

HB0253S02 compared with HB0253

~~{Omitted text}~~ shows text that was in HB0253 but was omitted in HB0253S02

inserted text shows text that was not in HB0253 but was inserted into HB0253S02

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Marijuana ~~{Use or Possession Penalty}~~ Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Grant Amjad Miller

Senate Sponsor:

LONG TITLE

General Description:

This bill changes criminal provisions, procedures, and penalties ~~{for the use or possession of 14 grams or less of}~~ concerning marijuana.

Highlighted Provisions:

This bill:

- ~~{provides lower criminal}~~ amends offenses and penalties ~~{for the use or possession of 14 grams or less}~~ concerning differing amounts of marijuana; ~~{and}~~

- establishes a deferred prosecution process for certain first-time marijuana possession or use offenses; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

HB0253

HB0253 compared with HB0253S02

AMENDS:

58-37-8 , as last amended by Laws of Utah 2025, Chapters 141, 173, 198, 208, and 305

58-37f-201 , as last amended by Laws of Utah 2023, Chapters 329, 415

58-37f-704 , as last amended by Laws of Utah 2022, Chapter 116

64-14-204 , as renumbered and amended by Laws of Utah 2025, Chapter 214

77-11b-102 , as last amended by Laws of Utah 2025, Chapters 173, 208

77-40a-101 , as last amended by Laws of Utah 2025, Chapters 173, 239

~~{77-40a-205 , as last amended by Laws of Utah 2025, Chapters 173, 208, 214, and 239}~~

78A-7-301 , as last amended by Laws of Utah 2023, Chapter 393

ENACTS:

77-2-4.6 , Utah Code Annotated 1953

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

Section 1. Section **58-37-8** is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, and under circumstances not amounting to an offense described in Section 58-37-8.1, trafficking of fentanyl or a fentanyl-related substance, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c,

HB0253 compared with HB0253S02

Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

- 49 (b) A person convicted of violating Subsection (1)(a) with respect to:
- 50 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;
- 55 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or
- 59 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.
- 62 (c)
- (i) Except as provided in Subsection (1)(c)(iii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(c)(ii) and Title 76, Chapter 3, Punishments.
- 66 (ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:
- 71 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-11-101, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;
- 74 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm readily accessible for immediate use, as that term is defined in Section 76-11-201; or
- 77 (C) distributed a firearm, as that term is defined in Section 76-11-101, or possessed a firearm with intent to distribute the firearm.
- 79 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 81 (A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

HB0253 compared with HB0253S02

- 83 (B) makes a finding on the record that the person does not pose a significant safety risk to the public;
and
- 85 (C) orders the person to complete the terms and conditions of supervised probation provided by the
Department of Corrections.
- 87 (d)
- (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by
imprisonment for an indeterminate term of not less than:
- 89 (A) seven years and which may be for life; or
- 90 (B) 15 years and which may be for life if the trier of fact determined that the defendant knew or
reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under
18 years old.
- 93 (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for
probation.
- 95 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under
18 years old.
- 97 (e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the
name, case number, date of conviction, and if known, the date of birth of each person convicted of
violating Subsection (1)(a).
- 100 (f)
- (i) A court shall impose the mandatory jail sentence described in Subsection (1)(f)(ii), and may not
suspend any portion of the jail sentence or grant early release, if:
- 103 (A) the court suspends the imposition of a prison sentence for a felony conviction under Subsection
(1)(a) or sentences a person for a misdemeanor violation of an offense under Subsection (1)(a);
- 106 (B)
- (I) the violation is the person's second or subsequent conviction for any level of offense under
Subsection (1)(a); or
- 108 (II) the person previously has been convicted of a criminal violation in another jurisdiction, including a
state or federal court, that is substantially equivalent to the violation of an offense under Subsection
(1)(a); and
- 111 (C) the person previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec.
1326.

HB0253 compared with HB0253S02

(ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:

(A) for a felony or a class A misdemeanor, 360 days in jail;

(B) for a class B misdemeanor, 180 days in jail; and

(C) for a class C misdemeanor, 90 days in jail.

(iii)

(A) Except as provided in Subsection (1)(f)(iii)(B), a person who is subject to a mandatory jail sentence under Subsection (1)(f)(i) may not be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation until the person has served the entire jail sentence described in Subsection (1)(f)(ii).

(B) A person may be released to the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security for deportation at any time during the 14-day period before the final day of the person's jail sentence described in Subsection (1)(f)(ii).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place to knowingly and intentionally permit a person to occupy the building, room, tenement, vehicle, boat, aircraft, or other place while the person is unlawfully manufacturing, possessing, using, or distributing a controlled substance at that location; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to [§]

[i] marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

[ii] a substance classified in Schedule I or II, or a controlled substance analog, not including marijuana, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

HB0253 compared with HB0253S02

(c) Upon a person's conviction of a violation of this Subsection (2) ~~subsequent to~~ after a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d)

(i) ~~{A}~~ Except as provided in Subsection (2)(e), a person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection ~~[(2)(b)(i) or (ii)]~~ (2)(b), including a substance listed in Section 58-37-4.2, ~~or~~ but not including marijuana, is guilty of a class B misdemeanor.

(ii) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(iii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e)

~~(i)~~ {A} Under circumstances not amounting to an offense described in Subsection (1)(a), a violation of Subsection (2)(a)(i) with respect to {14 grams or less of} marijuana is:

~~{i} {an infraction on a first conviction;}~~

(A) subject to Subsection (2)(e)(ii), a class B misdemeanor for less than eight grams of marijuana;

~~(ii){B} a class {C} A misdemeanor {on a second conviction} for eight grams or {on a subsequent conviction not described in Subsection (2)(e)(iii) or (iv);}~~ more but less than 71 grams of marijuana;
or

~~(iii){C} subject to Subsection (2)(e)(iii), a {class B misdemeanor if the conviction is the person's third conviction and each prior offense was committed within seven years before the date} third degree felony for 71 grams or more of {the offense upon which the current conviction is based; or}~~ marijuana.

~~(iv){ii} {a class A misdemeanor if the conviction is the person's fourth conviction and each prior A first offense {was committed within seven years before the date of the offense upon which the current conviction is based}}~~ under Subsection (2)(e)(i)(A) may be eligible for deferred prosecution under Section 77-2-4.6.

HB0253 compared with HB0253S02

~~{(e)+(f)}~~ An actor who possesses 71 grams or more of marijuana is presumed to be in violation of Subsection (1)(a).

- 176 ~~{(e)}~~ (f) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of
property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other
place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection
(2)(b) or (2)(e), as applicable, and if the conviction is with respect to controlled substances as listed
in:
- 175 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as
provided by law, and:
- 177 (A) the court shall additionally sentence the person convicted to a term of one year to run consecutively
and not concurrently; and
- 179 (B) the court may additionally sentence the person convicted for an indeterminate term not to exceed
five years to run consecutively and not concurrently; and
- 181 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as
provided by law, and the court shall additionally sentence the person convicted to a term of six
months to run consecutively and not concurrently.
- 185 ~~{(f)}~~ (g) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 186 (i) on a first conviction, guilty of a class B misdemeanor;
- 187 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 188 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 189 ~~{(g)}~~ (h) The Administrative Office of the Courts shall report to the Division of Professional Licensing
the name, case number, date of conviction, and if known, the date of birth of each person convicted
of violating Subsection (2)(a).
- 192 (3) Prohibited acts C -- Penalties:
- 193 (a) It is unlawful for a person knowingly and intentionally:
- 194 (i) to use in the course of the manufacture or distribution of a controlled substance a license number
which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining
a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler,
apothecary, physician, dentist, veterinarian, or other authorized person;
- 199 (ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain
a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain

HB0253 compared with HB0253S02

possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

206 (iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

209 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

214 (b)

(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

216 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

218 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

219 (4) Prohibited acts D -- Penalties:

220 (a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

224 (i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

226 (ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

229 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

231 (iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

233 (v) in or on the grounds of a house of worship as defined in Section 76-11-201;

234 (vi) in or on the grounds of a library when the library is open to the public;

235 (vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

HB0253 compared with HB0253S02

- 237 (viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or
239 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a
substance in violation of this section to an inmate or on the grounds of a correctional facility as
defined in Section 76-8-311.3.
- 242 (b)
- (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be
imprisoned for a term of not less than five years if the penalty that would otherwise have been
established but for this Subsection (4) would have been a first degree felony.
- 246 (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for
probation.
- 248 (c) If the classification that would otherwise have been established would have been less than a first
degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of
one degree more than the maximum penalty prescribed for that offense.
- 252 (d)
- (i) If the violation is of Subsection (4)(a)(ix):
- 253 (A) the person may be sentenced to imprisonment for an indeterminate term as provided by law,
and the court shall additionally sentence the person convicted for a term of one year to run
consecutively and not concurrently; and
- 256 (B) the court may additionally sentence the person convicted for an indeterminate term not to
exceed five years to run consecutively and not concurrently; and
- 258 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state
required for the commission of an offense, directly or indirectly solicits, requests, commands,
coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)
(ix).
- 262 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 263 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or
was unaware of the individual's true age; or
- 265 (ii) the actor mistakenly believed that the location where the act occurred was not as described in
Subsection (4)(a) or was unaware that the location where the act occurred was as described in
Subsection (4)(a).
- 268 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

HB0253 compared with HB0253S02

- 269 (6)
- (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- 274 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:
- 276 (i) from a separate criminal episode than the current charge; and
- 277 (ii) from a conviction that is separate from any other conviction used to enhance the current charge.
- 279 (7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.
- 281 (8)
- (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.
- 283 (b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.
- 286 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.
- 290 (10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.
- 294 (11) Civil or criminal liability may not be imposed under this section on:
- 295 (a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;
- 298 (b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or
- 300 (c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis

HB0253 compared with HB0253S02

on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

305 (12)

(a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

309 (b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

313 (c)

(i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

316 (ii) The notice shall include the specific claims of the affirmative defense.

317 (iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

320 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

323 (13)

(a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

325 (i) engaged in medical research; and

326 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

327 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

329 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

331 (a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

333 (b) the substance was administered to the person by the medical researcher.

334

HB0253 compared with HB0253S02

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a) (i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

337 (16)

(a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)

(b) that the person or bystander:

339 (i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

342 (ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

347 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

350 (iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

354 (v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

358 (vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

360 (b) The offenses referred to in Subsection (16)(a) are:

361 (i) the possession or use of less than ~~16 ounces~~ 71 grams of marijuana;

362 (ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

364 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

HB0253 compared with HB0253S02

- 366 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking
medical assistance under this section during the course of a law enforcement agency's execution of a
search warrant, execution of an arrest warrant, or other lawful search.
- 370 (17) If any provision of this chapter, or the application of any provision to any person or circumstances,
is held invalid, the remainder of this chapter shall be given effect without the invalid provision or
application.
- 373 (18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than
any provision of this chapter.
- 375 (19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection
76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:
- 378 (a) a screening as defined in Section 41-6a-501;
- 379 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be
appropriate; and
- 381 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as
indicated by an assessment.
- 389 Section 2. Section **58-37f-201** is amended to read:
- 390 **58-37f-201. Controlled substance database -- Creation -- Purpose.**
- 385 (1) There is created within the division a controlled substance database.
- 386 (2) The division shall administer and direct the functioning of the database in accordance with this
chapter.
- 388 (3) The division may, under state procurement laws, contract with another state agency or a private
entity to establish, operate, or maintain the database.
- 390 (4) The division shall, in collaboration with the board, determine whether to operate the database within
the division or contract with another entity to operate the database, based on an analysis of costs and
benefits.
- 393 (5) The purpose of the database is to contain:
- 394 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed controlled
substances;
- 396 (b) data reported to the division under Section 26B-2-225 regarding poisoning or overdose;
- 398

HB0253 compared with HB0253S02

(c) data reported to the division under Subsection 41-6a-502(5) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and

(d) data reported to the division under Subsection 58-37-8(1)(e) or [58-37-8(2)(g)] 58-37-8(2)(h) regarding certain violations of Chapter 37, Utah Controlled Substances Act.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance;

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy;

(e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and

(f) individuals convicted for:

(i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;

(ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

(iii) certain violations of Chapter 37, Utah Controlled Substances Act.

Section 3. Section **58-37f-704** is amended to read:

58-37f-704. Entering certain convictions into the database.

Beginning October 1, 2016, if the division receives a report from a court under Subsection 58-37-8(1)(e) or [58-37-8(2)(g)] 58-37-8(2)(h), the division shall daily enter into the database the information supplied in the report.

Section 4. Section **64-14-204** is amended to read:

64-14-204. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee -- Coordination with local mental health authority.

(1)

HB0253 compared with HB0253S02

- (a) The division, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:
- (i)
- (A) is placed on probation by a court;
- (B) is released on parole by the Board of Pardons and Parole; or
- (C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and
- (ii) has been convicted of:
- (A) a felony;
- (B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or
- (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the division is ordered by a court to supervise the offender under Section 77-18-105.
- (b) If a sentenced offender participates in substance use treatment or a residential vocational or life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the division shall monitor the offender's compliance with and completion of the treatment or program.
- (c) The department shall establish standards for:
- (i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection ~~[58-37-8(2)(b)(ii)]~~ 58-37-8(2)(b); and
- (ii) the monitoring described in Subsection (1)(b).
- (2) The division shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:
- (a) sanctions to be used in response to a violation of the terms of probation or parole; and
- (b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.

HB0253 compared with HB0253S02

(3) The division shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1 to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4)

(a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Use and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the division who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision by the division;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6)

(a)

(i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the division upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b)

HB0253 compared with HB0253S02

- (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.
- 501 (ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the division shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.
- 505 (c) The division shall deposit money received from the monthly supervision fee established in this Subsection (6) into the General Fund as a parole and probation dedicated credit to be used to cover costs incurred in the collection of the fee and in the development of offender supervision programs.
- 509 (7)
- (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2) (a) on or after October 1, 2015, but before January 1, 2019, the division shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.
- 515 (b)
- (i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the division shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.
- 520 (ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.
- 524 (iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:
- 527 (A) the offender presents a substantial risk to public safety;
- 528 (B) termination would prevent the offender from completing risk reduction programming or treatment;
- or
- 530 (C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.

HB0253 compared with HB0253S02

- 533 (iv) This Subsection (7)(b) does not prohibit the division, or another supervision services provider, from
requesting termination of supervision based on the eligibility criteria in the adult sentencing and
supervision length guidelines, as defined in Section 63M-7-401.1.
- 537 (c) The division shall:
- 538 (i) maintain a record of credits earned by an offender under this Subsection (7); and
- 539 (ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not
fewer than 30 days [~~prior to~~] before the termination date that reflects the credits earned under this
Subsection (7).
- 542 (d) This Subsection (7) does not prohibit the division from requesting a termination date earlier than the
termination date established by earned credits under Subsection (7)(c).
- 544 (e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole
upon completion of the period of probation or parole accrued by time served and credits earned
under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination
would interrupt the completion of a necessary treatment program, in which case the termination of
probation or parole shall occur when the treatment program is completed.
- 550 (f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or
before August 31:
- 552 (i) the number of offenders who have earned probation or parole credits under this Subsection (7) in
one or more months of the preceding fiscal year and the percentage of the offenders on probation or
parole during that time that this number represents;
- 556 (ii) the average number of credits earned by those offenders who earned credits;
- 557 (iii) the number of offenders who earned credits by county of residence while on probation or parole;
- 559 (iv) the cost savings associated with sentencing reform programs and practices; and
- 560 (v) a description of how the savings will be invested in treatment and early-intervention programs and
practices at the county and state levels.
- 562 (8)
- (a) The department shall coordinate with a local mental health authority to complete the requirements of
this Subsection (8) for an offender who:
- 564 (i) is a habitual offender as that term is defined in Section 77-18-102;
- 565 (ii) has a mental illness as that term is defined in Section 26B-5-301; and
- 566 (iii) based on a risk and needs assessment:

HB0253 compared with HB0253S02

- 567 (A) is at a high risk of reoffending; and
568 (B) has risk factors that may be addressed by available community-based services.
- 569 (b) For an offender described in Subsection (8)(a), at any time clinically appropriate or at least three months before termination of an offender's parole or expiration of an offender's sentence, the department shall coordinate with the Department of Health and Human Services and the relevant local mental health authority to provide applicable clinical assessments and transitional treatment planning and services for the offender so that the offender may receive appropriate treatment and support services after the termination of parole or expiration of sentence.
- 576 (c) The local mental health authority may determine whether the offender:
577 (i) meets the criteria for civil commitment;
578 (ii) meets the criteria for assisted outpatient treatment; or
579 (iii) would benefit from assignment to an assertive community treatment team or available community-based services.
- 581 (d) Based on the local mental health authority's determination under Subsection (8)(c), the local mental health authority shall, as appropriate:
583 (i) initiate an involuntary commitment court proceeding;
584 (ii) file a written application for assisted outpatient treatment; or
585 (iii) seek to have the offender assigned to an assertive community treatment team or available community-based services.
- 587 (e) On or before November 1, 2025, the department shall provide a report to the Law Enforcement and Criminal Justice Interim Committee regarding any proposed changes to the requirements in this Subsection (8), including whether the requirements of this Subsection (8) should also apply to any other category of offenders.

592 Section 5. Section 5 is enacted to read:

593 **77-2-4.6. Deferred prosecution for certain marijuana use or possession offenses.**

594 (1) As used in this section:

- 595 (a) "Deferral period" means the 12-month period following the date on which an individual submits an application for deferred prosecution.
- 597 (b) "Deferred prosecution" means the deferral of prosecution of an individual charged with an eligible marijuana offense if the individual complies with the requirements described in Subsections (2) and (3).

HB0253 compared with HB0253S02

- 600 (c) "Drug offense" means an offense described in:
601 (i) Title 58, Chapter 37, Utah Controlled Substances Act;
602 (ii) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
603 (iii) Title 58, Chapter 37b, Imitation Controlled Substances Act;
604 (iv) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
605 (v) Title 58, Chapter 37d, Clandestine Drug Lab Act.
606 (d) "Eligible marijuana offense" means an individual's first drug offense that is a marijuana offense
punishable as a class B misdemeanor under Subsection 58-37-8(2)(e)(i)(A).
609 (e) "Marijuana offense" means a violation of Subsection 58-37-8(2)(a)(i) for the use or possession of
marijuana.
611 (2)
(a) Except as provided in Subsection (2)(b), for an offense committed on or after October 1, 2026, an
individual who is charged with an eligible marijuana offense may apply for deferred prosecution
under Subsection (3).
614 (b) The following individuals may not apply for or be granted a deferred prosecution as described in
this section:
616 (i) an individual under 21 years old; or
617 (ii) an individual with a commercial driver license.
618 (3) An individual who applies for deferred prosecution shall:
619 (a) apply through an online application process developed by the Administrative Office of the Courts;
621 (b) pay the relevant fine, as provided by the uniform fine schedule described in Section 76-3-301.5,
associated with the eligible marijuana offense;
623 (c) pay an administrative fee as established by the Judicial Council; and
624 (d) enter a deferred plea of no contest as described in Subsection (4).
625 (4) If an eligible individual applies for deferred prosecution, the court shall:
626 (a) record the deferred plea of no contest;
627 (b) not enter the deferred plea of no contest unless the individual fails to comply with the terms of the
deferred prosecution; and
629 (c) if the individual fails to comply with the terms of the deferred prosecution, enter a judgment of
conviction as described in Subsection (5)(b).
631 (5)

HB0253 compared with HB0253S02

- (a) Except as provided in Subsection (5)(b), if an individual enters a deferred plea of no contest as described in Subsection (3)(d) and is not convicted of another drug offense during the deferral period:
- 634 (i) the prosecutor may not prosecute the individual for the eligible marijuana offense subject to the
636 deferred prosecution;
- (ii) the court may not enter judgment of conviction against the individual or impose a sentence for
638 the eligible marijuana offense; and
- (iii) the court shall dismiss the eligible marijuana offense to which the individual entered a deferred
plea of no contest.
- 640 (b) If an individual enters a deferred plea of no contest as described in Subsection (3)(d) and is
convicted of a drug offense within the deferral period, the court shall enter judgment of conviction
against the individual for the eligible marijuana offense to which the individual entered a deferred
plea of no contest.
- 644 (6) A deferred prosecution is not a prosecution for purposes of Section 76-1-403.
- 645 (7)
- (a) The Judicial Council shall set and periodically adjust the fee described in Subsection (3)(c) in an
amount that the Judicial Council determines to be necessary to cover the cost to implement, operate,
and maintain the deferred prosecution program described in this section.
- 649 (b) The state treasurer shall deposit the revenue generated from the administrative fee described in
Subsection (3)(c) into the Justice Court Technology, Security, and Training Account created in
Section 78A-7-301.

Section 6. Section 77-11b-102 is amended to read:

77-11b-102. Property subject to forfeiture.

- 654 (1)
- (a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:
- 656 (i) seized property that was used to facilitate the commission of an offense that is a violation of
federal or state law; or
- 658 (ii) seized proceeds.
- 659 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or
an interest holder.
- 661

HB0253 compared with HB0253S02

(2) If seized property is used to facilitate an offense that is a violation of Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502[, or 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

(ii) a felony violation under Subsection 76-5-102.1(2)(b);

(iii) a violation under Section 76-5-207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520.1;

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(F) Section 76-5-102.1;

(G) Section 76-5-207; or

HB0253 compared with HB0253S02

- 697 (H) a criminal prohibition as a result of a plea bargain after having been originally charged with
violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through
(G); or
- 700 (ii) the denial, suspension, revocation, or disqualification described in Subsection (3)(b)(i):
- 702 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or
disqualification; and
- 704 (B) the original denial, suspension, revocation, or disqualification was imposed because of a violation
described in Subsection (3)(b)(i).
- 706 (4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance
under Subsection 58-37-8(2)(a)(i)[~~but not Subsection 58-37-8(2)(b)(i)~~], an agency may not seek to
forfeit the property that was seized in accordance with the arrest.
- 710 (5) If a peace officer seizes an individual's firearm as the result of an offense under Section 76-11-218,
an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the
firearm.

713 Section 7. Section **77-40a-101** is amended to read:

714 **77-40a-101. Definitions.**

As used in this chapter:

- 432 (1) "Agency" means a state, county, or local government entity that generates or maintains records
relating to an investigation, arrest, detention, or conviction for an offense for which expungement
may be ordered.
- 435 (2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention,
or conviction of an offense without the filing of a petition.
- 437 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety
established in Section 53-10-201.
- 439 (4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record
and all records of arrest, investigation, and detention associated with a case that is the subject of a
petition for expungement is eligible for expungement.
- 442 (5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- 444 (6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- 446 (7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.
- 447

HB0253 compared with HB0253S02

(8) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.

(9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(10) "Court" means a district court or a justice court.

(11) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(12) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

(13) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

(14) "Department" means the Department of Public Safety established in Section 53-1-103.

(15) "Drug possession offense" means:

(a) an offense described in Subsection 58-37-8(2), except for:

~~[(i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;]~~

~~[(ii)]~~ (i) an offense enhanced under Subsection [58-37-8(2)(e)] 58-37-8(2)(f), violation in a correctional facility; or

~~[(iii)]~~ (ii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) an offense described in Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) an offense described in Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (15).

(16)

(a) "Expunge" means to remove a record from public inspection by:

(i) sealing the record; or

(ii) restricting or denying access to the record.

(b) "Expunge" does not include the destruction of a record.

(17) "Indigent" means a financial status that results from a court finding that a petitioner is financially unable to pay the fee to file a petition for expungement under Section 78A-2-302.

(18) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(19)

HB0253 compared with HB0253S02

(a) "Minor regulatory offense" means a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section 76-9-110 or 76-9-1106.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection (19)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections (19)(c)(i) through (iv).

(20) "Petitioner" means an individual applying for expungement under this chapter.

(21) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

(22) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material, regardless of physical form or characteristics, that:

(a) is contained in the agency's file regarding the arrest, detention, investigation, conviction, sentence, incarceration, probation, or parole of an individual; and

(b) is prepared, owned, received, or retained by an agency, including a court.

(23) "Special certificate" means a document issued as described in Subsection 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with the case do not clearly demonstrate whether the case is eligible for expungement.

(24)

(a) "Traffic offense" means:

(i) an infraction or a class C misdemeanor offense under Title 41, Chapter 1a, Motor Vehicle Act;

(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(iii) an infraction or a class C misdemeanor offense under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(iv) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(v) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

HB0253 compared with HB0253S02

(vi) all local ordinances that are substantially similar to an offense listed in Subsections (24)(a)(i) through (iii).

(b) "Traffic offense" does not include:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Section 41-12a-302 for operating a motor vehicle without owner's or operator's security;

(iii) an offense under Section 41-12a-303.3 for providing false evidence of owner's or operator's security;

(iv) an offense under Sections 73-18-13 through 73-18-13.6; or

(v) any local ordinance that is substantially similar to an offense listed in Subsection (24)(b)(i) or (ii).

(25) "Traffic offense case" means that each offense in the case is a traffic offense.

~~{Section 5. Section 77-40a-205 is amended to read: }~~

77-40a-205. Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a)

(i) each conviction within the case is a conviction for:

(A) [a] an infraction or a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

HB0253 compared with HB0253S02

- 553 (B) at least six years for the conviction of a class B misdemeanor offense; or
554 (C) at least seven years for the conviction of a class A misdemeanor offense for possession of a
controlled substance in violation of Subsection 58-37-8(2)(a)(i); or
557 (b)
(i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed
by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;
560 (ii) each charge within the case is:
561 (A) [a] an infraction or a misdemeanor offense for possession of a controlled substance in violation of
Subsection 58-37-8(2)(a)(i);
563 (B) a class B misdemeanor offense;
564 (C) a class C misdemeanor offense; or
565 (D) an infraction; and
566 (iii) the following time periods have passed after the day on which the case is dismissed:
568 (A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;
570 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
571 (C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a
controlled substance in violation of Subsection 58-37-8(2)(a)(i).
574 (3) A case is not eligible for expungement under this section if:
575 (a) the individual has a total number of convictions in courts of this state that exceed the limits under
Subsection 77-40a-303(4) or (5) without taking into consideration:
577 (i) the exception in Subsection 77-40a-303(7); or
578 (ii) any infraction, traffic offense, or minor regulatory offense;
579 (b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state
against the individual, unless the proceeding is for a traffic offense;
581 (c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is
incarcerated in the state prison or on probation or parole that is supervised by the Division of Adult
Probation and Parole created in Section 64-14-202;
585 (d) the case resulted in the individual being found not guilty by reason of insanity;
586 (e) the case establishes a criminal accounts receivable that:
587 (i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to
the Office of State Debt Collection under Section 77-18-114; or

HB0253 compared with HB0253S02

- 589 (ii) has not been satisfied according to court records; or
590 (f) the case resulted in a plea held in abeyance or a conviction for the following offenses:
591 (i) any of the offenses listed in Subsection 77-40a-303(2)(a);
592 (ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;
594 (iii) a weapons offense in violation of Title 76, Chapter 11, Weapons;
595 (iv) sexual battery in violation of Section 76-5-418;
596 (v) an act of lewdness in violation of Section 76-5-419 or 76-5-420;
597 (vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless
Driving;
599 (vii) damage to or interruption of a communication device in violation of Section 76-6-108;
601 (viii) a domestic violence offense as defined in Section 77-36-1;
602 (ix) driving under the influence of alcohol, drugs, or a combination of both, or with specified or unsafe
blood alcohol concentration, as codified before February 2, 2005, Laws of Utah 2005, Chapter 2; or
605 (x) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a
class A misdemeanor conviction for possession of a controlled substance in violation of Subsection
58-37-8(2)(a)(i).
- 608 (4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall
receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible
for automatic expungement under this section.
- 611 (5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting
agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal
Procedure if the prosecuting agency objects to an automatic expungement for any of the following
reasons:
- 615 (a) the prosecuting agency believes that the case is not eligible for expungement under this section after
reviewing the agency record;
617 (b) the individual has not paid restitution to the victim as ordered by the court; or
618 (c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual
involved in the case is continuing to engage in criminal activity within or outside of the state.
- 621 (6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection
(5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not
proceed with automatic expungement of the case.

HB0253 compared with HB0253S02

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 8. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(2) The state treasurer shall deposit in the account:

(a) money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii); and

(b) the administrative fee from[-] ;

(i) a deferred prosecution or traffic school deferred prosecution under Subsection 77-2-4.2(5) or (6)[-] ;
and

(ii) a deferred prosecution for certain marijuana use or possession offenses under Section 77-2-4.6.

(3) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state;

(b) additional compensation for presiding judges and associate presiding judges for justice courts under Section 78A-7-209.5; and

(c) costs to implement, operate, and maintain[-] ;

(i) deferred prosecution and traffic school deferred prosecution [~~pursuant to~~] in accordance with Subsections 77-2-4.2(5) and (6)[-] ; and

(ii) deferred prosecution for certain marijuana use or possession offenses under Section 77-2-4.6.

Section 9. Effective date.

Effective Date.

This bill takes effect on May 6, 2026.

2-4-26 9:32 AM