

SB0092S01 compared with SB0092

~~{Omitted text}~~ shows text that was in SB0092 but was omitted in SB0092S01

inserted text shows text that was not in SB0092 but was inserted into SB0092S01

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1

Prosecution Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Casey Snider

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LONG TITLE

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General Description:

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This bill amends the prohibition on a subsequent prosecution.

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Highlighted Provisions:

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This bill:

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▸ defines ~~{a term}~~ terms;

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▸ provides that a subsequent prosecution for an offense is not barred in certain circumstances;

~~{and}~~

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▸ allows a court to reduce a sentence for a homicide offense in certain circumstances;

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▸ allows the Board of Pardons and Parole to provide credit for time served with regard to a homicide offense in certain circumstances; and

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▸ makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

SB0092

SB0092 compared with SB0092S01

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **76-1-405** , as enacted by Laws of Utah 1973, Chapter 196

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

24 Section 1. Section **76-1-405** is amended to read:

25 **76-1-405. Subsequent prosecution not barred -- Circumstances.**

23 (1) As used in this section {~~-, "homicide offense" means an offense for~~ } :

24 (a) {~~aggravated murder, as described in Section 76-5-202;~~ } "Homicide offense" means an offense for:

25 (b){(i)} aggravated murder, as described in Section {~~76-5-203~~} 76-5-202;

26 (c){(ii)} {~~manslaughter~~} murder, as described in Section {~~76-5-205~~} 76-5-203;

27 (d){(iii)} {~~negligent homicide~~} manslaughter, as described in Section {~~76-5-206~~} 76-5-205;

28 (e){(iv)} {~~automobile~~} negligent homicide, as described in Section {~~76-5-207~~} 76-5-206;

29 (f){(v)} {~~child abuse~~} automobile homicide, as described in Section {~~76-5-208~~} 76-5-207; {~~or~~}

30 (g){(vi)} child abuse homicide {~~by assault~~}, as described in Section {~~76-5-209~~} 76-5-208; or

31 (2){(vii)} homicide by assault, as described in Section 76-5-209.

35 (b) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

36 (2) [—A] Notwithstanding Sections 76-1-401 {~~through 76-1-402~~} and 76-1-404, a subsequent prosecution for an offense [shall not be barred under the following circumstances] is not barred if:

33 [(+)] (a) [The] the former prosecution was procured by the defendant without the knowledge of the prosecuting attorney bringing the subsequent prosecution and with intent to avoid the sentence that might otherwise be imposed; [or]

36 [(2)] (b) [The] the former prosecution resulted in a judgment of guilt held invalid in a subsequent proceeding on writ of habeas corpus, coram nobis, or similar collateral attack[-]; or

39 (c)

(i) the former prosecution was for an offense that resulted in serious bodily injury to an individual;

41 (ii) the subsequent prosecution is for a homicide offense because the individual died from the serious bodily injury {or as a proximate result of} and the serious bodily injury was the proximate cause of the individual's death; {and}

43 (iii) the individual died after the former prosecution concluded with a conviction{ ~~S~~→ {} {f} or a dismissal if the dismissal was without prejudice; and }

SB0092 compared with SB0092S01

- 51 (iv) except as provided in Subsection (3), the individual died within 10 years after the day on which the
former prosecution concluded with the conviction or dismissal.
- 53 (3) Subsection (2)(c)(iv) is not required when bringing a subsequent prosecution under Subsection (2)
(c) if the former prosecution resulted in a conviction or dismissal for:
- 55 (a) attempted aggravated murder, as described in Subsection 76-4-102(1)(a)(ii);
- 56 (b) attempted murder, as described in Section 76-4-102(1)(c);
- 57 (c) aggravated child abuse that is a first degree felony, as described in Section 76-5-109.2; or
- 59 (d) child torture, as described in Section 76-5-109.4.
- 60 (4) A prosecuting attorney may not prosecute a defendant in a subsequent prosecution under Subsection
(2)(c) for any other offense other than a homicide offense.
- 62 (5)
- (a) Notwithstanding Section 76-3-406, when sentencing a defendant convicted of a homicide offense in
a subsequent prosecution as described in Subsection (2)(c), the court may reduce the minimum term
that a defendant is statutorily required to serve in prison before becoming eligible for parole if:
- 66 (i) the defendant was convicted of an offense in the former prosecution and served a prison
sentence for the conviction;
- 68 (ii) the court determines that it would be in the interest of justice to reduce the minimum term that
the defendant is statutorily required to serve in prison before becoming eligible for parole for
the homicide offense; and
- 71 (iii) the amount of time that the court reduces the minimum term of the sentence is no greater
than the amount of time that the defendant was in custody for the prison sentence described in
Subsection (5)(a)(i).
- 74 (b) The court may not grant probation, or suspend the execution of a defendant's sentence, under
Subsection (5)(a).
- 76 (6) When a defendant is sentenced to a term of imprisonment for a conviction under Subsection (2)(c),
the Board of Pardons and Parole may provide credit for any time served in prison for a conviction in
the former prosecution toward the term of imprisonment for the subsequent conviction.
- {[-] {+} {} { ←§ } { §→ } {} {f} {acquittal,} {+} {} ←§ } or dismissal.
- 45 {(3) A prosecuting attorney may not prosecute a defendant in a subsequent prosecution under
Subsection (2)(c) for any other offense other than a homicide offense.}
- 47 {(4) For purposes of Subsection (2)(c):}

SB0092 compared with SB0092S01

48 {~~(a) an attempted homicide offense does not merge with a homicide offense; and~~}

49 {~~(b) {an actor who is convicted of an attempted homicide offense may also be convicted of, and~~

~~punished for, the separate homicide offense.}~~}

80 Section 2. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-19-26 9:25 AM