

**UTAH JUDICIAL COUNCIL
STANDING COMMITTEE ON MODEL UTAH CRIMINAL JURY INSTRUCTIONS
MEETING AGENDA**

Via Hybrid Meeting – Matheson Courthouse and Webex
August 7th, 2024 – 12:00 p.m. to 1:30 p.m.

12:00	Welcome and Approval of Minutes		Tab 1	Judge Welch
	Update on CR1101: Failure to Respond to an Officer’s Signal to Stop		Tab 2	Judge Welch/ McKay Lewis
	Update on Proposed CR1007 – Unanimity Instruction on DUI & Special Verdict Form		Tab 3	Judge Welch/ Judge McCullagh
	Update on Proposed CR1005 – Negligently Operating a Vehicle Resulting in Injury		Tab 4	Judge Welch/ McKay Lewis
1:30	Adjourn			

COMMITTEE WEB PAGE: <https://www.utcourts.gov/utc/muji-criminal/>

UPCOMING MEETING SCHEDULE:

Meetings are held via Webex on the first Wednesday of each month from 12:00 noon to 1:30 p.m. (unless otherwise specifically noted):

September 4th, 2024
October 2nd, 2024
November 6th, 2024
December 4th, 2024
January 8th, 2025
February 5th, 2025
March 5th, 2025
April 2nd, 2025

May 7th, 2025
June 4th, 2025
July 2nd, 2025
August 6th, 2025
September 3rd, 2025
October 1st, 2025
November 5th, 2025
December 3rd, 2025

TAB 1

Meeting Minutes – June 5, 2024

**UTAH JUDICIAL COUNCIL
STANDING COMMITTEE ON MODEL UTAH CRIMINAL JURY INSTRUCTIONS
MEETING MINUTES**

Hybrid Meeting: Utah Judicial Council Room & Via Webex
June 5, 2024 – 12:00 p.m. to 1:30 p.m.

DRAFT

COMMITTEE MEMBER:	ROLE:	PRESENT	EXCUSED	GUESTS:
Hon. Theresa Welch	District Court Judge [Chair]	•		None
Hon. Brendan McCullagh	Justice Court Judge	•		
[VACANT]	Linguist/Communications Professor	N/A	N/A	STAFF:
Hon. Linda Jones	Emeritus District Court Judge	•		Bryson King
Hon. Matthew Bates	District Court Judge	•		
Sharla Dunroe	Defense Attorney		•	
Janet Lawrence	Defense Attorney	•		
Jeffrey Mann	Prosecutor	•		
Richard Pehrson	Prosecutor		•	
Dustin Parmley	Defense Attorney		•	
Freyja Johnson	Defense Attorney	•		
McKay Lewis	Prosecutor	•		
Nic Mills	Prosecutor	•		

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Welch welcomed the Committee to the meeting and reminded everyone that there will be no meeting in July. Judge Welch mentioned that Richard Pehrson was appointed to the Third District Court as a judge and will no longer be on the Committee. Bryson King discussed with the Committee the selection process for a replacement prosecutor to take Mr. Pehrson’s position on the Committee. Judge McCullagh then moved to approve the minutes from the May meeting, with Freya Johnson seconding the motion. Without opposition, the motion was approved.

(2) AGENDA ITEM 2: CR1101: FAILURE TO RESPOND TO AN OFFICER’S SIGNAL TO STOP (CLASS A)

Judge Welch then turned the Committees attention to CR1101. The Committee had last discussed whether the term “intentionally” should be used in the instruction. The Committee had also discussed using alternatives in the instruction to allow practitioners to decide whether to use the mens rea term or not. Judge Jones and McKay Lewis then discussed the various mens rea forms and how they would apply in the instruction. Judge Welch directed the Committee to review the language from *State v. Bird* to guide its discussion about the mens rea options in the instruction. Judge Bates discussed the differences between the Class A and felony versions of the fleeing statute, and highlighted how those differences are articulated in *Bird* and how they might play out in the instruction. Judge McCullagh also explained that the statute includes a motive, not a mens rea. The Committee engages in additional discussion on the topic. After extensive discussion, Judge Welch provided three options for the Committee to

consider: 1) the term “intentionally” should only be used; 2) the terms “intentionally” and “knowingly or recklessly” should be used; and 3) no mens rea should be included, because the term “for the purpose of avoiding arrest” does the work for the mens rea element. Judge Bates suggested that the Committee not decide the mens rea element, and use a Committee Note to provide the options above for practitioners to decide themselves. Judge Bates then moved to include the word “intentionally” in brackets and have a subcommittee draft a Note to explain the mens rea options. McKay Lewis offered to draft the Note. Jeff Mann suggested that the brackets also include “intentionally/knowingly/recklessly.” Judge McCullagh called a point of order and suggested that McKay Lewis draft the Note, the vote be tabled, and the Committee resume its vote and discussion at the next meeting. Without opposition, the vote is tabled, and the Committee will resume its discussion at the next meeting.

(3) AGENDA ITEM 3: UNANIMITY INSTRUCTIONS CR216, CR430, CR432

Judge Jones then led the Committee’s next discussion on the criminal instructions on unanimity. Specifically, Judge Jones suggested that the Committee remove any language where the judge might say, “you have heard evidence,” to avoid the judge drawing a jury’s attention to evidence. Judge Jones suggests replacing this language with “The prosecution has charged . . .” to highlight what crimes and elements the State must prove instead of what evidence the State has introduced. Judge Bates moved to adopt Judge Jones’ recommendation on CR430, with Judge McCullagh seconding the motion. McKay Lewis objected to the motion and requested time to review the caselaw associated with Judge Jones’ proposals. Janet Lawrence then suggested that instead of “The prosecution has charged,” the language be, “If evidence was introduced . . .” She also requested more time to determine what the caselaw says on the issue before deciding. Judge Welch asked the Committee if it would like to table the discussion until more research could be completed. Judge Bates recommended the language “If evidence was introduced” to “The prosecution has asserted that . . .” After additional discussion, the Committee determined to use the language, “The prosecution argues that . . .” Judge Bates then moved to adopt the proposed language, with Judge McCullagh seconding the motion. Without opposition, the motion carries and CR430 will be issued for public comment with the recommended changes. McKay Lewis then moved to adopt the same language in CR432, with Judge McCullagh seconding the motion. Without opposition, the motion carries and CR432 will be issued for public comment as well.

(4) AGENDA ITEM 4: PROPOSED CR1007 – UNANIMITY INSTRUCTION ON DUI & SPECIAL VERDICT FORM

Judge Welch invites Judge McCullagh to discuss proposed CR1007. Judge McCullagh requests the Committee consider the instruction at the next meeting.

(5) AGENDA ITEM 5: PROPOSED CR1005 – NEGLIGENTLY OPERATING A VEHICLE RESULTING IN INJURY

Judge Welch then invites McKay Lewis to discuss proposed CR1005. McKay Lewis then discusses the proposal with the Committee. Judge McCullagh suggests that the language mirror the statutory scheme and additionally suggests bracketing the word “serious.” After discussion among the Committee, Judge Welch suggests that the Committee form a subcommittee with McKay Lewis on CR1005. Judge McCullagh and Freya Johnson both volunteer.

(6) ADJOURN

The meeting adjourned at approximately 1:30 p.m. The next meeting will be held on August 7th, 2024, starting at 12:00 noon.

TAB 2

Proposed CR1101: Failure to Respond to an Officer's Signal to Stop (Class A)

CR1101: Failure to Respond to an Officer's Signal to Stop (Class A Misdemeanor)

(DEFENDANT'S NAME) is charged [in Count ____] with committing Failure to Stop at the Command of a Peace Officer [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. After a peace officer issued a verbal or visual command to stop;
2. (DEFENDANT'S NAME);
3. [Intentionally] fled from or otherwise attempted to elude a peace officer;;
- 4.

For the purpose of avoiding arrest; After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

References:

- Utah Code Ann. § 76-8-305.5
- *State v. Young*, 2015 UT App 286, 364 P.3d 55
- *Salt Lake City v. Gallegos*, 2015 UT App 78, 347 P.3d 842
- *State v. Alvarado*, 2023 UT App 123, 538 P.3d 633
- *State v. Bird*, 2015 UT 7, 345 P.3d 1141
- *State v. Nelson*, 2024 UT App 75

Committee Notes

[Pending committee note]. This instruction is intended to be used in prosecuting **Class A Misdemeanor** Failure to Stop at the Command of a Peace Officer. For the Felony Failure to Respond to an Officer's Signal to Stop instruction, use CR1102 or CR1103.

TAB 3

**Proposed CR1007: Unanimity Instruction on
DUI & Special Verdict Form**

Effective 5/3/2023

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

- (1) An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the actor:
 - (a) has sufficient alcohol in the actor's body that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
 - (b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or
 - (c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.
- (2)
 - (a) A violation of Subsection (1) is a class B misdemeanor.
 - (b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:
 - (i) has a passenger younger than 16 years old in the vehicle at the time of the offense;
 - (ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time of the offense;
 - (iii) the actor also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or
 - (iv) has one prior conviction within 10 years of:
 - (A) the current conviction under Subsection (1); or
 - (B) the commission of the offense upon which the current conviction is based.
 - (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:
 - (i) the actor has two or more prior convictions each of which is within 10 years of:
 - (A) the current conviction; or
 - (B) the commission of the offense upon which the current conviction is based; or
 - (ii) the current conviction is at any time after a conviction of:
 - (A) a violation of Section 76-5-207;
 - (B) a felony violation of this section, Section 76-5-102.1, 41-6a-520.1, or a statute previously in effect in this state that would constitute a violation of this section; or
 - (C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of conviction is reduced under Section 76-3-402.
- (3) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.
- (4) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.
- (5) A court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.
- (6) An offense described in this section is a strict liability offense.
- (7) A guilty or no contest plea to an offense described in this section may not be held in abeyance.
- (8) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time of the offense.

Amended by Chapter 415, 2023 General Session

Effective 5/3/2023

41-6a-520.1 Refusing a chemical test.

- (1) An actor commits refusing a chemical test if:
 - (a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);
 - (b) a court issues a warrant to draw and test the blood; and
 - (c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's blood.
- (2)
 - (a) A violation of Subsection (1) is a class B misdemeanor.
 - (b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:
 - (i) has a passenger younger than 16 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;
 - (ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;
 - (iii) also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or
 - (iv) has one prior conviction within 10 years of:
 - (A) the current conviction under Subsection (1); or
 - (B) the commission of the offense upon which the current conviction is based.
 - (c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:
 - (i) the actor has two or more prior convictions, each of which is within 10 years of:
 - (A) the current conviction; or
 - (B) the commission of the offense upon which the current conviction is based; or
 - (ii) the current conviction is at any time after a conviction of:
 - (A) a violation of Section 76-5-207;
 - (B) a felony violation of this section, Section 76-5-102.1, 41-6a-502, or a statute previously in effect in this state that would constitute a violation of this section; or
 - (C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of conviction is reduced under Section 76-3-402.
- (3) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the following modifications:
 - (a) any jail sentence shall be 24 consecutive hours more than is required under Section 41-6a-505;
 - (b) any fine imposed shall be \$100 more than is required under Section 41-6a-505; and
 - (c) the court shall order one or more of the following:
 - (i) the installation of an ignition interlock system as a condition of probation for the individual, in accordance with Section 41-6a-518;
 - (ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or
 - (iii) the imposition of home confinement through the use of electronic monitoring, in accordance with Section 41-6a-506.
- (4)
 - (a) The offense of refusing a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.
 - (b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

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

Enacted by Chapter 415, 2023 General Session

Unanimity around alternative ways to prove a violation of 41-6a-502 (DUI).

The defendant is charged with operating, or being in actual physical control of, a vehicle while:

1. Being under the influence of alcohol; or
2. Having sufficient alcohol in their body that a subsequent test showed that the defendant had a blood or breath alcohol concentration of .05 grams or greater at the time of the test.
3. [Having a blood or breath alcohol concentration of .05 grams or greater at the time of the operation or actual physical control.] [rare option]

These are separate considerations. To find the defendant guilty, you must unanimously agree on at least one of those above alternatives. Should you find the defendant guilty you must also fill out the special verdict form indicating which alternatives you had unanimity on. There must be at least one.

SPECIAL VERDICT FORM For which alternative method of DUI.

We the Jury, in finding (Defendant's name) GUILTY of Count __, find unanimously, and beyond a reasonable doubt, that the defendant:

_____ was under the influence of alcohol and/or any other drug to a degree that he/she was incapable of safely operating the vehicle.

_____ had sufficient alcohol in their body at the time of operating or being in actual physical control of the vehicle, that a subsequent chemical test showed the defendant had a blood or breath alcohol concentration of .05 grams or greater at the time of the test.

_____ operated or was in actual physical control of a vehicle with a blood or breath alcohol concentration of .05 grams or greater.

Jury Foreperson

SPECIAL VERDICT FORM FOR THE MYRIAD ADD-ONS THAT INCREASE THE OFFENSE LEVEL (TOP) OR MINIMUM MANDATORY SENTENCING (BOTTOM)

We the jury having found the defendant guilty of Count # ___ [or violating Utah Code Ann 41-6a-502 (the DUI Statute)][we don't usually do it this way, but it's a lot cleaner than the whole statute title)], find unanimously and beyond a reasonable doubt the following:

Foreperson initial next to each that you do find. If you find none, initial the last box "None."
Verdict form must also be signed by the foreperson on behalf of the jury.

[Factors that increase the level of offense]

___ when committing the offense, the defendant had a passenger younger than 16 years old in the vehicle at the time of the offense.

___ when committing the offense, the defendant was at least 21 years of age and had a passenger younger than 18 years of age in the vehicle.

___ when committing the offense, the defendant also violated 41-6a-712 or 714 regarding Divided Highways [if those violations are charged in the information. If not, a longer special verdict form outlining all the elements of those offenses will need to be used.]

___ Within ten years of [[the date defendant committed this offense] or [today's date]], the defendant had a prior conviction as defined in Instruction # _____.

___ Within ten years of [[the date defendant committed this offense] or [today's date]], the defendant has two or more prior convictions as defined in Instruction # _____.

___ The defendant has a prior felony conviction as defined in Instruction # _____.

[Factors that increase the minimum sentence a court must impose]

When committing the offense, the defendant had:

___ a blood or breath alcohol level of .16 or higher;

___ a blood or breath alcohol level of .05 or higher AND a measured amount of a controlled substance in his/her body that was not [recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis] or [prescribed].

___ two or more controlled substances in his/her body that were not [recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis] or [prescribed].

(DEFENDANT'S NAME) is charged [in Count ____] with committing Criminal Refusal to submit to a Blood test [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. The defendant was under arrest;
2. A peace officer had requested the defendant to submit to a chemical test or tests;
3. The defendant refused that request;
4. The peace officer warned the defendant that refusal to submit to the test or tests may result in:
 - a. criminal prosecution;
 - b. revocation of the defendant's driver license;
 - c. a five or ten year prohibition of driving with any measurable or detectable amount of alcohol in [his/her] body on the defendant's driving history; and
 - d. a three-year prohibition of driving without an ignition interlock device.
5. A judge had issued a warrant allowing seizure of a sample of the defendant's blood; and
6. After being presented with evidence of that warrant, the defendant refused another request by an officer to submit to a test of the defendant's blood.

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

TAB 4

Proposed CR 1005: Negligently Operating a Vehicle Resulting in Injury

Draft Instruction for Negligently Operating a Vehicle Resulting in Injury

Proposed Instruction:

(DEFENDANT'S NAME) is charged [in Count ____] with committing Negligently Operating a Vehicle Resulting in Injury [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. (DEFENDANT'S NAME);
 - a. Operated a vehicle in a negligent manner; and
 - b. Caused [serious] bodily injury to another; and
2. (DEFENDANT'S NAME):
 - a. [Had sufficient alcohol in [his] [her] body that a subsequent chemical test showed that [he] [she] had a blood or breath alcohol concentration of .05 grams or greater at the time of the test;]
 - b. [Was under the influence of [alcohol] [a drug] [the combined influence of alcohol and a drug] to a degree that rendered [him] [her] incapable of safely operating a vehicle;] or
 - c. [Had a blood or breath alcohol concentration of .05 grams or greater at the time of operation;] or
3. (DEFENDANT'S NAME);
 - a. Operated a vehicle in a criminally negligent manner; and
 - b. Caused [serious] bodily injury to another; and

4. (DEFENDANT'S NAME):

- a. Had in [his] [her] body any measurable amount of a controlled substance.

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

References:

- Utah Code Ann. § 76-5-102.1(2)

Relevant Definitions:

- Negligence: *see* CR305.
- Criminal Negligence: *see* CR306A, CR306B, and CR307.
- Bodily Injury “means physical pain, illness, or any impairment of physical condition.” *See* Utah Code Ann. § 76-1-101.5(4).
- Serious Bodily Injury “means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.” *See* Utah Code Ann. § 76-1-101.5(17).

Notes:

This instruction is intended to be used in prosecuting the crime of Negligently Operating a Vehicle Resulting in Injury. Whether that offense constitutes a Class A Misdemeanor or a Third-Degree Felony depends on whether the Defendant caused bodily injury or serious bodily injury to another. *See* Utah Code Ann. § 76-5-102.1(3). Practitioners should use the bracketed [serious] language accordingly.

For the definition of “negligent,” see CR305. For the definition of “criminally negligent,” see CR306A, CR306B, and CR307.

Effective 5/3/2023

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

- (1)
 - (a) As used in this section:
 - (i) "Controlled substance" means the same as that term is defined in Section 58-37-2.
 - (ii) "Drug" means the same as that term is defined in Section 76-5-207.
 - (iii) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.
 - (iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.
 - (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits negligently operating a vehicle resulting in injury if the actor:
 - (a)
 - (i) operates a vehicle in a negligent manner causing bodily injury to another; and
 - (ii)
 - (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;
 - (B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or
 - (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or
 - (b)
 - (i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and
 - (ii) has in the actor's body any measurable amount of a controlled substance.
- (3) Except as provided in Subsection (4), a violation of Subsection (2) is:
 - (a)
 - (i) a class A misdemeanor; or
 - (ii) a third degree felony if the bodily injury is serious bodily injury; and
 - (b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.
- (4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2) (b) if:
 - (a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;
 - (b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or
 - (c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:
 - (i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and
 - (ii) the substance was administered to the actor by the medical researcher.
- (5)
 - (a) A judge imposing a sentence under this section may consider:
 - (i) the sentencing guidelines developed in accordance with Section 63M-7-404;
 - (ii) the defendant's history;
 - (iii) the facts of the case;
 - (iv) aggravating and mitigating factors; or
 - (v) any other relevant fact.
 - (b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

- (c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.
- (d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).
- (e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.
- (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.
- (g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Amended by Chapter 111, 2023 General Session

Amended by Chapter 415, 2023 General Session