

1 **H→ [~~—————~~FIREARM] DRUG SENTENCING ←H MODIFICATIONS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Andrew Stoddard**

5 Senate Sponsor: Keith Grover

6

LONG TITLE

7 **Committee Note:**

8 The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

9 Legislative Vote: 9 voting for 3 voting against 6 absent

10 **General Description:**

11 This bill addresses the punishment for individuals who use or possess a **H→ [firearm]**

12a **dangerous weapon ←H** while

13 distributing illegal drugs.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ requires a court to sentence individuals who use or possess a **H→ [firearm] dangerous**

17a **weapon ←H** while

18 distributing drugs to an indeterminate prison term; and

19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides a special effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **58-37-8 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 312,

27 329

58-37-8 (Effective 07/01/24), as last amended by Laws of Utah 2023, Chapters 310,



59 upon a second or subsequent conviction is guilty of a second degree felony; or

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

63 (c) (i) ~~[A] Except as provided in Subsection (1)(c)(ii), a person who has been convicted~~
64 ~~of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an~~
65 ~~indeterminate term as [provided by law, but if the trier of fact finds a firearm as defined in~~
66 ~~Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate~~
67 ~~possession during the commission or in furtherance of the offense, the court shall additionally~~
68 ~~sentence the person convicted for a term of one year to run consecutively and not concurrently;~~
69 ~~and the court may additionally sentence the person convicted for an indeterminate term not to~~
70 ~~exceed five years to run consecutively and not concurrently]~~ described in Subsection (1)(b) and
71 Title 76, Chapter 3, Punishments.

72 (ii) If the trier of fact finds beyond a reasonable doubt that a person who commits a
73 first degree or second degree felony violation of Subsection (1)(a)(ii) or (iii) used or possessed
74 a ~~H~~→ [firearm] dangerous weapon ←~~H~~ , as defined in Section 76-10-501, during the commission
74a or furtherance of the
75 violation, the court shall impose and may not suspend an indeterminate prison term:

76 (A) for a first degree felony violation, of at least five years and which may be for life;
77 or

78 (B) for a second degree felony violation, of at least one year and which may be up to 15
79 years.

80 (iii) Notwithstanding Subsection (1)(c)(ii)(B), a court may suspend the indeterminate
81 prison term for a person convicted of a second degree felony under Subsection (1)(c)(ii) if the
82 court:

83 (A) details on the record the reasons why it is in the interests of justice not to impose
84 the indeterminate prison term;

85 (B) makes a finding on the record that the person does not pose a significant safety risk
86 to the public; and

87 (C) orders the person to complete the terms and conditions of supervised probation
88 provided by the Division of Adult Probation and Parole.

89 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree

369 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
370 felony.

371 (c) (i) ~~[A] Except as provided in Subsection (1)(c)(ii), a person who has been convicted~~
372 ~~of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an~~
373 ~~indeterminate term as [provided by law, but if the trier of fact finds a firearm as defined in~~
374 ~~Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate~~
375 ~~possession during the commission or in furtherance of the offense, the court shall additionally~~
376 ~~sentence the person convicted for a term of one year to run consecutively and not concurrently;~~
377 ~~and the court may additionally sentence the person convicted for an indeterminate term not to~~
378 ~~exceed five years to run consecutively and not concurrently] described in Subsection (1)(b) and~~
379 ~~Title 76, Chapter 3, Punishments.~~

380 (ii) If the trier of fact finds beyond a reasonable doubt that a person who commits a
381 first degree or second degree felony violation of Subsection (1)(a)(ii) or (iii) used or possessed
382 a ~~firearm~~ **firearm** dangerous weapon ~~firearm~~, as defined in Section 76-10-501, during the commission
382a or furtherance of the
383 violation, the court shall impose and may not suspend an indeterminate prison term:

384 (A) for a first degree felony violation, of at least five years and which may be for life;

385 or

386 (B) for a second degree felony violation, of at least one year and which may be up to 15
387 years.

388 (iii) Notwithstanding Subsection (1)(c)(ii)(B), a court may suspend the indeterminate
389 prison term for a person convicted of a second degree felony under Subsection (1)(c)(ii) if the
390 court:

391 (A) details on the record the reasons why it is in the interests of justice not to impose
392 the indeterminate prison term;

393 (B) makes a finding on the record that the person does not pose a significant safety risk
394 to the public; and

395 (C) orders the person to complete the terms and conditions of supervised probation
396 provided by the Division of Adult Probation and Parole.

397 (d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
398 felony punishable by imprisonment for an indeterminate term of not less than:

399 (A) seven years and which may be for life; or