

Stephanie Pitcher proposes the following substitute bill:

**Joint Resolution Amending Court Rules Regarding Pleas**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

House Sponsor: Ryan D. Wilcox

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**LONG TITLE**

**General Description:**

This joint resolution amends court rules of procedure regarding pleas.

**Highlighted Provisions:**

This resolution:

- amends Utah Rules of Criminal Procedure, Rule 11, to address pleas; and
- makes technical and conforming changes.

**Other Special Clauses:**

This resolution provides a special effective date.

**Utah Rules of Criminal Procedure Affected:**

AMENDS:

**Rule 11**, Utah Rules of Criminal Procedure

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*Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:*

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 2. **Rule 11**, Utah Rules of Criminal Procedure is amended to read:

**Rule 11 . Pleas.**

(a) **Right to Counsel.** Upon arraignment, except for an infraction, a defendant must be represented by counsel, unless the defendant waives counsel in open court. The defendant must not be required to plead until the defendant has had a reasonable time to confer with counsel.

(b) **Types of pleas.** A defendant may plead not guilty, guilty, no contest, not guilty by reason of insanity, or guilty ~~[and mentally ill]~~ with a mental condition at the time of the offense. A defendant may plead in the alternative not guilty or not guilty by reason of insanity. If a

defendant refuses to plead or if a defendant corporation fails to appear, the court will enter a plea of not guilty.

(c) **No contest plea.** A defendant may plead no contest only with the consent of the court.

(d) **Not guilty plea.** When a defendant enters a plea of not guilty, the case will be set for trial. A defendant unable to make bail must be given a preference for an early trial. In cases other than felonies the court will advise the defendant, or counsel, of the requirements for making a written demand for a jury trial.

(e) **Guilty plea.** The court may refuse to accept a plea of guilty, no contest, or guilty [~~and mentally ill~~] with a mental condition at the time of the offense, and may not accept the plea until the court has found:

[~~(e)~~](1) if the defendant is not represented by counsel, [~~he or she~~] the defendant has knowingly waived the right to counsel and does not desire counsel;

[~~(e)~~](2) the plea is voluntarily made;

[~~(e)~~](3) the defendant knows of the right to the presumption of innocence, the right against compulsory self-incrimination, the right to a speedy public trial before an impartial jury, the right to confront and cross-examine in open court the prosecution witnesses, the right to compel the attendance of defense witnesses, and that by entering the plea, these rights are waived;

[~~(e)~~](4)(A) the defendant understands the nature and elements of the offense to which the plea is entered, that upon trial the prosecution would have the burden of proving each of those elements beyond a reasonable doubt, and that the plea is an admission of all those elements; and

[~~(e)~~](4)(B) there is a factual basis for the plea. A factual basis is sufficient if it establishes that the charged crime was actually committed by the defendant or, if the defendant refuses or is otherwise unable to admit culpability, that the prosecution has sufficient evidence to establish a substantial risk of conviction;

[~~(e)~~](5) the defendant knows the minimum and maximum sentence, and if applicable, the minimum mandatory nature of the minimum sentence, that may be imposed for each offense to which a plea is entered, including the possibility of the imposition of consecutive sentences;

[~~(e)~~](6) if the tendered plea is a result of a prior plea discussion and plea agreement, and if so, what agreement has been reached;

[~~(e)~~](7) the defendant has been advised of the time limits for filing any motion to withdraw the plea; and

64           ~~[(e)]~~(8) the defendant has been advised that the right of appeal is limited.

65           These findings may be based on questioning of the defendant on the record or, if used, a  
66 written statement reciting these factors after the court has established that the defendant has  
67 read, understood, and acknowledged the contents of the statement. If the defendant cannot  
68 understand the English language, it will be sufficient that the statement has been read or  
69 translated to the defendant.

70           Unless specifically required by statute or rule, a court is not required to inquire into or  
71 advise concerning any collateral consequences of a plea.

72           **(f) Motion to withdraw plea.**

73           \_\_\_\_ (1) A defendant may withdraw a plea of not guilty at any time before conviction.

74           \_\_\_\_ (2) A defendant must make a motion to withdraw a plea of guilty, no contest, or guilty  
75 with a mental condition at the time of the offense before the sentence is announced. The court  
76 may not announce the defendant's sentence unless the motion to withdraw the plea is denied.

77           \_\_\_\_ (3) A defendant must make a motion to withdraw a plea in abeyance within 30 days after  
78 the day on which the court accepts the defendant's plea of guilty or no contest.

79           \_\_\_\_ (4) If a motion to withdraw a plea is not made within the time period described in this  
80 paragraph (f), the defendant may challenge the plea in accordance with the preservation rule,  
81 or an established exception to the preservation rule, in a direct appeal.

82           \_\_\_\_ (5) Failure to advise the defendant of the time limits for filing any motion to withdraw a  
83 plea[~~of guilty, no contest or guilty and mentally ill~~] is not a ground for setting the plea aside,  
84 but may be the ground for extending the time to make a motion under [Utah Code § 77-13-6]  
85 this paragraph (f).

86           **(g) Plea in domestic violence offense.** If the defendant pleads guilty, no contest, or guilty [  
87 ~~and mentally ill~~] with a mental condition at the time of the offense to a misdemeanor crime of  
88 domestic violence, as defined in Utah Code [§] section 77-36-1, the court will advise the  
89 defendant orally or in writing that, if the case meets the criteria of 18 U.S.C. [§] Sec.  
90 921(a)(33) or Utah Code [§] section 76-10-503 then pursuant to federal law or state law, it is  
91 unlawful for the defendant to possess, receive or transport any firearm or ammunition. The  
92 failure to advise does not render the plea invalid or form the basis for withdrawal of the plea.

93           **(h) Plea recommendations.**

94           ~~[(h)]~~(1) If it appears that the prosecuting attorney or any other party has agreed to  
95 request or recommend the acceptance of a plea to a lesser included offense, or the dismissal of  
96 other charges, the agreement must be approved or rejected by the court.

97           ~~[(h)]~~(2) If sentencing recommendations are allowed by the court, the court will advise

the defendant personally that any recommendation as to sentence is not binding on the court.

(i) **Plea agreements.**

[(+)](1) The judge will not participate in plea discussions prior to any plea agreement being made by the prosecuting attorney.

[(+)](2) When a tentative plea agreement has been reached, the judge, upon request of the parties, may permit the disclosure of the tentative agreement and the reasons for it, in advance of the time for tender of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the proposed disposition will be approved.

[(+)](3) If the judge then decides that final disposition should not be in conformity with the plea agreement, the judge must advise the parties as to the nature of the divergence from the plea agreement and then call upon the parties to either affirm or withdraw from the plea agreement.

(j) **Conditional plea.** With approval of the court and the consent of the prosecution, a defendant may enter a conditional plea of guilty, guilty ~~[and mentally ill]~~ with a mental condition at the time of the offense, or no contest, reserving in the record the right, on appeal from the judgment, to a review of the adverse determination of any specified pre-trial motion. A defendant who prevails on appeal will be allowed to withdraw the plea.

(k) **Guilty ~~[and mentally ill]~~ with a mental condition at the time of the offense.** When a defendant tenders a plea of guilty ~~[and mentally ill]~~ with a mental condition at the time of the offense, in addition to the other requirements of this rule, the court will hold a hearing within a reasonable time to determine if the defendant ~~[is mentally ill]~~ had a mental condition in accordance with Utah Code [§] section 77-16a-103.

(l) **Strict compliance not necessary.** Compliance with this rule will be determined by examining the record as a whole. Any variance from procedures required by this rule which does not affect substantial rights will be disregarded. Failure to comply with this rule is not, by itself, sufficient grounds for a collateral attack on a guilty plea.

**Section 3. Effective Date.**

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two-thirds vote of all members elected to each house.