

# HB0295S01 compared with HB0295

~~{Omitted text}~~ shows text that was in HB0295 but was omitted in HB0295S01

inserted text shows text that was not in HB0295 but was inserted into HB0295S01

**DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.**

1

## Overdose Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol S. Moss

Senate Sponsor: Jen Plumb

2

3

---

---

### LONG TITLE

4

#### General Description:

5

This bill concerns criminal provisions relating to an overdose.

6

#### Highlighted Provisions:

7

This bill:

8

▸ defines terms;

9

▸ amends the affirmative defense based on reporting an overdose event, including to clarify that the affirmative defense may apply to:

11

• an individual who remains with the individual experiencing the overdose event; and

12

• the individual experiencing the overdose event;

13

▸ creates an option for a ~~{court or a prosecutor to dismiss a first offense for }~~ dismissal of certain first-time drug offenses under circumstances applicable to the overdose affirmative defense ~~{if the individual demonstrates an intent to engage with substance abuse treatment }~~ ;

16

▸ amends the sentencing mitigating factor based on reporting an overdose event, including to clarify that the mitigating factor may apply to:

18

• an individual who remains with the individual experiencing the overdose event; and

HB0295

# HB0295 compared with HB0295S01

- 19           • the individual experiencing the overdose event; {and}
- 19           ▸ includes a coordination clause to coordinate changes between this bill and H.B. 301, Drug  
Recodification, if both bills pass and become law; and
- 20           ▸ makes technical and conforming changes.

## 22 Money Appropriated in this Bill:

23           None

## 24 Other Special Clauses:

25           This bill provides a special effective date.

26           This bill provides a coordination clause.

## 27 Utah Code Sections Affected:

28           AMENDS:

29           **58-37-8** , as last amended by Laws of Utah 2025, Chapters 141, 173, 198, 208, and 305

30           **76-3-203.11** , as last amended by Laws of Utah 2023, Chapters 310, 330

## 31 Utah Code Sections affected by Coordination Clause:

32           **58-37a-6 (05/06/26)** , as as renumbered to 76-18-303 in H.B. 301 (2026)

33           **58-37b-8 (05/06/26)** , as as renumbered to 76-18-402 in H.B. 301 (2026)

34           **76-3-203.11 (05/06/26)** , as last amended by Laws of Utah 2023, Chapters 310, 330

35           **76-18-207 (05/06/26)** , as as enacted in H.B. 301 (2026)



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

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

### 39           **58-37-8. Prohibited acts -- Penalties -- Defenses -- Dismissal option.**

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

34           (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:

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

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

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

## HB0295 compared with HB0295S01

- 42 (iv) engage in a continuing criminal enterprise where:
- 43 (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
- 48 (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,  
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.
- 55 (b) A person convicted of violating Subsection (1)(a) with respect to:
- 56 (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;
- 61 (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
- 65 (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.
- 68 (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.
- 72 (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:
- 77 (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;

80

## HB0295 compared with HB0295S01

- (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
- 83 (C) distributed a firearm, as that term is defined in Section 76-11-101, or possessed a firearm with intent to distribute the firearm.
- 85 (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:
- 87 (A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;
- 89 (B) makes a finding on the record that the person does not pose a significant safety risk to the public; and
- 91 (C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.
- 93 (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:
- 95 (A) seven years and which may be for life; or
- 96 (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.
- 99 (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.
- 101 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.
- 103 (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).
- 106 (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:
- 109 (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);

## HB0295 compared with HB0295S01

- 112 (B)
- (I) the violation is the person's second or subsequent conviction for any level of offense under Subsection (1)(a); or
- 114 (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
- 117 (C) the person previously has been convicted of reentry of a removed alien under 8 U.S.C. Sec. 1326.
- 119 (ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:
- 120 (A) for a felony or a class A misdemeanor, 360 days in jail;
- 121 (B) for a class B misdemeanor, 180 days in jail; and
- 122 (C) for a class C misdemeanor, 90 days in jail.
- 123 (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).
- 128 (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).
- 132 (2) Prohibited acts B -- Penalties and reporting:
- 133 (a) It is unlawful:
- 134 (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;
- 138 (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

143

## HB0295 compared with HB0295S01

- (iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.
- 145 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
- 146 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or
- 148 (ii) a substance classified in Schedule I or II, or a controlled substance analog, 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.
- 153 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).
- 156 (d)
- (i) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
- 159 (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.
- 162 (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.
- 165 (e) 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), and if the conviction is with respect to controlled substances as listed in:
- 170 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:
- 172 (A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and
- 174 (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

## HB0295 compared with HB0295S01

- 176 (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.
- 180 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 181 (i) on a first conviction, guilty of a class B misdemeanor;
- 182 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 183 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 184 (g) 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).
- 187 (3) Prohibited acts C -- Penalties:
- 188 (a) It is unlawful for a person knowingly and intentionally:
- 189 (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;
- 194 (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  
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;
- 201 (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
- 204 (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.
- 209 (b)
- (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.
- 211 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

## HB0295 compared with HB0295S01

- 213 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- 214 (4) Prohibited acts D -- Penalties:
- 215 (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:
- 219 (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.;
- 221 (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.;
- 224 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of  
operation;
- 226 (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;
- 228 (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
- 229 (vi) in or on the grounds of a library when the library is open to the public;
- 230 (vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections  
(4)(a)(i) through (vi);
- 232 (viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or
- 234 (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.
- 237 (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.
- 241 (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for  
probation.
- 243 (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.

## HB0295 compared with HB0295S01

- 247 (d)
- 248 (i) If the violation is of Subsection (4)(a)(ix):
- (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
- 251 (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
- 253 (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).
- 257 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 258 (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
- 260 (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).
- 263 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 264 (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.
- 269 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:
- 271 (i) from a separate criminal episode than the current charge; and
- 272 (ii) from a conviction that is separate from any other conviction used to enhance the current charge.
- 274 (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.
- 276 (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.

## HB0295 compared with HB0295S01

- 278 (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.
- 281 (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.
- 285 (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.
- 289 (11) Civil or criminal liability may not be imposed under this section on:
- 290 (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;
- 293 (b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or
- 295 (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  
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.
- 300 (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.
- 304 (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.
- 308 (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.
- 311 (ii) The notice shall include the specific claims of the affirmative defense.

## HB0295 compared with HB0295S01

- 312 (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.
- 315 (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.
- 318 (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:
- 320 (i) engaged in medical research; and
- 321 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
- 322 (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.
- 324 (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:
- 326 (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
- 328 (b) the substance was administered to the person by the medical researcher.
- 329 (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.
- 332 (16)
- (a) As used in this Subsection (16):
- 333 (i) "Emergency medical service provider" means the same as that term is defined in Section  
53-2d-101.
- 335 (ii) "Overdosing victim" means the same as that term is defined in Section 76-3-203.11.
- 337 (b) [It is] Subject to Subsection (16)(e), an individual may assert an affirmative defense to an  
allegation of the commission of an offense listed in [Subsection (16)(b) that the person or  
bystander] Subsection (16)(c) if, in the same course of events in which the offense was committed,  
the individual:
- 341 (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;]

## HB0295 compared with HB0295S01

- 344 [(ii)] (A) reasonably believes that another individual is an overdosing victim;
- 345 (B) except as provided in Subsection (16)(d), in good faith reports, or assists [a person who reports,  
in good faith the overdose event] with the reporting of, the need for assistance for the overdosing  
victim 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)];
- 351 [(iii)]
- 352 (C) provides in the report under Subsection [(16)(a)(ii)] (16)(b)(i)(B) a functional description of the  
actual location of the overdose event that facilitates responding to the [person experiencing the  
overdose event] overdosing victim;
- 355 [(iv)] (D) if applicable to the circumstances, remains at the location of the [person experiencing the  
overdose event] overdosing victim 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] overdosing victim is located until a responding law enforcement officer arrives; and
- 361 [(v)] (E) cooperates with the responding medical provider, emergency medical service provider, and  
law enforcement officer, including providing information regarding the [person experiencing the  
overdose event] overdosing victim and any substances the [person] overdosing victim may have  
injected, inhaled, or otherwise introduced into the [person's] overdosing victim's body; [and]
- 366 [(vi) is alleged to have committed the offense in the same course of events from which the reported  
overdose arose.]
- 368 (ii)
- (A) reasonably believes that another individual is an overdosing victim and knows that a request for  
assistance for the overdosing victim is being made or has been made;
- 371 (B) remains at the location of the overdosing victim until a responding law enforcement officer or  
emergency medical service provider arrives, or remains at the medical care facility where the  
overdosing victim is located until a responding law enforcement officer arrives; and
- 375 (C) cooperates with the responding medical provider, emergency medical service provider, and law  
enforcement officer, including providing information regarding the overdosing victim and any  
substances the overdosing victim may have injected, inhaled, or otherwise introduced into the  
overdosing victim's body; or
- 380 (iii) is the overdosing victim described in Subsection (16)(b)(i) or (ii).

## HB0295 compared with HB0295S01

- 381 [(b)] (c) The offenses referred to in Subsection [(16)(a)] (16)(b) are:
- 382 (i) the possession or use of less than 16 ounces of marijuana in violation of Subsection (2)(a)(i);
- 383 (ii) the possession or use of a scheduled or listed controlled substance other than marijuana in violation  
of Subsection (2)(a)(i); and
- 385 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled  
Substances Act.
- 387 [(e)] (d) [~~As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include~~  
~~seeking medical assistance under this section]~~ An individual's request for medical assistance for an  
overdosing victim during the course of a law enforcement agency's execution of a search warrant,  
execution of an arrest warrant, or other lawful search is not a good faith report under Subsection  
(16)(b)(i)(B).
- 400 (e)
- 392 (e){(i)} In a prosecution for an offense listed in Subsection (16)(c), the prosecutor {or} may move the  
court {may} to dismiss the charge if:
- 394 (i){(A)} the individual qualifies for an affirmative defense under Subsection (16)(b);
- 395 (ii){(B)} the charge for which the individual would be able to assert the affirmative defense under  
Subsection (16)(b) is the individual's first time being charged with the offense; and
- 398 (iii){(C)} after the day of the offense, but before the day on which the case is adjudicated, the individual  
{~~demonstrated an intent to engage with substance abuse treatment by commencing, continuing, or~~  
~~completing~~} provides proof of a substance {~~use disorder treatment program~~} abuse evaluation and  
the completion of any recommended treatment.
- 402 {(17)} An individual described in Subsection (16)(e)(i) may request a delay in the individual's  
adjudication in order to have time to complete any requirements described in Subsection (16)(e)(i)  
(C).
- 412 (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.
- 405 (18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than  
any provision of this chapter.
- 407 (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:

## HB0295 compared with HB0295S01

- 410 (a) a screening as defined in Section 41-6a-501;
- 411 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and
- 413 (c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

425 Section 2. Section **76-3-203.11** is amended to read:

426 **76-3-203.11. Reporting an overdose or being the victim of a reported overdose -- Mitigating factor.**

418 ~~(1) [—It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person or bystander:]~~ As used in this section:

420 (a) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

422 (b) "Overdosing victim" means an individual who is, or appears to be, experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance.

425 (2) An individual may assert a mitigating factor at sentencing if:

426 (a) the individual is being sentenced for an offense under Title 58, Chapter 37, Utah Controlled Substances Act; and

428 (b) in the same course of events in which the offense described in Subsection (2)(a) was committed, the individual:

430 ~~[(1) 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;]~~

433 ~~[(2) (i) [reports, or assists a person who reports, in good faith the overdose event ]~~

434 ~~(A) reasonably believes that another individual is an overdosing victim;~~

435 ~~(B) except as provided in Subsection (3), in good faith reports, or assists with the reporting of, the need for assistance for the overdosing victim 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 section];~~

441 ~~[(3) (C) provides in the report under Subsection [(2)] (2)(b)(i)(B) a functional description of the location of the actual overdose event that facilitates responding to the [person experiencing the overdose event] overdosing victim;~~

## HB0295 compared with HB0295S01

- 444 ~~[(4)] (D) if applicable to the circumstances, remains at the location of the [person experiencing the~~  
~~overdose event] overdosing victim 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] overdosing victim is located until a responding law enforcement officer arrives; and~~
- 450 ~~[(5)] (E) cooperates with the responding medical provider, emergency medical service provider, and~~  
~~law enforcement officer, including providing information regarding the [person experiencing the~~  
~~overdose event] overdosing victim and any substances the [person] overdosing victim may have~~  
~~injected, inhaled, or otherwise introduced into the [person's] overdosing victim's body; [and]~~
- 455 ~~[(6) committed the offense in the same course of events from which the reported overdose arose.]~~
- 457 ~~(ii)~~
- ~~(A) reasonably believes that another individual is an overdosing victim and knows that a request for~~  
~~assistance for the overdosing victim is being made or has been made;~~
- 460 ~~(B) remains at the location of the overdosing victim until a responding law enforcement officer or~~  
~~emergency medical service provider arrives, or remains at the medical care facility where the~~  
~~overdosing victim is located until a responding law enforcement officer arrives; and~~
- 464 ~~(C) cooperates with the responding medical provider, emergency medical service provider, and law~~  
~~enforcement officer, including providing information regarding the overdosing victim and any~~  
~~substances the overdosing victim may have injected, inhaled, or otherwise introduced into the~~  
~~overdosing victim's body; or~~
- 469 ~~(iii) is the overdosing victim described in Subsection (2)(b)(i) or (ii).~~
- 470 ~~(3) An individual's request for medical assistance for an overdosing victim during the course of a law~~  
~~enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful~~  
~~search is not a good faith report under Subsection (2)(b)(i)(B).~~

### 484 Section 3. **Effective date.**

Effective Date.

This bill takes effect ~~{on May 6, 2026.}~~ :

- 486 (1) except as provided in Subsection (2), May 6, 2026; or
- 487 (2) if approved by two-thirds of all members elected to each house:
- 488 (a) upon approval by the governor;
- 489 (b) without the governor's signature, the day following the constitutional time limit of Utah  
Constitution, Article VII, Section 8; or

## HB0295 compared with HB0295S01

491 (c) in the case of a veto, the date of veto override.

492 Section 4. **Coordinating H.B. 295 with H.B. 301.**

If H.B. 295, Overdose Amendments, and H.B. 301, Drug Recodification, both pass and become law, the Legislature intends that, on May 6, 2026:

(1) Section 76-3-203.11 in H.B. 295 and H.B. 301 be amended to read:

~~"(1) [It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah Controlled Substances Act, that the person or bystander]~~ As used in this section:

(a) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

(b) "Overdosing victim" means an individual who is, or appears to be, experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance.

(2) An individual may assert a mitigating factor at sentencing if:

(a) the individual is being sentenced for an offense under Chapter 18, Part 2, Offenses Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances; and

(b) in the same course of events in which the offense described in Subsection (2)(a) was committed, the individual:

~~[(1) 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;]~~

~~[(2) reports, or assists a person who reports, in good faith the overdose event]~~

~~(i) (A) reasonably believes that another individual is an overdosing victim;~~

~~(B) except as provided in Subsection (3), in good faith reports, or assists with the reporting of, the need for assistance for the overdosing victim 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 section];~~

~~[(3)] (C) provides in the report under Subsection [(2)] (2)(b)(i)(B) a functional description of the location of the actual overdose event that facilitates responding to the [person experiencing the overdose event] overdosing victim;~~

~~[(4)] (D) if applicable to the circumstances, remains at the location of the [person~~

## HB0295 compared with HB0295S01

~~experiencing the overdose event]~~ overdosing victim 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]~~ overdosing victim is located until a responding law enforcement officer arrives; and

~~[(5)]~~ (E) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the [person experiencing the overdose event] overdosing victim and any substances the [person]overdosing victim may have injected, inhaled, or otherwise introduced into the [person's]overdosing victim's body; [and]

~~[(6) committed the offense in the same course of events from which the reported overdose arose.]~~

(ii) (A) reasonably believes that another individual is an overdosing victim and knows that a request for assistance for the overdosing victim is being made or has been made;

(B) remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

(C) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body; or

(iii) is the overdosing victim described in Subsection (2)(b)(i) or (ii).

(3) An individual's request for medical assistance for an overdosing victim during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search is not a good faith report under Subsection (2)(b)(i)(B).";

(2) Subsection 76-18-207(1)(a) enacted in H.B. 301 be amended to read:

"(1) (a) As used in this section:

(i) "Correctional facility" means the same as that term is defined in Section 64-13-1.

(ii) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

(iii) "Overdosing victim" means the same as that term is defined in Section 76-3-203.11.";

## HB0295 compared with HB0295S01

(3) Subsection 76-18-207(10) enacted in H.B. 301 be amended to read:

"(10) (a) Subject to Subsection (10)(d), an individual may assert an affirmative defense to a violation of Subsection (2) under the circumstances listed in Subsection (10)(b) if, in the same course of events in which the offense was committed, the individual:

(i) (A) reasonably believes that another individual is an overdosing victim;

\_\_\_\_\_ (B) except as provided in Subsection (10)(c), in good faith reports, or assists with the reporting of, the need for assistance for the overdosing victim to a medical provider, an emergency medical service provider, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system;

\_\_\_\_\_ (C) provides in the report described in Subsection (10)(a)(i)(B) a functional description of the actual location of the overdose event that facilitates responding to the overdosing victim;

\_\_\_\_\_ (D) if applicable to the circumstances, remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

\_\_\_\_\_ (E) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body;

(ii) (A) reasonably believes that another individual is an overdosing victim and knows that a request for assistance for the overdosing victim is being made or has been made;

\_\_\_\_\_ (B) remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

\_\_\_\_\_ (C) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body; or

(iii) is the overdosing victim described in Subsection (10)(a)(i) or (ii).

## HB0295 compared with HB0295S01

(b) The circumstances referred to in Subsection (10)(a) are:

(i) the possession or use of less than 16 ounces of marijuana; or

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

(c) An individual's request for medical assistance for an overdosing victim during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search is not a good faith report under Subsection (10)(a)(i)(B).

(d) (i) In a prosecution for a violation of Subsection (2) under the circumstances listed in Subsection (10)(b), the prosecutor may move the court to dismiss the charge if:

\_\_\_\_\_ (A) the individual qualifies for an affirmative defense under Subsection (10)(a);

\_\_\_\_\_ (B) the charge for which the individual would be able to assert the affirmative defense under Subsection (10)(a) is the individual's first time being charged with the offense; and

\_\_\_\_\_ (C) after the day of the offense, but before the day on which the case is adjudicated, the individual provides proof of a substance abuse evaluation and the completion of any recommended treatment.

(ii) An individual described in Subsection (10)(d)(i) may request a delay in the individual's adjudication in order to have time to complete any requirements described in Subsection (10)(d)(i)(C).";

(4) Section 76-18-303 (renumbered from Section 58-37a-6) in H.B. 301 be amended to read:

"(1) (a) As used in this section:

\_\_\_\_\_ (i) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

\_\_\_\_\_ (ii) "Overdosing victim" means the same as that term is defined in Section 76-3-203.11.

(b) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this section.

(2) Drug paraphernalia is subject to seizure and forfeiture in accordance with the procedures and substantive protections of:

(a) Title 77, Chapter 11a, Seizure of Property and Contraband[;] ; and

(b) Title 77, Chapter 11b, Forfeiture of Seized Property.

## HB0295 compared with HB0295S01

(3) (a) Subject to Subsection (3)(c), an individual may assert an affirmative defense to a violation of an offense under this part if, in the same course of events in which the offense was committed, the individual:

(i) (A) reasonably believes that another individual is an overdosing victim;

(B) except as provided in Subsection (3)(b), in good faith reports, or assists with the reporting of, the need for assistance for the overdosing victim to a medical provider, an emergency medical service provider, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system;

(C) provides in the report described in Subsection (3)(a)(i)(B) a functional description of the actual location of the overdose event that facilitates responding to the overdosing victim;

(D) if applicable to the circumstances, remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

(E) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body;

(ii) (A) reasonably believes that another individual is an overdosing victim and knows that a request for assistance for the overdosing victim is being made or has been made;

(B) remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

(C) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body; or

(iii) is the overdosing victim described in Subsection (3)(a)(i) or (ii).

(b) An individual's request for medical assistance for an overdosing victim during the

## HB0295 compared with HB0295S01

course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search is not a good faith report under Subsection (3)(a)(i)(B).

(c) (i) In a prosecution for a violation of an offense under this part, the prosecutor may move the court to dismiss the charge if:

\_\_\_\_\_ (A) the individual qualifies for an affirmative defense under Subsection (3)(a);

\_\_\_\_\_ (B) the charge for which the individual would be able to assert the affirmative defense under Subsection (3)(a) is the individual's first time being charged with the offense; and

\_\_\_\_\_ (C) after the day of the offense, but before the day on which the case is adjudicated, the individual provides proof of a substance abuse evaluation and the completion of any recommended treatment.

\_\_\_\_\_ (ii) An individual described in Subsection (3)(c)(i) may request a delay in the individual's adjudication in order to have time to complete any requirements described in Subsection (3)(c)(i)(C)."; and

(5) Section 76-18-402 (renumbered from Section 58-37b-8) in H.B. 301 be amended to read:

"(1) (a) As used in this section:

\_\_\_\_\_ (i) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

\_\_\_\_\_ (ii) "Overdosing victim" means the same as that term is defined in Section 76-3-203.11.

(b) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this section.

(2) No civil or criminal liability shall be imposed by virtue of this [aet] part on:

(a) any person registered under [the] Title 58, Chapter 37, Controlled Substances[-Aet] , 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; or[~~on any~~]

(b) a law enforcement officer acting in the course and legitimate scope of [that]the law enforcement officer's employment.

(3) (a) Subject to Subsection (3)(c), an individual may assert an affirmative defense to a

## HB0295 compared with HB0295S01

violation of an offense under this part if, in the same course of events in which the offense was committed, the individual:

\_\_\_\_\_ (i) (A) reasonably believes that another individual is an overdosing victim;

\_\_\_\_\_ (B) except as provided in Subsection (3)(b), in good faith reports, or assists with the reporting of, the need for assistance for the overdosing victim to a medical provider, an emergency medical service provider, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system;

\_\_\_\_\_ (C) provides in the report described in Subsection (3)(a)(i)(B) a functional description of the actual location of the overdose event that facilitates responding to the overdosing victim;

\_\_\_\_\_ (D) if applicable to the circumstances, remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

\_\_\_\_\_ (E) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body;

\_\_\_\_\_ (ii) (A) reasonably believes that another individual is an overdosing victim and knows that a request for assistance for the overdosing victim is being made or has been made;

\_\_\_\_\_ (B) remains at the location of the overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the overdosing victim is located until a responding law enforcement officer arrives; and

\_\_\_\_\_ (C) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the overdosing victim and any substances the overdosing victim may have injected, inhaled, or otherwise introduced into the overdosing victim's body; or

\_\_\_\_\_ (iii) is the overdosing victim described in Subsection (3)(a)(i) or (ii).

(b) An individual's request for medical assistance for an overdosing victim during the course of a law enforcement agency's execution of a search warrant, execution of an arrest

## HB0295 compared with HB0295S01

warrant, or other lawful search is not a good faith report under Subsection (3)(a)(i)(B).  
(c) (i) In a prosecution for a violation of an offense under this part, the prosecutor may  
move the court to dismiss the charge if:

\_\_\_\_\_ (A) the individual qualifies for an affirmative defense under Subsection (3)(a);

\_\_\_\_\_ (B) the charge for which the individual would be able to assert the affirmative  
defense under Subsection (3)(a) is the individual's first time being charged with the offense;  
and

\_\_\_\_\_ (C) after the day of the offense, but before the day on which the case is  
adjudicated, the individual provides proof of a substance abuse evaluation and the completion  
of any recommended treatment.

\_\_\_\_\_ (ii) An individual described in Subsection (3)(c)(i) may request a delay in the  
individual's adjudication in order to have time to complete any requirements described in  
Subsection (3)(c)(i)(C).".

2-13-26 2:56 PM