

**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: \_\_\_\_\_

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**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



- 26 **41-6a-505**, as last amended by Laws of Utah 2018, Chapter 334
- 27 **41-6a-509**, as last amended by Laws of Utah 2017, Chapter 446
- 28 **41-6a-517 (Superseded 07/01/19)**, as last amended by Laws of Utah 2018, Third
- 29 Special Session, Chapter 1
- 30 **41-6a-517 (Effective 07/01/19)**, as last amended by Laws of Utah 2018, Third Special
- 31 Session, Chapter 1
- 32 **53-3-220**, as last amended by Laws of Utah 2018, Chapters 121 and 133
- 33 **58-37-8**, as last amended by Laws of Utah 2017, Chapter 330
- 34 **58-37a-7**, as last amended by Laws of Utah 2017, Chapter 330
- 35 **76-9-701**, as last amended by Laws of Utah 2017, Chapter 330
- 36 **77-18-1.1**, as last amended by Laws of Utah 2016, Chapter 158
- 37 **78A-6-103**, as last amended by Laws of Utah 2018, Chapter 415

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

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

41 **32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable**  
42 **amounts in body.**

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

- 44 (a) purchase an alcoholic product;
- 45 (b) attempt to purchase an alcoholic product;
- 46 (c) solicit another person to purchase an alcoholic product;
- 47 (d) possess an alcoholic product;
- 48 (e) consume an alcoholic product; or
- 49 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

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

- 52 (a) a minor to misrepresent the minor's age; or
- 53 (b) any other person to misrepresent the age of a minor.

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

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

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

- 58 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 59 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
- 60 screening indicates an assessment to be appropriate; and
- 61 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
- 62 or substance use disorder treatment as indicated by an assessment.

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

64 minor's second or subsequent violation of this section, the court shall:

- 65 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 66 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
- 67 screening indicates an assessment to be appropriate; and
- 68 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
- 69 or substance use disorder treatment as indicated by an assessment.

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

71 entity that conducts an initial assessment of a minor under this Subsection (4) may not also

72 provide substance use disorder treatment to the minor under this Subsection (4).

73 (5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is

74 found by a court to have violated this section, except as provided in Section 32B-4-411, the

75 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

76 (b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the

77 suspension period required under Section 53-3-219 if:

- 78 (i) the violation is the minor's first violation of this section; and
- 79 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or
- 80 (B) the minor demonstrates substantial progress in substance use disorder treatment.

81 (c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the

82 requirements of Section 53-3-219, the court may reduce the suspension period required under

83 Section 53-3-219 if:

- 84 (i) the violation is the minor's second or subsequent violation of this section;
- 85 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
- 86 demonstrated substantial progress in substance use disorder treatment; and
- 87 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the

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

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

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

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

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

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

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

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

112 (a) for medicinal purposes if:

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

114 (ii) the alcoholic product is furnished by:

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

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

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

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

120 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

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

123 (a) a tavern; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

180 **32B-4-411. Minor's unlawful use of proof of age.**

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

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

183 (b) if as part of the violation the minor uses a proof of age in violation of Chapter 1,

184 Part 4, Proof of Age Act:

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

186 (ii) Section 32B-4-410.

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

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

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

191 (iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor,

192 except that the court may impose:

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

194 (B) screening, assessment, or substance use disorder treatment, as defined in Section

195 41-6a-501;

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

197 (D) alcoholic product related community service or compensatory service work

198 program hours;

199 (E) fees for restitution and treatment costs;

200 (F) defensive driver education courses; or

201 (G) a combination of these penalties; and

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

203 (A) the court may forward to the Driver License Division a record of an adjudication

204 under Title 78A, Chapter 6, Juvenile Court Act, for a violation under this section; and

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

206 apply; and

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

208 (A) the court shall forward to the Driver License Division a record of conviction for a

209 violation under this section; and

210 (B) the Driver License Division shall suspend the person's license under Section

211 53-3-220.

212           ~~(e)~~ (3) Notwithstanding Subsection (2)(a), if a minor is adjudicated under Section  
213 78A-6-117, the court may order:

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

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

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

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

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

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

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

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

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

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

230           (iii) (A) the person is 18 years of age or older and provides a sworn statement to the  
231 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year  
232 consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or  
233 78A-6-606~~(3)~~(4)(d); or

234           (B) the minor is under 18 years of age and has the minor's parent or legal guardian  
235 provide an affidavit or sworn statement to the court certifying that to the parent or legal  
236 guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a  
237 one-year consecutive period during the suspension period imposed under Subsection  
238 53-3-220(1)(e) or 78A-6-606~~(3)~~(4)(d).

239           ~~(4)~~ (6) When the Department of Public Safety receives the arrest or conviction record  
240 of an individual for a driving offense committed while the individual's license is suspended  
241 pursuant to this section, the Department of Public Safety shall extend the suspension for an  
242 additional like period of time.



243            [~~(5)~~] (7) A court may not fail to enter a judgment of conviction under this section under  
244 a plea in abeyance agreement.

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

246            **41-6a-505. Sentencing requirements for driving under the influence of alcohol,**  
247 **drugs, or a combination of both violations.**

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

249            (a) the court shall:

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

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

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

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

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

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

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

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

263            (B) if the administrative impound fee was paid by a party described in Subsection  
264 **41-6a-1406(5)(a)**, other than the individual sentenced, order the individual sentenced to  
265 reimburse the party; or

266            (viii) (A) order the individual to pay the towing and storage fees described in Section  
267 **72-9-603**; or

268            (B) if the towing and storage fees were paid by a party described in Subsection  
269 **41-6a-1406(5)(a)**, other than the individual sentenced, order the individual sentenced to  
270 reimburse the party; and

271            (b) the court may:

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

- 274 (ii) order probation for the individual in accordance with Section 41-6a-507;
- 275 (iii) order the individual to participate in a 24-7 sobriety program as defined in Section
- 276 41-6a-515.5 if the individual is 21 years of age or older; or
- 277 (iv) order a combination of Subsections (1)(b)(i) through (iii).
- 278 (2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is
- 279 within 10 years of the current conviction under Section 41-6a-502 or the commission of the
- 280 offense upon which the current conviction is based:
- 281 (a) the court shall:
- 282 (i) (A) impose a jail sentence of not less than 240 hours; or
- 283 (B) impose a jail sentence of not less than 120 hours in addition to home confinement
- 284 of not fewer than 720 consecutive hours through the use of electronic monitoring that includes
- 285 a substance abuse testing instrument in accordance with Section 41-6a-506;
- 286 (ii) order the individual to participate in a screening;
- 287 (iii) order the individual to participate in an assessment, if it is found appropriate by a
- 288 screening under Subsection (2)(a)(ii);
- 289 (iv) order the individual to participate in an educational series if the court does not
- 290 order substance abuse treatment as described under Subsection (2)(b);
- 291 (v) impose a fine of not less than \$800;
- 292 (vi) order probation for the individual in accordance with Section 41-6a-507;
- 293 (vii) (A) order the individual to pay the administrative impound fee described in
- 294 Section 41-6a-1406; or
- 295 (B) if the administrative impound fee was paid by a party described in Subsection
- 296 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
- 297 reimburse the party; or
- 298 (viii) (A) order the individual to pay the towing and storage fees described in Section
- 299 72-9-603; or
- 300 (B) if the towing and storage fees were paid by a party described in Subsection
- 301 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to
- 302 reimburse the party; and
- 303 (b) the court may:
- 304 (i) order the individual to obtain substance abuse treatment if the substance abuse

305 treatment program determines that substance abuse treatment is appropriate;

306 (ii) order the individual to participate in a 24-7 sobriety program as defined in Section

307 [41-6a-515.5](#) if the individual is 21 years of age or older; or

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

309 (3) Under Subsection [41-6a-503\(2\)](#), if the court suspends the execution of a prison

310 sentence and places the defendant on probation, the court shall impose:

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

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

313 (c) supervised probation.

314 (4) For Subsection (3)(a) or Subsection [41-6a-503\(2\)\(b\)](#), the court:

315 (a) shall impose an order requiring the individual to obtain a screening and assessment

316 for alcohol and substance abuse, and treatment as appropriate; and

317 (b) may impose an order requiring the individual to participate in a 24-7 sobriety

318 program as defined in Section [41-6a-515.5](#) if the individual is 21 years of age or older.

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

320 (6) If an individual is convicted of a violation of Section [41-6a-502](#) and there is

321 admissible evidence that the individual had a blood alcohol level of .16 or higher, the court

322 shall order the following, or describe on record why the order or orders are not appropriate:

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

324 (b) one or more of the following:

325 (i) the installation of an ignition interlock system as a condition of probation for the

326 individual in accordance with Section [41-6a-518](#);

327 (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring

328 device as a condition of probation for the individual; or

329 (iii) the imposition of home confinement through the use of electronic monitoring in

330 accordance with Section [41-6a-506](#).

331 (7) In a county of the first or second class, as classified in Section [17-50-501](#), a private

332 entity that conducts an initial assessment of an individual under this section based on a

333 misdemeanor charge may not also provide substance abuse treatment to the individual under

334 this section.

335 Section 5. Section [41-6a-509](#) is amended to read:

336           **41-6a-509. Driver license suspension or revocation for a driving under the**  
337 **influence violation.**

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

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

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

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

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

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

347           (B) on or after July 1, 2009.

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

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

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

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

358           (ii) has not been issued an operator license;

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

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

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

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

- 367 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
- 368 (ii) the current driving under the influence violation under Section 41-6a-502 is
- 369 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
- 370 violation; and
- 371 (iii) the person has not been issued an operator license.
- 372 (3) The Driver License Division shall, if the person is under 19 years of age at the time
- 373 of arrest:
- 374 (a) suspend the person's driver license until the person is 21 years of age if the person
- 375 is convicted for the first time of a driving under the influence violation under Section
- 376 41-6a-502 of an offense that was committed on or after July 1, 2009;
- 377 (b) deny the person's application for a license or learner's permit until the person is 21
- 378 years of age if the person:
- 379 (i) is convicted for the first time of a driving under the influence violation under
- 380 Section 41-6a-502 of an offense committed on or after July 1, 2009; and
- 381 (ii) has not been issued an operator license;
- 382 (c) revoke the person's driver license until the person is 21 years of age if:
- 383 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and
- 384 (ii) the current driving under the influence violation under Section 41-6a-502 is
- 385 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
- 386 violation; or
- 387 (d) deny the person's application for a license or learner's permit until the person is 21
- 388 years of age if:
- 389 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2);
- 390 (ii) the current driving under the influence violation under Section 41-6a-502 is
- 391 committed on or after July 1, 2009, and within a period of 10 years from the date of the prior
- 392 violation; and
- 393 (iii) the person has not been issued an operator license.
- 394 (4) The Driver License Division shall suspend or revoke the license of a person as
- 395 ordered by the court under Subsection (10).
- 396 (5) The Driver License Division shall:
- 397 (a) deny, suspend, or revoke the operator's license of a person convicted under Section

398 41-6a-502 of an offense that was committed prior to July 1, 2009, for the denial, suspension, or  
399 revocation periods in effect prior to July 1, 2009; or

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

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

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

406 (6) The Driver License Division shall subtract from any suspension or revocation  
407 period the number of days for which a license was previously suspended under Section  
408 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
409 which the record of conviction is based.

410 (7) If a conviction recorded as impaired driving is amended to a driving under the  
411 influence conviction under Section 41-6a-502 in accordance with Subsection  
412 41-6a-502.5(3)(a)(ii), the Driver License Division:

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

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

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

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

422 (b) completes a screening;

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

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

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

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

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

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

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

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

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

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

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

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

456 (i) complete all court ordered:

457 (A) screening;

458 (B) assessment;

459 (C) educational series;

- 460 (D) substance abuse treatment; and
- 461 (E) hours of work in a compensatory-service work program; or
- 462 (ii) pay all fines and fees, including fees for restitution and treatment costs.
- 463 (b) Upon receiving the notification described in Subsection (11)(a), the division shall
- 464 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).
- 465 (12) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the
- 466 Driver License Division may shorten the suspension period imposed under Subsection (1)
- 467 before completion of the suspension period if the person is participating in or has successfully
- 468 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.
- 469 (b) If the court shortens a person's license suspension period in accordance with the
- 470 requirements of this Subsection (12), the court shall forward to the Driver License Division the
- 471 order shortening the person's suspension period.
- 472 (c) The court shall notify the Driver License Division if a person fails to complete all
- 473 requirements of a 24-7 sobriety program.
- 474 (d) Upon receiving the notification described in Subsection (12)(c), the division shall
- 475 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).
- 476 (13) In a county of the first or second class, as classified in Section 17-50-501, a
- 477 private entity that conducts an initial assessment of a person under this section based on a
- 478 misdemeanor charge may not also provide substance abuse treatment to the person under this
- 479 section.

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

481 **41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable**

482 **controlled substance in the body -- Penalties -- Arrest without warrant.**

483 (1) As used in this section:

- 484 (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.
- 485 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.
- 486 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.
- 487 (d) "Prescription" means the same as that term is defined in Section 58-37-2.

488 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not

489 operate or be in actual physical control of a motor vehicle within this state if the person has any

490 measurable controlled substance or metabolite of a controlled substance in the person's body.



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

493 (a) involuntarily ingested by the accused;

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

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

498 (d) otherwise legally ingested.

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

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

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

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

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

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

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

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

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

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

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

522 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and  
523 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
524 and within a period of 10 years after the date of the prior violation.

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

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

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

530 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and  
531 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,  
532 and within a period of 10 years after the date of the prior violation.

533 (9) The Driver License Division shall subtract from any suspension or revocation  
534 period the number of days for which a license was previously suspended under Section  
535 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
536 which the record of conviction is based.

537 (10) The Driver License Division shall:

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

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

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

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

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

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

552 (b) completes a screening;

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

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

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

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

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

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

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

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

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

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

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

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

583 (14) The court:

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

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

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

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

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

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

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

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

604 **41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable**  
605 **controlled substance in the body -- Penalties -- Arrest without warrant.**

606 (1) As used in this section:

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

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

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

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

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

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

615 substance was:

616 (a) involuntarily ingested by the accused;

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

618 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage

619 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical

620 Cannabis Act; or

621 (d) otherwise legally ingested.

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

623 misdemeanor.

624 (b) A person who violates this section is subject to conviction and sentencing under

625 both this section and any applicable offense under Section 58-37-8.

626 (5) A peace officer may, without a warrant, arrest a person for a violation of this

627 section when the officer has probable cause to believe the violation has occurred, although not

628 in the officer's presence, and if the officer has probable cause to believe that the violation was

629 committed by the person.

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

631 date of arrest:

632 (a) suspend, for a period of 120 days, the driver license of a person convicted under

633 Subsection (2) of an offense committed on or after July 1, 2009; or

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

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

636 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

637 and within a period of 10 years after the date of the prior violation.

638 (7) The Driver License Division shall, if the person is 19 years of age or older but

639 under 21 years of age on the date of arrest:

640 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is

641 longer, the driver license of a person convicted under Subsection (2) of an offense committed

642 on or after July 1, 2011; or

643 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is

644 longer, the driver license of a person if:

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

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

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

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

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

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

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

656 (9) The Driver License Division shall subtract from any suspension or revocation  
657 period the number of days for which a license was previously suspended under Section  
658 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
659 which the record of conviction is based.

660 (10) The Driver License Division shall:

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

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

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

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

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

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

675 (b) completes a screening;

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

677 (11)(b);

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

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

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

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

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

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

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

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

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

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

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

706 (14) The court:

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

708 convicted under Subsection (2); and

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

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

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

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

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

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

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

727 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**  
728 **disqualification of license -- Offense requiring an extension of period -- Hearing --**  
729 **Limited driving privileges.**

730 (1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter  
731 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or  
732 disqualification, the division shall deny, suspend, or disqualify the license of a person upon  
733 receiving a record of the person's conviction for:

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

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



- 739 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
- 740 (iii) driving or being in actual physical control of a motor vehicle while having a blood  
741 or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance  
742 that complies with the requirements of Subsection 41-6a-510(1);
- 743 (iv) perjury or the making of a false affidavit to the division under this chapter, Title  
744 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or  
745 regulating driving on highways;
- 746 (v) any felony under the motor vehicle laws of this state;
- 747 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
- 748 (vii) failure to stop and render aid as required under the laws of this state if a motor  
749 vehicle accident results in the death or personal injury of another;
- 750 (viii) two charges of reckless driving, impaired driving, or any combination of reckless  
751 driving and impaired driving committed within a period of 12 months; but if upon a first  
752 conviction of reckless driving or impaired driving the judge or justice recommends suspension  
753 of the convicted person's license, the division may after a hearing suspend the license for a  
754 period of three months;
- 755 (ix) failure to bring a motor vehicle to a stop at the command of a law enforcement  
756 officer as required in Section 41-6a-210;
- 757 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that  
758 requires disqualification;
- 759 (xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or  
760 allowing the discharge of a firearm from a vehicle;
- 761 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or  
762 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
- 763 (xiii) operating or being in actual physical control of a motor vehicle while having any  
764 measurable controlled substance or metabolite of a controlled substance in the person's body in  
765 violation of Section 41-6a-517;
- 766 (xiv) operating or being in actual physical control of a motor vehicle while having any  
767 measurable or detectable amount of alcohol in the person's body in violation of Section  
768 41-6a-530;
- 769 (xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in

770 violation of Section 41-6a-606;

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

773 (xvii) custodial interference, under:

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

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

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

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

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

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

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

790 (i) any violation of:

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

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

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

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

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

796 (ii) any criminal offense that prohibits:

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

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

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

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

805 (B) a record of the conviction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

863 41-6a-517, a local ordinance which complies with the requirements of Subsection  
864 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person  
865 was charged with violating as a result of a plea bargain after having been originally charged  
866 with violating one or more of these sections or ordinances, unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

901 **58-37-8. Prohibited acts -- Penalties.**

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

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

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

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

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

910 (iv) engage in a continuing criminal enterprise where:

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

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

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

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

925 subsequent conviction is guilty of a first degree felony;

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

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

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

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

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

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

948 (a) It is unlawful:

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

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

956 any of those locations; or

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

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

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

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

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

968 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled  
969 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section  
970 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the  
971 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the  
972 person is guilty of a third degree felony.

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

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

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

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

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



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

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

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

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

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

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

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

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

998 (i) a controlled substance classified under Schedule I, other than those described in  
999 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second  
1000 degree felony;

1001 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection  
1002 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third  
1003 degree felony; or

1004 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class  
1005 A misdemeanor.

1006 (i) A person is guilty of a separate offense for each victim suffering serious bodily  
1007 injury or death as a result of the person's negligent driving in violation of Subsection(2)(g)  
1008 whether or not the injuries arise from the same episode of driving.

1009 (j) The Administrative Office of the Courts shall report to the Division of Occupational  
1010 and Professional Licensing the name, case number, date of conviction, and if known, the date  
1011 of birth of each person convicted of violating Subsection (2)(a).

1012 (3) Prohibited acts C -- Penalties:

1013 (a) It is unlawful for any person knowingly and intentionally:

1014 (i) to use in the course of the manufacture or distribution of a controlled substance a  
1015 license number which is fictitious, revoked, suspended, or issued to another person or, for the  
1016 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a  
1017 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized

1018 person;

1019 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
1020 administration of, to obtain a prescription for, to prescribe or dispense to any person known to  
1021 be attempting to acquire or obtain possession of, or to procure the administration of any  
1022 controlled substance by misrepresentation or failure by the person to disclose receiving any  
1023 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a  
1024 prescription or written order for a controlled substance, or the use of a false name or address;

1025 (iii) to make any false or forged prescription or written order for a controlled substance,  
1026 or to utter the same, or to alter any prescription or written order issued or written under the  
1027 terms of this chapter; or

1028 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed  
1029 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or  
1030 device of another or any likeness of any of the foregoing upon any drug or container or labeling  
1031 so as to render any drug a counterfeit controlled substance.

1032 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A  
1033 misdemeanor.

1034 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third  
1035 degree felony.

1036 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1037 (4) Prohibited acts D -- Penalties:

1038 (a) Notwithstanding other provisions of this section, a person not authorized under this  
1039 chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or  
1040 Section 58-37b-4 is upon conviction subject to the penalties and classifications under this  
1041 Subsection (4) if the trier of fact finds the act is committed:

1042 (i) in a public or private elementary or secondary school or on the grounds of any of  
1043 those schools during the hours of 6 a.m. through 10 p.m.;

1044 (ii) in a public or private vocational school or postsecondary institution or on the  
1045 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1046 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
1047 facility's hours of operation;

1048 (iv) in a public park, amusement park, arcade, or recreation center when the public or

1049 amusement park, arcade, or recreation center is open to the public;

1050 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1051 (vi) in or on the grounds of a library when the library is open to the public;

1052 (vii) within any area that is within 100 feet of any structure, facility, or grounds

1053 included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1054 (viii) in the presence of a person younger than 18 years of age, regardless of where the

1055 act occurs; or

1056 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or

1057 distribution of a substance in violation of this section to an inmate or on the grounds of any

1058 correctional facility as defined in Section 76-8-311.3.

1059 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony

1060 and shall be imprisoned for a term of not less than five years if the penalty that would

1061 otherwise have been established but for this Subsection (4) would have been a first degree

1062 felony.

1063 (ii) Imposition or execution of the sentence may not be suspended, and the person is

1064 not eligible for probation.

1065 (c) If the classification that would otherwise have been established would have been

1066 less than a first degree felony but for this Subsection (4), a person convicted under this

1067 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that

1068 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1069 (d) (i) If the violation is of Subsection (4)(a)(ix):

1070 (A) the person may be sentenced to imprisonment for an indeterminate term as

1071 provided by law, and the court shall additionally sentence the person convicted for a term of

1072 one year to run consecutively and not concurrently; and

1073 (B) the court may additionally sentence the person convicted for an indeterminate term

1074 not to exceed five years to run consecutively and not concurrently; and

1075 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with

1076 the mental state required for the commission of an offense, directly or indirectly solicits,

1077 requests, commands, coerces, encourages, or intentionally aids another person to commit a

1078 violation of Subsection (4)(a)(ix).

1079 (e) It is not a defense to a prosecution under this Subsection (4) that the actor

1080 mistakenly believed the individual to be 18 years of age or older at the time of the offense or  
1081 was unaware of the individual's true age; nor that the actor mistakenly believed that the  
1082 location where the act occurred was not as described in Subsection (4)(a) or was unaware that  
1083 the location where the act occurred was as described in Subsection (4)(a).

1084 (5) Any violation of this chapter for which no penalty is specified is a class B  
1085 misdemeanor.

1086 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
1087 guilty or no contest to a violation or attempted violation of this section or a plea which is held  
1088 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,  
1089 even if the charge has been subsequently reduced or dismissed in accordance with the plea in  
1090 abeyance agreement.

1091 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
1092 conviction that is:

1093 (i) from a separate criminal episode than the current charge; and

1094 (ii) from a conviction that is separate from any other conviction used to enhance the  
1095 current charge.

1096 (7) A person may be charged and sentenced for a violation of this section,  
1097 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1098 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in  
1099 lieu of, any civil or administrative penalty or sanction authorized by law.

1100 (b) Where violation of this chapter violates a federal law or the law of another state,  
1101 conviction or acquittal under federal law or the law of another state for the same act is a bar to  
1102 prosecution in this state.

1103 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a  
1104 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
1105 substance or substances, is prima facie evidence that the person or persons did so with  
1106 knowledge of the character of the substance or substances.

1107 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
1108 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or  
1109 administering controlled substances or from causing the substances to be administered by an  
1110 assistant or orderly under the veterinarian's direction and supervision.

1111 (11) Civil or criminal liability may not be imposed under this section on:

1112 (a) any person registered under this chapter who manufactures, distributes, or possesses  
1113 an imitation controlled substance for use as a placebo or investigational new drug by a  
1114 registered practitioner in the ordinary course of professional practice or research; or

1115 (b) any law enforcement officer acting in the course and legitimate scope of the  
1116 officer's employment.

1117 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,  
1118 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide  
1119 traditional ceremonial purposes in connection with the practice of a traditional Indian religion  
1120 as defined in Subsection 58-37-2(1)(w).

1121 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
1122 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,  
1123 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in  
1124 connection with the practice of a traditional Indian religion.

1125 (c) (i) The defendant shall provide written notice of intent to claim an affirmative  
1126 defense under this Subsection (12) as soon as practicable, but not later than 10 days before  
1127 trial.

1128 (ii) The notice shall include the specific claims of the affirmative defense.

1129 (iii) The court may waive the notice requirement in the interest of justice for good  
1130 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1131 (d) The defendant shall establish the affirmative defense under this Subsection (12) by  
1132 a preponderance of the evidence. If the defense is established, it is a complete defense to the  
1133 charges.

1134 (13) (a) It is an affirmative defense that the person produced, possessed, or  
1135 administered a controlled substance listed in Section 58-37-4.2 if the person:

1136 (i) was engaged in medical research; and

1137 (ii) was a holder of a valid license to possess controlled substances under Section  
1138 58-37-6.

1139 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed  
1140 a controlled substance listed in Section 58-37-4.2.

1141 (14) It is an affirmative defense that the person possessed, in the person's body, a

1142 controlled substance listed in Section 58-37-4.2 if:

1143 (a) the person was the subject of medical research conducted by a holder of a valid  
1144 license to possess controlled substances under Section 58-37-6; and

1145 (b) the substance was administered to the person by the medical researcher.

1146 (15) The application of any increase in penalty under this section to a violation of  
1147 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This  
1148 Subsection (15) takes precedence over any conflicting provision of this section.

1149 (16) (a) It is an affirmative defense to an allegation of the commission of an offense  
1150 listed in Subsection (16)(b) that the person:

1151 (i) reasonably believes that the person or another person is experiencing an overdose  
1152 event due to the ingestion, injection, inhalation, or other introduction into the human body of a  
1153 controlled substance or other substance;

1154 (ii) reports in good faith the overdose event to a medical provider, an emergency  
1155 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911  
1156 emergency call system, or an emergency dispatch system, or the person is the subject of a  
1157 report made under this Subsection (16);

1158 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the  
1159 actual location of the overdose event that facilitates responding to the person experiencing the  
1160 overdose event;

1161 (iv) remains at the location of the person experiencing the overdose event until a  
1162 responding law enforcement officer or emergency medical service provider arrives, or remains  
1163 at the medical care facility where the person experiencing an overdose event is located until a  
1164 responding law enforcement officer arrives;

1165 (v) cooperates with the responding medical provider, emergency medical service  
1166 provider, and law enforcement officer, including providing information regarding the person  
1167 experiencing the overdose event and any substances the person may have injected, inhaled, or  
1168 otherwise introduced into the person's body; and

1169 (vi) is alleged to have committed the offense in the same course of events from which  
1170 the reported overdose arose.

1171 (b) The offenses referred to in Subsection (16)(a) are:

1172 (i) the possession or use of less than 16 ounces of marijuana;

1173 (ii) the possession or use of a scheduled or listed controlled substance other than  
1174 marijuana; and

1175 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
1176 Imitation Controlled Substances Act.

1177 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not  
1178 include seeking medical assistance under this section during the course of a law enforcement  
1179 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1180 (17) If any provision of this chapter, or the application of any provision to any person  
1181 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the  
1182 invalid provision or application.

1183 (18) A legislative body of a political subdivision may not enact an ordinance that is  
1184 less restrictive than any provision of this chapter.

1185 (19) (a) If a minor who is under 18 years of age is found by a court to have violated this  
1186 section, the court may order the minor to complete:

1187 ~~[(a)]~~ (i) ~~[the minor to complete]~~ a screening as defined in Section 41-6a-501;

1188 ~~[(b)]~~ (ii) ~~[the minor to complete]~~ an assessment as defined in Section 41-6a-501 if the  
1189 screening indicates an assessment to be appropriate; and

1190 ~~[(c)]~~ (iii) ~~[the minor to complete]~~ an educational series as defined in Section 41-6a-501  
1191 or substance use disorder treatment as indicated by an assessment.

1192 (b) In a county of the first or second class, as classified in Section 17-50-501, a private  
1193 entity that conducts an initial assessment of a minor under this Subsection (19) based on a  
1194 misdemeanor charge may not also provide substance use disorder treatment to the minor under  
1195 this Subsection (19).

1196 Section 10. Section 58-37a-7 is amended to read:

1197 **58-37a-7. Sentencing requirements for minors.**

1198 (1) If a minor who is under 18 years of age is found by a court to have violated this  
1199 chapter, the court may order the minor to complete:

1200 ~~[(1)]~~ (a) a screening as defined in Section 41-6a-501;

1201 ~~[(2)]~~ (b) an assessment as defined in Section 41-6a-501 if the screening indicates an  
1202 assessment to be appropriate; and

1203 ~~[(3)]~~ (c) an educational series as defined in Section 41-6a-501 or substance use

1204 disorder treatment as indicated by an assessment.

1205 (2) In a county of the first or second class, as classified in Section 17-50-501, a private  
1206 entity that conducts an assessment of a minor under this section based on a misdemeanor  
1207 charge may not also provide substance use disorder treatment to the minor under this section.

1208 Section 11. Section **76-9-701** is amended to read:

1209 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**  
1210 **center.**

1211 (1) A person is guilty of intoxication if the person is under the influence of alcohol, a  
1212 controlled substance, or any substance having the property of releasing toxic vapors, to a  
1213 degree that the person may endanger the person or another, in a public place or in a private  
1214 place where the person unreasonably disturbs other persons.

1215 (2) (a) A peace officer or a magistrate may release from custody a person arrested  
1216 under this section if the peace officer or magistrate believes imprisonment is unnecessary for  
1217 the protection of the person or another.

1218 (b) A peace officer may take the arrested person to a detoxification center or other  
1219 special facility as an alternative to incarceration or release from custody.

1220 (3) (a) If a minor is found by a court to have violated this section and the violation is  
1221 the minor's first violation of this section, the court may:

1222 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1223 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the  
1224 screening indicates an assessment to be appropriate; and

1225 (iii) order the minor to complete an educational series as defined in Section 41-6a-501  
1226 or substance use disorder treatment as indicated by an assessment.

1227 (b) If a minor is found by a court to have violated this section and the violation is the  
1228 minor's second or subsequent violation of this section, the court shall:

1229 (i) order the minor to complete a screening as defined in Section 41-6a-501;

1230 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the  
1231 screening indicates an assessment to be appropriate; and

1232 (iii) order the minor to complete an educational series as defined in Section 41-6a-501  
1233 or substance use disorder treatment as indicated by an assessment.

1234 (c) In a county of the first or second class, as classified in Section 17-50-501, a private



1235 entity that conducts an initial assessment of a minor under this Subsection (3) may not also  
1236 provide substance use disorder treatment to the minor under this Subsection (3).

1237 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is  
1238 found by a court to have violated this section, the court hearing the case shall suspend the  
1239 minor's driving privileges under Section 53-3-219.

1240 (b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the  
1241 suspension period required under Section 53-3-219 if:

1242 (i) the violation is the minor's first violation of this section; and

1243 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

1244 (B) the minor demonstrates substantial progress in substance use disorder treatment.

1245 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the  
1246 requirements of Section 53-3-219, the court may reduce the suspension period required under  
1247 Section 53-3-219 if:

1248 (i) the violation is the minor's second or subsequent violation of this section;

1249 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or  
1250 demonstrated substantial progress in substance use disorder treatment; and

1251 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the  
1252 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year  
1253 consecutive period during the suspension period imposed under Subsection (4)(a); or

1254 (B) the person is under 18 years of age and has the person's parent or legal guardian  
1255 provide an affidavit or sworn statement to the court certifying that to the parent or legal  
1256 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a  
1257 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

1258 (5) When a person who is younger than 18 years old is found by a court to have  
1259 violated this section, the provisions regarding suspension of the driver's license under Section  
1260 78A-6-606 apply to the violation.

1261 (6) (a) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under  
1262 Section 78A-6-117, the court may only order substance use disorder treatment or an  
1263 educational series if the minor has an assessed need for the intervention based on the results of  
1264 a validated assessment.

1265 (b) In a county of the first or second class, as classified in Section 17-50-501, a private

1266 entity that conducts an initial assessment of a minor under this Subsection (6) may not also  
1267 provide substance use disorder treatment to the minor under this Subsection (6).

1268 (7) When the court issues an order suspending a person's driving privileges for a  
1269 violation of this section, the person's driver license shall be suspended under Section [53-3-219](#).

1270 (8) An offense under this section is a class C misdemeanor.

1271 Section 12. Section **77-18-1.1** is amended to read:

1272 **77-18-1.1. Screening, assessment, and treatment.**

1273 (1) As used in this section:

1274 (a) "Assessment" has the same meaning as in Section [41-6a-501](#).

1275 (b) "Convicted" means:

1276 (i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental  
1277 illness, or no contest; and

1278 (ii) conviction of any crime or offense.

1279 (c) "Screening" has the same meaning as in Section [41-6a-501](#).

1280 (d) "Substance use disorder treatment" means treatment obtained through a substance  
1281 use disorder program that is licensed by the Office of Licensing within the Department of  
1282 Human Services.

1283 (2) (a) On or after July 1, 2009, the courts of the judicial districts where the Drug  
1284 -Related Offenses Reform Act under Section [63M-7-305](#) is implemented shall, in coordination  
1285 with the local substance abuse authority regarding available resources, order convicted persons  
1286 determined to be eligible in accordance with the implementation plan developed by the Utah  
1287 Substance Use and Mental Health Advisory Council under Section [63M-7-305](#) to:

1288 [~~(a)~~] (i) participate in a screening prior to sentencing;

1289 [~~(b)~~] (ii) participate in an assessment prior to sentencing if the screening indicates an  
1290 assessment to be appropriate; and

1291 [~~(c)~~] (iii) participate in substance use disorder treatment if:

1292 [~~(i)~~] (A) the assessment indicates treatment to be appropriate;

1293 [~~(ii)~~] (B) the court finds treatment to be appropriate for the convicted person; and

1294 [~~(iii)~~] (C) the court finds the convicted person to be an appropriate candidate for  
1295 community-based supervision.

1296 (b) In a county of the first or second class, as classified in Section [17-50-501](#), a private

1297 entity that conducts an initial assessment of a person under this Subsection (2) based on a  
1298 misdemeanor charge may not also provide substance use disorder treatment to the person under  
1299 this Subsection (2).

1300 (3) The findings from any screening and any assessment conducted under this section  
1301 shall be part of the presentence investigation report submitted to the court before sentencing of  
1302 the convicted person.

1303 (4) Money appropriated by the Legislature to assist in the funding of the screening,  
1304 assessment, substance use disorder treatment, and supervision provided under this section is  
1305 not subject to any requirement regarding matching funds from a state or local governmental  
1306 entity.

1307 Section 13. Section **78A-6-103** is amended to read:

1308 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

1309 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
1310 jurisdiction in proceedings concerning:

1311 (a) a child who has violated any federal, state, or local law or municipal ordinance or a  
1312 person younger than 21 years of age who has violated any law or ordinance before becoming  
1313 18 years of age, regardless of where the violation occurred, excluding offenses:

1314 (i) in Section **53G-8-211** until such time that the child is referred to the courts under  
1315 Section **53G-8-211**; and

1316 (ii) in Subsection **78A-7-106(2)**;

1317 (b) a child who is an abused child, neglected child, or dependent child, as those terms  
1318 are defined in Section **78A-6-105**;

1319 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child  
1320 Protective Orders, which the juvenile court may transfer to the district court if the juvenile  
1321 court has entered an ex parte protective order and finds that:

1322 (i) the petitioner and the respondent are the natural parent, adoptive parent, or  
1323 stepparent of the child who is the object of the petition;

1324 (ii) the district court has a petition pending or an order related to custody or parent-time  
1325 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,  
1326 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the  
1327 respondent are parties; and

- 1328 (iii) the best interests of the child will be better served in the district court;
- 1329 (d) appointment of a guardian of the person or other guardian of a minor who comes
- 1330 within the court's jurisdiction under other provisions of this section;
- 1331 (e) the emancipation of a minor in accordance with Part 8, Emancipation;
- 1332 (f) the termination of the legal parent-child relationship in accordance with Part 5,
- 1333 Termination of Parental Rights Act, including termination of residual parental rights and
- 1334 duties;
- 1335 (g) the treatment or commitment of a minor who has an intellectual disability;
- 1336 (h) the judicial consent to the marriage of a child under age 16 upon a determination of
- 1337 voluntariness or where otherwise required by law, employment, or enlistment of a child when
- 1338 consent is required by law;
- 1339 (i) any parent or parents of a child committed to a secure youth facility, to order, at the
- 1340 discretion of the court and on the recommendation of a secure facility, the parent or parents of a
- 1341 child committed to a secure facility for a custodial term, to undergo group rehabilitation
- 1342 therapy under the direction of a secure facility therapist, who has supervision of that parent's or
- 1343 parents' child, or any other therapist the court may direct, for a period directed by the court as
- 1344 recommended by a secure facility;
- 1345 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
- 1346 (k) subject to Subsection (8), the treatment or commitment of a child with a mental
- 1347 illness;
- 1348 (l) the commitment of a child to a secure drug or alcohol facility in accordance with
- 1349 Section [62A-15-301](#);
- 1350 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);
- 1351 (n) de novo review of final agency actions resulting from an informal adjudicative
- 1352 proceeding as provided in Section [63G-4-402](#); and
- 1353 (o) adoptions conducted in accordance with the procedures described in Title 78B,
- 1354 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order
- 1355 terminating the rights of a parent and finds that adoption is in the best interest of the child.
- 1356 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile
- 1357 court has exclusive jurisdiction over the following offenses committed by a child:
- 1358 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

1359 (ii) Section [73-18-12](#), reckless operation; and  
1360 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part  
1361 of a single criminal episode filed in a petition that contains an offense over which the court has  
1362 jurisdiction.

1363 (b) A juvenile court may only order substance use disorder treatment or an educational  
1364 series if the minor has an assessed need for the intervention on the basis of the results of a  
1365 validated assessment.

1366 (c) In a county of the first or second class, as classified in Section [17-50-501](#), a private  
1367 entity that conducts an initial assessment of a minor under this Subsection (2) based on a  
1368 misdemeanor charge may not also provide substance use disorder treatment to the minor under  
1369 this Subsection (2).

1370 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is  
1371 referred to it by the Division of Child and Family Services or by public or private agencies that  
1372 contract with the division to provide services to that child when, despite earnest and persistent  
1373 efforts by the division or agency, the child has demonstrated that the child:

1374 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the  
1375 extent that the child's behavior or condition endangers the child's own welfare or the welfare of  
1376 others; or

1377 (b) has run away from home.

1378 (4) This section does not restrict the right of access to the juvenile court by private  
1379 agencies or other persons.

1380 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases  
1381 arising under Section [78A-6-702](#).

1382 (6) The juvenile court has jurisdiction to make a finding of substantiated,  
1383 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

1384 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court  
1385 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [53G-8-211](#).

1386 (8) The court may commit a child to the physical custody of a local mental health  
1387 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age  
1388 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State  
1389 Hospital.

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