

Representative Andrew Stoddard proposes the following substitute bill:

DRUG SENTENCING MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill addresses the sentencing for an individual ~~§→ [who uses or has a dangerous~~
~~weapon readily accessible for immediate use while] convicted of ←§~~ distributing illegal drugs ~~§→~~
in certain circumstances ←§ .

Highlighted Provisions:

This bill:

▶ ~~§→ [—————requires a court in certain circumstances to sentence an individual who uses or~~
~~has a~~
~~dangerous weapon readily accessible for immediate use while distributing illegal~~
~~drugs to an indeterminate prison term]~~ requires a court, with certain exceptions, to sentence an
individual convicted of distributing drugs to an indeterminate prison term if the individual,
while
distributing the drugs, intentionally or knowingly:

- had a dangerous weapon readily accessible for immediate use; or
- distributed a firearm or possessed a firearm with intent to distribute the firearm ←§ ;

and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



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

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

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

70 (ii) The court shall impose ~~§→ [and may not suspend]~~ ~~←§~~ an indeterminate prison term for
70a a

71 person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first
72 degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that,
73 during the commission or furtherance of the violation, the person ~~§→ intentionally or knowingly~~
73a ~~←§~~ :

74 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section
75 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner; ~~§→ [or]~~
75a ~~←§~~

76 (B) used a firearm or had a firearm readily accessible for immediate use, as those terms
77 are defined in Section 76-10-501 ~~§→ [:] ; or~~

77a (C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a
77b firearm with intent to distribute the firearm. ~~←§~~

78 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate
79 prison term for a person convicted under Subsection (1)(c)(ii) if the court:

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

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

84 (C) orders the person to complete the terms and conditions of supervised probation
85 provided by the Department of Corrections.

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

367 felony.

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

377 (ii) The court shall impose ~~Ŝ~~→ **[and may not suspend]** ←~~Ŝ~~ an indeterminate prison term for
 377a a
 378 person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first
 379 degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that,
 380 during the commission or furtherance of the violation, the person ~~Ŝ~~→ **intentionally or knowingly**
 380a ~~←Ŝ~~ :

381 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section
 382 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner; ~~Ŝ~~→ **[or]**
 382a ~~←Ŝ~~

383 (B) used a firearm or had a firearm readily accessible for immediate use, as those terms
 384 are defined in Section 76-10-501 ~~Ŝ~~→ **[:] ; or**

384a **(C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a**
 384b **firearm with intent to distribute the firearm.** ←~~Ŝ~~

385 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate
 386 prison term for a person convicted under Subsection (1)(c)(ii) if the court:

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

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

391 (C) orders the person to complete the terms and conditions of supervised probation
 392 provided by the Department of Corrections.

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

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

396 (B) 15 years and which may be for life if the trier of fact determined that the defendant
 397 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)