

Grant Amjad Miller proposes the following substitute bill:

Marijuana Use or Possession Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Grant Amjad Miller

Senate Sponsor:

LONG TITLE

General Description:

This bill amends criminal procedures concerning the use or possession of 14 grams or less of marijuana.

Highlighted Provisions:

This bill:

- requires a prosecuting attorney to offer a plea in abeyance for a first offense for use or possession of 14 grams or less of marijuana;
- provides requirements for a plea in abeyance agreement for a first offense for 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:

77-2a-2, as last amended by Laws of Utah 2025, Chapters 214, 431

ENACTS:

77-2a-1.5, Utah Code Annotated 1953

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

Section 1. Section **77-2a-1.5** is enacted to read:

77-2a-1.5 . Offer of a plea in abeyance for certain marijuana offenses.

(1) As used in this section:

(a)(i) "Convicted" means:

(A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a

- 30 mental condition; or
- 31 (B) having received a judgment of guilty or a judgment of guilty with a mental
- 32 condition.
- 33 (ii) "Convicted" does not include:
- 34 (A) an adjudication of an offense under Section 80-6-701; or
- 35 (B) a traffic offense.
- 36 (b) "Traffic offense" means the same as that term is defined in Section 77-40a-1.
- 37 (2) A prosecuting attorney shall offer a plea in abeyance to a defendant if:
- 38 (a) the individual has never been convicted of an offense;
- 39 (b) the individual is charged with a class B misdemeanor offense for the use or
- 40 possession of marijuana under Subsection 58-37-8(2)(d)(i);
- 41 (c) the amount of marijuana that forms the basis of the charge described in Subsection
- 42 (2)(b) is 14 grams or less; and
- 43 (d) the individual was 18 years old or older at the time of the offense.
- 44 (3) A plea in abeyance under this section is subject to Subsection 77-2a-2(6)(b).
- 45 Section 2. Section **77-2a-2** is amended to read:
- 46 **77-2a-2 . Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**
- 47 **agreement -- Waiver of time for sentencing.**
- 48 (1) At any time after acceptance of a plea of guilty or no contest but before entry of
- 49 judgment of conviction and imposition of sentence, ~~[the court may,]~~ and upon motion of
- 50 both the prosecuting attorney and the defendant, the court may hold the plea in abeyance
- 51 and not enter judgment of conviction against the defendant nor impose sentence upon
- 52 the defendant within the time periods contained in ~~[Rule 22(a),]~~ the Utah Rules of
- 53 Criminal Procedure, Rule 22(a).
- 54 (2) A defendant shall be represented by counsel during negotiations for a plea in abeyance
- 55 and at the time of acknowledgment and affirmation of any plea in abeyance agreement
- 56 unless the defendant knowingly and intelligently waives the defendant's right to counsel.
- 57 (3) A defendant has the right to be represented by counsel at any court hearing relating to a
- 58 plea in abeyance agreement.
- 59 (4)(a) ~~[Any]~~ Subject to Subsection (6), a plea in abeyance agreement entered into
- 60 between the prosecution and the defendant and approved by the court shall~~[-subject~~
- 61 ~~to Subsection (7),]~~ include a full, detailed recitation of the requirements and
- 62 conditions agreed to by the defendant and the reason for requesting the court to hold
- 63 the plea in abeyance.

(b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be in writing and shall, before acceptance by the court, be executed by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

(5)(a) Except as provided in ~~[Subsection (5)(b)]~~ Subsections (5)(b) and (5)(c), a plea may not be held in abeyance for a period longer than 18 months if the plea is to any class of misdemeanor or longer than three years if the plea is to any degree of felony or to any combination of misdemeanors and felonies.

(b)(i) For a plea in abeyance agreement that the Division of Adult Probation and Parole created in Section 64-14-202 supervises, the plea may not be held in abeyance for a period longer than the initial term of probation required under the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, if the initial term of probation is shorter than the period required under Subsection (5)(a).

(ii) Subsection (5)(b)(i) does not:

(A) apply to a plea that is held in abeyance in a drug court created under Title 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

(B) prohibit court supervision of a plea in abeyance agreement after the day on which the Division of Adult Probation and Parole supervision described in Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

~~[(6)]~~ (c) ~~[Notwithstanding Subsection (5), a]~~ A plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

~~[(7)]~~ (6)(a) A plea in abeyance agreement may not:

~~[(a)]~~ (i) be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in ~~[Rule 22(a),]~~ the Utah Rules of Criminal Procedure, Rule 22(a); or

~~[(b)]~~ (ii) notwithstanding any other provision of law, include as part of the requirements and conditions agreed to by the defendant that the defendant will forfeit a firearm owned by the defendant if the offense the defendant will plea to is not an offense that would make the defendant a restricted person under Section

98 76-11-302 or 76-11-303 or federal law.

99 (b) For a plea in abeyance described in Section 77-2a-1.5, the plea in abeyance
100 agreement:

101 (i) except as provided in Subsection (6)(b)(ii), may include any term as determined
102 by the parties; and

103 (ii) if the plea in abeyance agreement includes a term of incarceration, shall require
104 that the term of incarceration be suspended.

105 Section 3. **Effective Date.**

106 This bill takes effect on May 6, 2026.