

**Marijuana Use or Possession Penalty Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Grant Amjad Miller**

Senate Sponsor:

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

This bill changes criminal penalties for the use or possession of 14 grams or less of marijuana.

**Highlighted Provisions:**

This bill:

- provides lower criminal penalties for the use or possession of 14 grams or less of marijuana; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

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

**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

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*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, 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.
- (b) A person convicted of violating Subsection (1)(a) with respect to:
- (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;
- (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
- (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.
- (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.

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

- 99 of each person convicted of violating Subsection (1)(a).
- 100 (f)(i) A court shall impose the mandatory jail sentence described in Subsection
- 101 (1)(f)(ii), and may not suspend any portion of the jail sentence or grant early
- 102 release, if:
- 103 (A) the court suspends the imposition of a prison sentence for a felony conviction
- 104 under Subsection (1)(a) or sentences a person for a misdemeanor violation of
- 105 an offense under Subsection (1)(a);
- 106 (B)(I) the violation is the person's second or subsequent conviction for any
- 107 level of offense under Subsection (1)(a); or
- 108 (II) the person previously has been convicted of a criminal violation in another
- 109 jurisdiction, including a state or federal court, that is substantially
- 110 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
- 112 8 U.S.C. Sec. 1326.
- 113 (ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:
- 114 (A) for a felony or a class A misdemeanor, 360 days in jail;
- 115 (B) for a class B misdemeanor, 180 days in jail; and
- 116 (C) for a class C misdemeanor, 90 days in jail.
- 117 (iii)(A) Except as provided in Subsection (1)(f)(iii)(B), a person who is subject to
- 118 a mandatory jail sentence under Subsection (1)(f)(i) may not be released to the
- 119 federal Immigration and Customs Enforcement Agency of the United States
- 120 Department of Homeland Security for deportation until the person has served
- 121 the entire jail sentence described in Subsection (1)(f)(ii).
- 122 (B) A person may be released to the federal Immigration and Customs
- 123 Enforcement Agency of the United States Department of Homeland Security
- 124 for deportation at any time during the 14-day period before the final day of the
- 125 person's jail sentence described in Subsection (1)(f)(ii).
- 126 (2) Prohibited acts B -- Penalties and reporting:
- 127 (a) It is unlawful:
- 128 (i) for a person knowingly and intentionally to possess or use a controlled substance
- 129 analog or a controlled substance, unless it was obtained under a valid prescription
- 130 or order, directly from a practitioner while acting in the course of the person's
- 131 professional practice, or as otherwise authorized by this chapter;
- 132 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,

- 133 vehicle, boat, aircraft, or other place to knowingly and intentionally permit a  
134 person to occupy the building, room, tenement, vehicle, boat, aircraft, or other  
135 place while the person is unlawfully manufacturing, possessing, using, or  
136 distributing a controlled substance at that location; or
- 137 (iii) for a person knowingly and intentionally to possess an altered or forged  
138 prescription or written order for a controlled substance.
- 139 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:
- 140 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree  
141 felony; or
- 142 (ii) a substance classified in Schedule I or II, or a controlled substance analog, not  
143 including marijuana, is guilty of a class A misdemeanor on a first or second  
144 conviction, and on a third or subsequent conviction if each prior offense was  
145 committed within seven years before the date of the offense upon which the  
146 current conviction is based is guilty of a third degree felony.
- 147 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a  
148 conviction under Subsection (1)(a), that person shall be sentenced to a one degree  
149 greater penalty than provided in this Subsection (2).
- 150 (d)(i) [A] Except as provided in Subsection (2)(e), a person who violates Subsection  
151 (2)(a)(i) with respect to all other controlled substances not included in Subsection  
152 (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is  
153 guilty of a class B misdemeanor.
- 154 (ii) Upon a third conviction the person is guilty of a class A misdemeanor, if each  
155 prior offense was committed within seven years before the date of the offense  
156 upon which the current conviction is based.
- 157 (iii) Upon a fourth or subsequent conviction the person is guilty of a third degree  
158 felony if each prior offense was committed within seven years before the date of  
159 the offense upon which the current conviction is based.
- 160 (e) A violation of Subsection (2)(a)(i) with respect to 14 grams or less of marijuana is:
- 161 (i) an infraction on a first conviction;
- 162 (ii) a class C misdemeanor on a second conviction or on a subsequent conviction not  
163 described in Subsection (2)(e)(iii) or (iv);
- 164 (iii) a class B misdemeanor if the conviction is the person's third conviction and each  
165 prior offense was committed within seven years before the date of the offense  
166 upon which the current conviction is based; or

(iv) a class A misdemeanor if the conviction is the person's fourth conviction and each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

- [~~(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:
- (i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:
    - (A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and
    - (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
  - (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.

[~~(f)~~] (g) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

- (i) on a first conviction, guilty of a class B misdemeanor;
- (ii) on a second conviction, guilty of a class A misdemeanor; and
- (iii) on a third or subsequent conviction, guilty of a third degree felony.

[~~(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).

(3) Prohibited acts C -- Penalties:

- (a) It is unlawful for a person knowingly and intentionally:
  - (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;
  - (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;
- (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
- (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.
- (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.
- (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.
- (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- (4) Prohibited acts D -- Penalties:
- (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:
- (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.;
- (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.;
- (iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;
- (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;
- (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
- (vi) in or on the grounds of a library when the library is open to the public;

- (vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);
- (viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or
- (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.
- (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.
- (ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.
- (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.
- (d)(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
- (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
- (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).
- (e) It is not a defense to a prosecution under this Subsection (4) that:
- (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
- (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).
- (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.



- (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.
- (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:
- (i) from a separate criminal episode than the current charge; and
  - (ii) from a conviction that is separate from any other conviction used to enhance the current charge.
- (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.
- (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.
- (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.
- (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.
- (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.
- (11) Civil or criminal liability may not be imposed under this section on:
- (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;
  - (b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or
  - (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.

(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.

(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.

(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.

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

(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.

(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.

(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:

(i) engaged in medical research; and

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

(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.

(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:

(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

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

(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.

- (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:
- (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;
  - (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);
  - (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;
  - (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;
  - (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
  - (vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.
- (b) The offenses referred to in Subsection (16)(a) are:
- (i) the possession or use of less than 16 ounces of marijuana;
  - (ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and
  - (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.
- (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.
- (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.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(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:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 2. Section **58-37f-201** is amended to read:

**58-37f-201 . Controlled substance database -- Creation -- Purpose.**

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(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.

(5) The purpose of the database is to contain:

(a) the data described in Section 58-37f-203 regarding prescriptions for dispensed controlled substances;

(b) data reported to the division under Section 26B-2-225 regarding poisoning or overdose;

(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 **77-40a-101** is amended to read:

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

As used in this chapter:

- (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.
- (2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.
- (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  
440 criminal record and all records of arrest, investigation, and detention associated with a  
441 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  
443 77-32b-102.
- 444 (6) "Civil judgment of restitution" means the same as that term is defined in Section  
445 77-32b-102.
- 446 (7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.
- 447 (8) "Clean slate eligible case" means a case that is eligible for automatic expungement  
448 under Section 77-40a-205.
- 449 (9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after  
450 trial, a plea of guilty, or a plea of nolo contendere.
- 451 (10) "Court" means a district court or a justice court.
- 452 (11) "Criminal accounts receivable" means the same as that term is defined in Section  
453 77-32b-102.
- 454 (12) "Criminal protective order" means the same as that term is defined in Section  
455 78B-7-102.
- 456 (13) "Criminal stalking injunction" means the same as that term is defined in Section  
457 78B-7-102.
- 458 (14) "Department" means the Department of Public Safety established in Section 53-1-103.
- 459 (15) "Drug possession offense" means:
- 460 (a) an offense described in Subsection 58-37-8(2), except for:
- 461 (i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more  
462 of marijuana;
- 463 (ii) an offense enhanced under Subsection [58-37-8(2)(e)] 58-37-8(2)(f), violation in a  
464 correctional facility; or
- 465 (iii) an offense for driving with a controlled substance illegally in the person's body  
466 and negligently causing serious bodily injury or death of another, as codified  
467 before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection  
468 58-37-8(2)(g);
- 469 (b) an offense described in Subsection 58-37a-5(1), use or possession of drug  
470 paraphernalia;
- 471 (c) an offense described in Section 58-37b-6, possession or use of an imitation  
472 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)(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
- (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;
- (B) at least six years for the conviction of a class B misdemeanor offense; or
- (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

(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;

(ii) each charge within the case is:

- (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

(iii) the following time periods have passed after the day on which the case is dismissed:

- (A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;
- (B) at least six years for a charge in the case for a class B misdemeanor offense; or
- (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).

(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  
576 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  
580 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,  
582 the individual is incarcerated in the state prison or on probation or parole that is  
583 supervised by the Division of Adult Probation and Parole created in Section  
584 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  
588 and transferred to the Office of State Debt Collection under Section 77-18-114; or  
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  
593 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  
598 Influence and Reckless Driving;  
599 (vii) damage to or interruption of a communication device in violation of Section  
600 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  
603 specified or unsafe blood alcohol concentration, as codified before February 2,  
604 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  
606 misdemeanor other than a class A misdemeanor conviction for possession of a  
607 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

609 Procedure shall receive notice on a monthly basis for any case prosecuted by that agency  
610 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  
612 prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah  
613 Rules of Criminal Procedure if the prosecuting agency objects to an automatic  
614 expungement for any of the following reasons:

615 (a) the prosecuting agency believes that the case is not eligible for expungement under  
616 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  
619 individual involved in the case is continuing to engage in criminal activity within or  
620 outside of the state.

621 (6) If a prosecuting agency provides written notice of an objection for a reason described in  
622 Subsection (5) within 35 days after the day on which the notice under Subsection (4) is  
623 sent, the court may not proceed with automatic expungement of the case.

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

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

628 (a) expunge all records of the case held by the court in accordance with Section  
629 77-40a-401; and

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

632 **Section 6. Effective Date.**

633 This bill takes effect on May 6, 2026.