41-6a-501 or substance use

disorder treatment as indicated by an assessment.

(2) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an assessment of a minor under this section based on a misdemeanor charge may not also provide substance use disorder treatment to the minor under this section.

Section 11. Section **76-9-701** is amended to read:

76-9-701. Intoxication -- Release of arrested person or placement in detoxification center.

(1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.

(2) (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes imprisonment is unnecessary for the protection of the person or another.

(b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(c) In a county of the first or second class, as classified in Section 17-50-501, a private

entity that conducts an initial assessment of a minor under this Subsection (3) may not also provide substance use disorder treatment to the minor under this Subsection (3).

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a person who is younger than 18 years old is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section 78A-6-606 apply to the violation.

(6) (a) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under Section 78A-6-117, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention based on the results of a validated assessment.

(b) In a county of the first or second class, as classified in Section 17-50-501, a private

entity that conducts an initial assessment of a minor under this Subsection (6) may not also provide substance use disorder treatment to the minor under this Subsection (6).

(7) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.

(8) An offense under this section is a class C misdemeanor.

Section 12. Section **77-18-1.1** is amended to read:

77-18-1.1. Screening, assessment, and treatment.

(1) As used in this section:

(a) "Assessment" has the same meaning as in Section 41-6a-501.

(b) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, or no contest; and

(ii) conviction of any crime or offense.

(c) "Screening" has the same meaning as in Section 41-6a-501.

(d) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Human Services.

(2) (a) On or after July 1, 2009, the courts of the judicial districts where the Drug-Related Offenses Reform Act under Section 63M-7-305 is implemented shall, in coordination with the local substance abuse authority regarding available resources, order convicted persons determined to be eligible in accordance with the implementation plan developed by the Utah Substance Use and Mental Health Advisory Council under Section 63M-7-305 to:

[~~(a)~~] (i) participate in a screening prior to sentencing;

[~~(b)~~] (ii) participate in an assessment prior to sentencing if the screening indicates an assessment to be appropriate; and

[~~(c)~~] (iii) participate in substance use disorder treatment if:

[~~(i)~~] (A) the assessment indicates treatment to be appropriate;

[~~(ii)~~] (B) the court finds treatment to be appropriate for the convicted person; and

[~~(iii)~~] (C) the court finds the convicted person to be an appropriate candidate for community-based supervision.

(b) In a county of the first or second class, as classified in Section 17-50-501, a private

entity that conducts an initial assessment of a person under this Subsection (2) based on a misdemeanor charge may not also provide substance use disorder treatment to the person under this Subsection (2).

(3) The findings from any screening and any assessment conducted under this section shall be part of the presentence investigation report submitted to the court before sentencing of the convicted person.

(4) Money appropriated by the Legislature to assist in the funding of the screening, assessment, substance use disorder treatment, and supervision provided under this section is not subject to any requirement regarding matching funds from a state or local governmental entity.

Section 13. Section **78A-6-103** is amended to read:

78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a child who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding offenses:

(i) in Section 53G-8-211 until such time that the child is referred to the courts under Section 53G-8-211; and

(ii) in Subsection 78A-7-106(2);

(b) a child who is an abused child, neglected child, or dependent child, as those terms are defined in Section 78A-6-105;

(c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:

(i) the petitioner and the respondent are the natural parent, adoptive parent, or stepparent of the child who is the object of the petition;

(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(iii) the best interests of the child will be better served in the district court;

(d) appointment of a guardian of the person or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(e) the emancipation of a minor in accordance with Part 8, Emancipation;

(f) the termination of the legal parent-child relationship in accordance with Part 5, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(g) the treatment or commitment of a minor who has an intellectual disability;

(h) the judicial consent to the marriage of a child under age 16 upon a determination of voluntariness or where otherwise required by law, employment, or enlistment of a child when consent is required by law;

(i) any parent or parents of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent or parents of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has supervision of that parent's or parents' child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(k) subject to Subsection (8), the treatment or commitment of a child with a mental illness;

(l) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(m) a minor found not competent to proceed pursuant to Section 78A-6-1301;

(n) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; and

(o) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child.

(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile court has exclusive jurisdiction over the following offenses committed by a child:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Section 73-18-12, reckless operation; and

(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(b) A juvenile court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(c) In a county of the first or second class, as classified in Section 17-50-501, a private entity that conducts an initial assessment of a minor under this Subsection (2) based on a misdemeanor charge may not also provide substance use disorder treatment to the minor under this Subsection (2).

(3) The juvenile court has jurisdiction over an ungovernable or runaway child who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that child when, despite earnest and persistent efforts by the division or agency, the child has demonstrated that the child:

(a) is beyond the control of the child's parent, guardian, or lawful custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(b) has run away from home.

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78A-6-702.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 78A-6-323.

(7) The juvenile court has jurisdiction of matters transferred to it by another trial court pursuant to Subsection 78A-7-106(5) and subject to Section 53G-8-211.

(8) The court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.

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