

1 **Marijuana Use or Possession Penalty Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Grant Amjad Miller

Senate Sponsor:

LONG TITLE**General Description:**

This bill changes criminal 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

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

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

26 **58-37-8 . Prohibited acts -- Penalties.**

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

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

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

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

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

36 (iv) engage in a continuing criminal enterprise where:

37 (A) the person participates, directs, or engages in conduct that results in a
38 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter
39 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled
40 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a
41 felony; and

42 (B) the violation is a part of a continuing series of two or more violations of this
43 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation
44 Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor
45 Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are
46 undertaken in concert with five or more persons with respect to whom the
47 person occupies a position of organizer, supervisor, or any other position of
48 management.

49 (b) A person convicted of violating Subsection (1)(a) with respect to:

50 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a
51 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule
52 III is guilty of a second degree felony, punishable by imprisonment for not more
53 than 15 years, and upon a second or subsequent conviction is guilty of a first
54 degree felony;

55 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
56 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree
57 felony, and upon a second or subsequent conviction is guilty of a second degree
58 felony; or

59 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
60 class A misdemeanor and upon a second or subsequent conviction is guilty of a
61 third degree felony.

62 (c)(i) Except as provided in Subsection (1)(c)(iii), a person who has been convicted
63 of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment
64 for an indeterminate term as described in Subsection (1)(c)(ii) and Title 76,

65 Chapter 3, Punishments.

66 (ii) The court shall impose an indeterminate prison term for a person who has been
67 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony
68 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,
69 during the commission or furtherance of the violation, the person intentionally or
70 knowingly:

71 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in
72 Section 76-11-101, that is not a firearm, in an angry, threatening, intimidating,
73 or coercive manner;

74 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm
75 readily accessible for immediate use, as that term is defined in Section
76 76-11-201; or

77 (C) distributed a firearm, as that term is defined in Section 76-11-101, or
78 possessed a firearm with intent to distribute the firearm.

79 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate
80 prison term for a person convicted under Subsection (1)(c)(ii) if the court:

81 (A) details on the record the reasons why it is in the interests of justice not to
82 impose the indeterminate prison term;

83 (B) makes a finding on the record that the person does not pose a significant
84 safety risk to the public; and

85 (C) orders the person to complete the terms and conditions of supervised
86 probation provided by the Department of Corrections.

87 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
88 felony punishable by imprisonment for an indeterminate term of not less than:

89 (A) seven years and which may be for life; or

90 (B) 15 years and which may be for life if the trier of fact determined that the
91 defendant knew or reasonably should have known that any subordinate under
92 Subsection (1)(a)(iv)(B) was under 18 years old.

93 (ii) Imposition or execution of the sentence may not be suspended, and the person is
94 not eligible for probation.

95 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
96 offense, was under 18 years old.

97 (e) The Administrative Office of the Courts shall report to the Division of Professional
98 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

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

170 [(e)] (f) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
171 boundaries of property occupied by a correctional facility as defined in Section
172 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty
173 one degree greater than provided in Subsection (2)(b) or (2)(e), as applicable, and if
174 the conviction is with respect to controlled substances as listed in:

175 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
176 indeterminate term as provided by law, and:
177 (A) the court shall additionally sentence the person convicted to a term of one year
178 to run consecutively and not concurrently; and
179 (B) the court may additionally sentence the person convicted for an indeterminate
180 term not to exceed five years to run consecutively and not concurrently; and
181 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
182 indeterminate term as provided by law, and the court shall additionally sentence
183 the person convicted to a term of six months to run consecutively and not
184 concurrently.

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

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

189 [(g)] (h) The Administrative Office of the Courts shall report to the Division of
190 Professional Licensing the name, case number, date of conviction, and if known, the
191 date of birth of each person convicted of violating Subsection (2)(a).

192 (3) Prohibited acts C -- Penalties:

193 (a) It is unlawful for a person knowingly and intentionally:

194 (i) to use in the course of the manufacture or distribution of a controlled substance a
195 license number which is fictitious, revoked, suspended, or issued to another
196 person or, for the purpose of obtaining a controlled substance, to assume the title
197 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,
198 dentist, veterinarian, or other authorized person;
199 (ii) to acquire or obtain possession of, to procure or attempt to procure the
200 administration of, to obtain a prescription for, to prescribe or dispense to a person

201 known to be attempting to acquire or obtain possession of, or to procure the
202 administration of a controlled substance by misrepresentation or failure by the
203 person to disclose receiving a controlled substance from another source, fraud,
204 forgery, deception, subterfuge, alteration of a prescription or written order for a
205 controlled substance, or the use of a false name or address;

206 (iii) to make a false or forged prescription or written order for a controlled substance,
207 or to utter the same, or to alter a prescription or written order issued or written
208 under the terms of this chapter; or
209 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed
210 to print, imprint, or reproduce the trademark, trade name, or other identifying
211 mark, imprint, or device of another or any likeness of any of the foregoing upon
212 any drug or container or labeling so as to render a drug a counterfeit controlled
213 substance.

214 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
215 misdemeanor.
216 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
217 degree felony.
218 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

219 (4) Prohibited acts D -- Penalties:

220 (a) Notwithstanding other provisions of this section, a person not authorized under this
221 chapter who commits any act that is unlawful under Subsection (1)(a) or Section
222 58-37b-4 is upon conviction subject to the penalties and classifications under this
223 Subsection (4) if the trier of fact finds the act is committed:
224 (i) in a public or private elementary or secondary school or on the grounds of any of
225 those schools during the hours of 6 a.m. through 10 p.m.;
226 (ii) in a public or private vocational school or postsecondary institution or on the
227 grounds of any of those schools or institutions during the hours of 6 a.m. through
228 10 p.m.;
229 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
230 facility's hours of operation;
231 (iv) in a public park, amusement park, arcade, or recreation center when the public or
232 amusement park, arcade, or recreation center is open to the public;
233 (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
234 (vi) in or on the grounds of a library when the library is open to the public;

235 (vii) within an area that is within 100 feet of any structure, facility, or grounds
236 included in Subsections (4)(a)(i) through (vi);
237 (viii) in the presence of a person younger than 18 years old, regardless of where the
238 act occurs; or
239 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
240 distribution of a substance in violation of this section to an inmate or on the
241 grounds of a correctional facility as defined in Section 76-8-311.3.

242 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony
243 and shall be imprisoned for a term of not less than five years if the penalty that
244 would otherwise have been established but for this Subsection (4) would have
245 been a first degree felony.
246 (ii) Imposition or execution of the sentence may not be suspended, and the person is
247 not eligible for probation.

248 (c) If the classification that would otherwise have been established would have been less
249 than a first degree felony but for this Subsection (4), a person convicted under this
250 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for
251 that offense.

252 (d)(i) If the violation is of Subsection (4)(a)(ix):
253 (A) the person may be sentenced to imprisonment for an indeterminate term as
254 provided by law, and the court shall additionally sentence the person convicted
255 for a term of one year to run consecutively and not concurrently; and
256 (B) the court may additionally sentence the person convicted for an indeterminate
257 term not to exceed five years to run consecutively and not concurrently; and
258 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
259 the mental state required for the commission of an offense, directly or indirectly
260 solicits, requests, commands, coerces, encourages, or intentionally aids another
261 person to commit a violation of Subsection (4)(a)(ix).

262 (e) It is not a defense to a prosecution under this Subsection (4) that:
263 (i) the actor mistakenly believed the individual to be 18 years old or older at the time
264 of the offense or was unaware of the individual's true age; or
265 (ii) the actor mistakenly believed that the location where the act occurred was not as
266 described in Subsection (4)(a) or was unaware that the location where the act
267 occurred was as described in Subsection (4)(a).

268 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

269 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
270 guilty or no contest to a violation or attempted violation of this section or a plea
271 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the
272 equivalent of a conviction, even if the charge has been subsequently reduced or
273 dismissed in accordance with the plea in abeyance agreement.

274 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
275 conviction that is:
276 (i) from a separate criminal episode than the current charge; and
277 (ii) from a conviction that is separate from any other conviction used to enhance the
278 current charge.

279 (7) A person may be charged and sentenced for a violation of this section, notwithstanding
280 a charge and sentence for a violation of any other section of this chapter.

281 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,
282 a civil or administrative penalty or sanction authorized by law.
283 (b) When a violation of this chapter violates a federal law or the law of another state,
284 conviction or acquittal under federal law or the law of another state for the same act
285 is a bar to prosecution in this state.

286 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person
287 or persons produced, manufactured, possessed, distributed, or dispensed a controlled
288 substance or substances, is prima facie evidence that the person or persons did so with
289 knowledge of the character of the substance or substances.

290 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
291 veterinarian's professional practice only and not for humans, from prescribing,
292 dispensing, or administering controlled substances or from causing the substances to be
293 administered by an assistant or orderly under the veterinarian's direction and supervision.

294 (11) Civil or criminal liability may not be imposed under this section on:
295 (a) a person registered under this chapter who manufactures, distributes, or possesses an
296 imitation controlled substance for use as a placebo or investigational new drug by a
297 registered practitioner in the ordinary course of professional practice or research;
298 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
299 employment; or
300 (c) a healthcare facility, substance use harm reduction services program, or drug
301 addiction treatment facility that temporarily possesses a controlled or counterfeit
302 substance to conduct a test or analysis on the controlled or counterfeit substance to

303 identify or analyze the strength, effectiveness, or purity of the substance for a public
304 health or safety reason.

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

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

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

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

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

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

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

325 (i) engaged in medical research; and

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

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

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

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

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

337 (16)(a) It is an affirmative defense to an allegation of the commission of an offense
338 listed in Subsection (16)(b) that the person or bystander:
339 (i) reasonably believes that the person or another person is experiencing an overdose
340 event due to the ingestion, injection, inhalation, or other introduction into the
341 human body of a controlled substance or other substance;
342 (ii) reports, or assists a person who reports, in good faith the overdose event to a
343 medical provider, an emergency medical service provider as defined in Section
344 53-2d-101, a law enforcement officer, a 911 emergency call system, or an
345 emergency dispatch system, or the person is the subject of a report made under
346 this Subsection (16);
347 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
348 actual location of the overdose event that facilitates responding to the person
349 experiencing the overdose event;
350 (iv) remains at the location of the person experiencing the overdose event until a
351 responding law enforcement officer or emergency medical service provider
352 arrives, or remains at the medical care facility where the person experiencing an
353 overdose event is located until a responding law enforcement officer arrives;
354 (v) cooperates with the responding medical provider, emergency medical service
355 provider, and law enforcement officer, including providing information regarding
356 the person experiencing the overdose event and any substances the person may
357 have injected, inhaled, or otherwise introduced into the person's body; and
358 (vi) is alleged to have committed the offense in the same course of events from which
359 the reported overdose arose.

360 (b) The offenses referred to in Subsection (16)(a) are:
361 (i) the possession or use of less than 16 ounces of marijuana;
362 (ii) the possession or use of a scheduled or listed controlled substance other than
363 marijuana; and
364 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
365 Imitation Controlled Substances Act.

366 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
367 include seeking medical assistance under this section during the course of a law
368 enforcement agency's execution of a search warrant, execution of an arrest warrant,
369 or other lawful search.

370 (17) If any provision of this chapter, or the application of any provision to any person or

371 circumstances, is held invalid, the remainder of this chapter shall be given effect without
372 the invalid provision or application.

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

375 (19) If a minor who is under 18 years old is found by a court to have violated this section or
376 Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
377 complete:

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

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

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

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

384 **58-37f-201 . Controlled substance database -- Creation -- Purpose.**

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

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

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

390 (4) The division shall, in collaboration with the board, determine whether to operate the
391 database within the division or contract with another entity to operate the database,
392 based on an analysis of costs and benefits.

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

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

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

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

401 (d) data reported to the division under Subsection 58-37-8(1)(e) or [58-37-8(2)(g)]
402 58-37-8(2)(h) regarding certain violations of Chapter 37, Utah Controlled Substances
403 Act.

404 (6) The division shall maintain the database in an electronic file or by other means

405 established by the division to facilitate use of the database for identification of:
406 (a) prescribing practices and patterns of prescribing and dispensing controlled
407 substances;
408 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
409 manner;
410 (c) individuals receiving prescriptions for controlled substances from licensed
411 practitioners, and who subsequently obtain dispensed controlled substances from a
412 drug outlet in quantities or with a frequency inconsistent with generally recognized
413 standards of dosage for that controlled substance;
414 (d) individuals presenting forged or otherwise false or altered prescriptions for
415 controlled substances to a pharmacy;
416 (e) individuals admitted to a general acute hospital for poisoning or overdose involving a
417 prescribed controlled substance; and
418 (f) individuals convicted for:
419 (i) driving under the influence of a prescribed controlled substance that renders the
420 individual incapable of safely operating a vehicle;
421 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance;
422 or
423 (iii) certain violations of Chapter 37, Utah Controlled Substances Act.

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

425 **58-37f-704 . Entering certain convictions into the database.**

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

429 Section 4. Section **77-40a-101** is amended to read:

430 **77-40a-101 . Definitions.**

431 As used in this chapter:

432 (1) "Agency" means a state, county, or local government entity that generates or maintains
433 records relating to an investigation, arrest, detention, or conviction for an offense for
434 which expungement may be ordered.
435 (2) "Automatic expungement" means the expungement of records of an investigation,
436 arrest, detention, or conviction of an offense without the filing of a petition.
437 (3) "Bureau" means the Bureau of Criminal Identification of the Department of Public
438 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

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

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

476 (i) sealing the record; or

477 (ii) restricting or denying access to the record.

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

479 (17) "Indigent" means a financial status that results from a court finding that a petitioner is
480 financially unable to pay the fee to file a petition for expungement under Section
481 78A-2-302.

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

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

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

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

488 (i) any drug possession offense;

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

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

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

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

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

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

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

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

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

504 (23) "Special certificate" means a document issued as described in Subsection
505 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest,
506 investigation, and detention associated with the case do not clearly demonstrate whether

507 the case is eligible for expungement.

508 (24)(a) "Traffic offense" means:

- 509 (i) an infraction or a class C misdemeanor offense under Title 41, Chapter 1a, Motor
510 Vehicle Act;
- 511 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
512 under Title 41, Chapter 6a, Traffic Code;
- 513 (iii) an infraction or a class C misdemeanor offense under Title 41, Chapter 12a,
514 Financial Responsibility of Motor Vehicle Owners and Operators Act;
- 515 (iv) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
516 under Title 53, Chapter 3, Part 2, Driver Licensing Act;
- 517 (v) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
518 under Title 73, Chapter 18, State Boating Act; and
- 519 (vi) all local ordinances that are substantially similar to an offense listed in
520 Subsections (24)(a)(i) through (iii).

521 (b) "Traffic offense" does not include:

- 522 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
523 Reckless Driving;
- 524 (ii) an offense under Section 41-12a-302 for operating a motor vehicle without
525 owner's or operator's security;
- 526 (iii) an offense under Section 41-12a-303.3 for providing false evidence of owner's or
527 operator's security;
- 528 (iv) an offense under Sections 73-18-13 through 73-18-13.6; or
- 529 (v) any local ordinance that is substantially similar to an offense listed in Subsection
530 (24)(b)(i) or (ii).

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

532 Section 5. Section **77-40a-205** is amended to read:

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

- 534 (1) A court shall issue an order of expungement, without the filing of a petition, for all
535 records of the case that are held by the court and the bureau if:
 - 536 (a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a
537 form requesting expungement of a case as described in Section 77-40a-204;
 - 538 (b) the case is eligible for expungement under this section; and
 - 539 (c) the prosecuting agency does not object to the expungement of the case as described
540 in Subsection (6).

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

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

544 (A) [a] an infraction or a misdemeanor offense for possession of a controlled
545 substance in violation of Subsection 58-37-8(2)(a)(i);
546 (B) a class B misdemeanor offense;
547 (C) a class C misdemeanor offense; or
548 (D) an infraction; and

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

551 (A) at least five years for the conviction of a class C misdemeanor offense or an
552 infraction;
553 (B) at least six years for the conviction of a class B misdemeanor offense; or
554 (C) at least seven years for the conviction of a class A misdemeanor offense for
555 possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);
556 or

557 (b)(i) the case is dismissed as a result of a successful completion of a plea in
558 abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is
559 dismissed without prejudice;

560 (ii) each charge within the case is:

561 (A) [a] an infraction or a misdemeanor offense for possession of a controlled
562 substance in violation of Subsection 58-37-8(2)(a)(i);
563 (B) a class B misdemeanor offense;
564 (C) a class C misdemeanor offense; or
565 (D) an infraction; and

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

568 (A) at least five years for a charge in the case for a class C misdemeanor offense
569 or an infraction;
570 (B) at least six years for a charge in the case for a class B misdemeanor offense; or
571 (C) at least seven years for a charge in the case for a class A misdemeanor offense
572 for possession of a controlled substance in violation of Subsection
573 58-37-8(2)(a)(i).

574 (3) A case is not eligible for expungement under this section if:

575 (a) the individual has a total number of convictions in courts of this state that exceed the
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.