

**Unlawful Presence Criminal Enhancement Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Calvin R. Musselman**

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**LONG TITLE****General Description:**

This bill enhances criminal penalties for a crime committed by an individual who is unlawfully present in the United States.

**Highlighted Provisions:**

This bill:

▸ creates an enhancement for a crime committed by an individual who is unlawfully present in the United States.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-3-203.19**, Utah Code Annotated 1953

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

Section 1. Section **76-3-203.19** is enacted to read:

**76-3-203.19 . Enhancement of an offense committed by an individual unlawfully present in the United States.**

(1) If the trier of fact finds that an actor was unlawfully present in the United States at the time the actor committed an offense, the actor is:

(a) guilty of:

(i) a class B misdemeanor if the actor is charged with an offense that is designated by law as a class C misdemeanor;

(ii) a class A misdemeanor if the actor is charged with an offense that is designated by law as a class B misdemeanor;

(iii) a third degree felony if the actor is charged with an offense that is designated by law as a class A misdemeanor;

- 32           (iv) a second degree felony if the actor is charged with an offense that is designated  
33           by law as a third degree felony; or
- 34           (v) a first degree felony if the actor is charged with an offense that is designated by  
35           law as a second degree felony; or
- 36           (b) subject to the penalty described in Subsection (2)(f) if the actor is charged with an  
37           offense that is designated by law as a first degree felony.
- 38   (2)(a) If an actor is guilty of a class B misdemeanor as described in Subsection (1)(a)(i),  
39           the court shall impose a mandatory fine of no less than \$750 in addition to any other  
40           penalty the court may impose for a class B misdemeanor.
- 41           (b) If an actor is guilty of a class A misdemeanor as described in Subsection (1)(a)(ii),  
42           the court shall impose a mandatory fine of no less than \$1,000 in addition to any  
43           other penalty the court may impose for a class A misdemeanor.
- 44           (c) If an actor is guilty of a third degree felony as described in Subsection (1)(a)(iii), the  
45           court shall impose:
- 46           (i) a mandatory fine of no less than \$2,500; and  
47           (ii) an indeterminate term of imprisonment for no less than one year and no more  
48           than five years in addition to any other penalty the court may impose for a third  
49           degree felony.
- 50           (d) If an actor is guilty of a second degree felony as described in Subsection (1)(a)(iv),  
51           the court shall impose:
- 52           (i) a mandatory fine of no less than \$5,000; and  
53           (ii) an indeterminate term of imprisonment for no less than two years and no more  
54           than 15 years in addition to any other penalty the court may impose for a second  
55           degree felony.
- 56           (e) If an actor is guilty of a first degree felony as described in Subsection (1)(a)(v), the  
57           court shall impose:
- 58           (i) a mandatory fine of no less than \$7,500; and  
59           (ii) an indeterminate term of imprisonment that adds four years to the minimum term  
60           of the applicable sentence in addition to any other penalty the court may impose  
61           for a first degree felony.
- 62           (f) If an actor is guilty of a first degree felony as described in Subsection (1)(b), the  
63           court shall impose:
- 64           (i) a mandatory fine of no less than \$10,000; and  
65           (ii) an indeterminate term of imprisonment that adds six years to the minimum term

66 of the applicable sentence in addition to any other penalty the court may impose  
67 for a first degree felony.

68 (3) Except as otherwise provided by another provision of the Utah Code, the court may  
69 suspend the execution of an indeterminate term of imprisonment described in Subsection  
70 (2)(c)(ii), (2)(d)(ii), (2)(e)(ii), or (2)(f)(ii) in accordance with Section 77-18-105.

71 (4) The prosecuting attorney, or the grand jury if an indictment is returned, shall include  
72 notice in the information or indictment that the offense is subject to an enhancement  
73 under this section.

74 Section 2. **Effective Date.**

75 This bill takes effect on May 7, 2025.