

**2015 UPC Basic Prosecutor Course
Kim Gibb Presentation Outline**

DUI and Driver License Consequences

Statutes that mandate license sanctions and sanction periods for DUI related offenses can be found in 53-3-219, 53-3-220, 53-3-223, 53-3-231, 53-3-414, 53-3-418, 41-6a-509, 41-6a-517, 41-6a-221, 41-6a-518(4), and 78A-6-606.

Alcohol Ready Reference Table Update

An updated document will be shared with attendees containing information regarding license sanctions and other requirements for alcohol and drug related offenses.

IID, ARD Consequences

Q & A regarding Ignition Interlock and Alcohol restrictions imposed against drivers for alcohol and drug related offenses. The last page of the **Alcohol Ready Reference Table** contains detail regarding both IID and ARD restriction requirements.

DUI vs. Impaired Driving Conviction, and Fail to Comply With Probation Terms

DLD is required to suspend or revoke under 41-6a-509 and 53-3-220 for a DUI conviction under 41-6a-502. We are not required to suspend for a reduction to impaired driving under 41-6a-502.5 unless the individual has a prior offense for impaired or reckless driving within 1 year of the offense date, or suspension is ordered by a judge under 53-3-220(1)(a)(viii) for a first offense.

If an individual is granted a reduction under 41-6a-502.5, and they fail to appear before the court and establish successful completion of the court ordered probation requirements, the court is required under 41-6a-502.5(3)(a)(iii) to enter an amended conviction under 41-6a-502. The date of entry of the amended order is the new date of conviction. In addition, DLD will not credit any time served under 53-3-223 or 53-3-231 for the same offense. The individual will serve a mandatory suspension or revocation period that is effective on the new date of conviction.

2015 Legislative Updates

SB181 Driver License Modifications (Title 58 Violations, Motor Vehicle vs. no Motor Vehicle and Substance Abuse Treatment)

If a Title 58 violation did not involve a motor vehicle and the individual is participating in or has completed substance abuse treatment, the court is not required to transmit the abstract of the conviction. In this case, the Driver License Division is not required to suspend the license. If the individual fails to comply with the substance abuse treatment requirement, the court is required to send the abstract to DLD (which occurs electronically through entry in CORIS), and DLD is required to suspend the license. A slight language change was made during the 2015 legislative session to clarify what involvement with a motor vehicle means.

The new statutory language is as follows in 53-3-218(2) (c):

(c) (i) A court is not required to forward to the division within five days an abstract of the court record of the conviction for a violation described in Subsection [53-3-220\(1\)\(c\)](#) and the Driver License Division is not required to suspend a person's license for a violation described in Subsection [53-3-220\(1\)\(c\)](#) if the person:

(A) convicted of a violation described in Subsection [53-3-220\(1\)\(c\)](#) was not an operator of a motor vehicle at the time of the violation; and

(B)(I) is participating in or has successfully completed substance abuse treatment at a licensed substance abuse treatment program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section [62A-15-105](#); or

(II) is participating in or has successfully completed probation through the Department of Corrections Adult Probation and Parole in accordance with Section [77-18-1](#).

(ii) If the person convicted of a violation described in Subsection [53-3-220\(1\)\(c\)](#) fails to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II):

(A) the substance abuse treatment program licensed by the Division of Substance Abuse and Mental Health or the Department of Corrections Adult Probation and Parole shall immediately provide an affidavit or other sworn information to the court notifying the court that the person has failed to comply with the terms of a substance abuse treatment program under Subsection (2)(c)(i)(B)(I) or the terms of probation under Subsection (2)(c)(i)(B)(II);

(B) upon receipt of an affidavit or sworn statement under Subsection (2)(c)(ii)(A), the court shall immediately forward an abstract of the court record of the conviction for a violation described in Subsection [53-3-220\(1\)\(c\)](#) to the division; and

(C) the division shall immediately suspend the person's license in accordance with Subsection [53-3-220\(1\)\(c\)](#).

HB284 Minor Alcohol or Drug Offenses and Driving Privileges

When a minor is “found by the court to have violated” 32B-4-409, 32B-4-410 or 76-9-701; or a court “determines that the minor committed an offense under 58-37-8 or Title 58 Chapter 37a or 37b” the court is required to order suspension of the driving privilege. The license is suspended under 53-3-219 for 1 year for a first offense or 2 years for a second or subsequent offense.

A report of a conviction does not result in the license sanction taking place. Due to the statutory language in place, the court is required to send DLD a paper court order (or complete the DI 1103 form and submit to DLD) to order suspension of the license.

The court may shorten the suspension for an alcohol or drug related suspension of this type. In order for the court to shorten a suspension for a first violation, the person must complete an alcohol education program or demonstrate substantial progress in substance abuse treatment.

In order for the court to shorten the suspension for a second or subsequent alcohol or drug violation of this type, either the person, or their parent if they are under the age of 18, must certify they have not consumed alcohol/drugs for a concurrent period of at least one year during the suspension period. They must also complete an alcohol education program or demonstrate substantial progress.

In either case, the court will need to send an order (or a copy of the original DI1103 form with judge's note) to shorten the suspension. A \$65 reinstatement fee is required for this type of suspension.

Minor's Unlawful Use of Proof of Age Suspension

When a minor is convicted for an unlawful use of proof of age violation under 32B-4-411, the conviction is transmitted to DLD and posted on the driver history. A letter is generated to notify them of the mandatory license suspension being imposed against their driving privilege under 53-3-220(1)(e). This type of action does not require a court order to suspend. The license is suspended for 1 year for a first

offense or 2 years for a second or subsequent offense. The passage of HB284 added a provision for the court to shorten a one or two year suspension for a proof of age violation using the same criteria as outlined for a minor alcohol or drug offense.