

**Grant Amjad Miller** proposes the following substitute bill:

**Marijuana 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 provisions, procedures, and penalties concerning marijuana.

**Highlighted Provisions:**

This bill:

- amends offenses and penalties concerning differing amounts of marijuana;
- establishes a deferred prosecution process for certain first-time marijuana possession or use offenses; 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

**64-14-204**, as renumbered and amended by Laws of Utah 2025, Chapter 214

**77-11b-102**, as last amended by Laws of Utah 2025, Chapters 173, 208

**77-40a-101**, as last amended by Laws of Utah 2025, Chapters 173, 239

**78A-7-301**, as last amended by Laws of Utah 2023, Chapter 393

ENACTS:

**77-2-4.6**, Utah Code Annotated 1953

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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

- 64 class A misdemeanor and upon a second or subsequent conviction is guilty of a  
65 third degree felony.
- 66 (c)(i) Except as provided in Subsection (1)(c)(iii), a person who has been convicted  
67 of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment  
68 for an indeterminate term as described in Subsection (1)(c)(ii) and Title 76,  
69 Chapter 3, Punishments.
- 70 (ii) The court shall impose an indeterminate prison term for a person who has been  
71 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony  
72 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,  
73 during the commission or furtherance of the violation, the person intentionally or  
74 knowingly:
- 75 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in  
76 Section 76-11-101, that is not a firearm, in an angry, threatening, intimidating,  
77 or coercive manner;
- 78 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm  
79 readily accessible for immediate use, as that term is defined in Section  
80 76-11-201; or
- 81 (C) distributed a firearm, as that term is defined in Section 76-11-101, or  
82 possessed a firearm with intent to distribute the firearm.
- 83 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate  
84 prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 85 (A) details on the record the reasons why it is in the interests of justice not to  
86 impose the indeterminate prison term;
- 87 (B) makes a finding on the record that the person does not pose a significant  
88 safety risk to the public; and
- 89 (C) orders the person to complete the terms and conditions of supervised  
90 probation provided by the Department of Corrections.
- 91 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
92 felony punishable by imprisonment for an indeterminate term of not less than:
- 93 (A) seven years and which may be for life; or
- 94 (B) 15 years and which may be for life if the trier of fact determined that the  
95 defendant knew or reasonably should have known that any subordinate under  
96 Subsection (1)(a)(iv)(B) was under 18 years old.
- 97 (ii) Imposition or execution of the sentence may not be suspended, and the person is

- 98 not eligible for probation.
- 99 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
- 100 offense, was under 18 years old.
- 101 (e) The Administrative Office of the Courts shall report to the Division of Professional
- 102 Licensing the name, case number, date of conviction, and if known, the date of birth
- 103 of each person convicted of violating Subsection (1)(a).
- 104 (f)(i) A court shall impose the mandatory jail sentence described in Subsection
- 105 (1)(f)(ii), and may not suspend any portion of the jail sentence or grant early
- 106 release, if:
- 107 (A) the court suspends the imposition of a prison sentence for a felony conviction
- 108 under Subsection (1)(a) or sentences a person for a misdemeanor violation of
- 109 an offense under Subsection (1)(a);
- 110 (B)(I) the violation is the person's second or subsequent conviction for any
- 111 level of offense under Subsection (1)(a); or
- 112 (II) the person previously has been convicted of a criminal violation in another
- 113 jurisdiction, including a state or federal court, that is substantially
- 114 equivalent to the violation of an offense under Subsection (1)(a); and
- 115 (C) the person previously has been convicted of reentry of a removed alien under
- 116 8 U.S.C. Sec. 1326.
- 117 (ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:
- 118 (A) for a felony or a class A misdemeanor, 360 days in jail;
- 119 (B) for a class B misdemeanor, 180 days in jail; and
- 120 (C) for a class C misdemeanor, 90 days in jail.
- 121 (iii)(A) Except as provided in Subsection (1)(f)(iii)(B), a person who is subject to
- 122 a mandatory jail sentence under Subsection (1)(f)(i) may not be released to the
- 123 federal Immigration and Customs Enforcement Agency of the United States
- 124 Department of Homeland Security for deportation until the person has served
- 125 the entire jail sentence described in Subsection (1)(f)(ii).
- 126 (B) A person may be released to the federal Immigration and Customs
- 127 Enforcement Agency of the United States Department of Homeland Security
- 128 for deportation at any time during the 14-day period before the final day of the
- 129 person's jail sentence described in Subsection (1)(f)(ii).
- 130 (2) Prohibited acts B -- Penalties and reporting:
- 131 (a) It is unlawful:

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

- 166 (A) subject to Subsection (2)(e)(ii), a class B misdemeanor for less than eight  
167 grams of marijuana;
- 168 (B) a class A misdemeanor for eight grams or more but less than 71 grams of  
169 marijuana; or
- 170 (C) subject to Subsection (2)(e)(iii), a third degree felony for 71 grams or more of  
171 marijuana.
- 172 (ii) A first offense under Subsection (2)(e)(i)(A) may be eligible for deferred  
173 prosecution under Section 77-2-4.6.
- 174 (iii) An actor who possesses 71 grams or more of marijuana is presumed to be in  
175 violation of Subsection (1)(a).
- 176 ~~[(e)]~~ (f) A person convicted of violating Subsection (2)(a)(i) while inside the exterior  
177 boundaries of property occupied by a correctional facility as defined in Section  
178 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty  
179 one degree greater than provided in Subsection (2)(b) or (2)(e), as applicable, and if  
180 the conviction is with respect to controlled substances as listed in:
- 181 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
182 indeterminate term as provided by law, and:
- 183 (A) the court shall additionally sentence the person convicted to a term of one year  
184 to run consecutively and not concurrently; and
- 185 (B) the court may additionally sentence the person convicted for an indeterminate  
186 term not to exceed five years to run consecutively and not concurrently; and
- 187 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
188 indeterminate term as provided by law, and the court shall additionally sentence  
189 the person convicted to a term of six months to run consecutively and not  
190 concurrently.
- 191 ~~[(f)]~~ (g) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 192 (i) on a first conviction, guilty of a class B misdemeanor;
- 193 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 194 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 195 ~~[(g)]~~ (h) The Administrative Office of the Courts shall report to the Division of  
196 Professional Licensing the name, case number, date of conviction, and if known, the  
197 date of birth of each person convicted of violating Subsection (2)(a).
- 198 (3) Prohibited acts C -- Penalties:
- 199 (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

- 234 10 p.m.;
- 235 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
- 236 facility's hours of operation;
- 237 (iv) in a public park, amusement park, arcade, or recreation center when the public or
- 238 amusement park, arcade, or recreation center is open to the public;
- 239 (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
- 240 (vi) in or on the grounds of a library when the library is open to the public;
- 241 (vii) within an area that is within 100 feet of any structure, facility, or grounds
- 242 included in Subsections (4)(a)(i) through (vi);
- 243 (viii) in the presence of a person younger than 18 years old, regardless of where the
- 244 act occurs; or
- 245 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
- 246 distribution of a substance in violation of this section to an inmate or on the
- 247 grounds of a correctional facility as defined in Section 76-8-311.3.
- 248 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony
- 249 and shall be imprisoned for a term of not less than five years if the penalty that
- 250 would otherwise have been established but for this Subsection (4) would have
- 251 been a first degree felony.
- 252 (ii) Imposition or execution of the sentence may not be suspended, and the person is
- 253 not eligible for probation.
- 254 (c) If the classification that would otherwise have been established would have been less
- 255 than a first degree felony but for this Subsection (4), a person convicted under this
- 256 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for
- 257 that offense.
- 258 (d)(i) If the violation is of Subsection (4)(a)(ix):
- 259 (A) the person may be sentenced to imprisonment for an indeterminate term as
- 260 provided by law, and the court shall additionally sentence the person convicted
- 261 for a term of one year to run consecutively and not concurrently; and
- 262 (B) the court may additionally sentence the person convicted for an indeterminate
- 263 term not to exceed five years to run consecutively and not concurrently; and
- 264 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
- 265 the mental state required for the commission of an offense, directly or indirectly
- 266 solicits, requests, commands, coerces, encourages, or intentionally aids another
- 267 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

- 302           imitation controlled substance for use as a placebo or investigational new drug by a  
303           registered practitioner in the ordinary course of professional practice or research;
- 304       (b) a law enforcement officer acting in the course and legitimate scope of the officer's  
305           employment; or
- 306       (c) a healthcare facility, substance use harm reduction services program, or drug  
307           addiction treatment facility that temporarily possesses a controlled or counterfeit  
308           substance to conduct a test or analysis on the controlled or counterfeit substance to  
309           identify or analyze the strength, effectiveness, or purity of the substance for a public  
310           health or safety reason.
- 311       (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,  
312           as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide  
313           traditional ceremonial purposes in connection with the practice of a traditional Indian  
314           religion as defined in Section 58-37-2.
- 315       (b) In a prosecution alleging violation of this section regarding peyote as defined in  
316           Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or  
317           transported by an Indian for bona fide traditional ceremonial purposes in connection  
318           with the practice of a traditional Indian religion.
- 319       (c)(i) The defendant shall provide written notice of intent to claim an affirmative  
320           defense under this Subsection (12) as soon as practicable, but not later than 10  
321           days before trial.
- 322           (ii) The notice shall include the specific claims of the affirmative defense.
- 323           (iii) The court may waive the notice requirement in the interest of justice for good  
324           cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely  
325           notice.
- 326       (d) The defendant shall establish the affirmative defense under this Subsection (12) by a  
327           preponderance of the evidence. If the defense is established, it is a complete defense  
328           to the charges.
- 329       (13)(a) It is an affirmative defense that the person produced, possessed, or administered  
330           a controlled substance listed in Section 58-37-4.2 if the person was:
- 331           (i) engaged in medical research; and
- 332           (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
- 333       (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a  
334           controlled substance listed in Section 58-37-4.2.
- 335       (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]~~ 71 grams 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 **64-14-204** is amended to read:

**64-14-204 . Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties --**

**Supervision fee -- Coordination with local mental health authority.**

- (1)(a) The division, except as otherwise provided by law, shall supervise a sentenced offender placed in the community if the offender:
- (i)(A) is placed on probation by a court;
  - (B) is released on parole by the Board of Pardons and Parole; or
  - (C) is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers; and
  - (ii) has been convicted of:
    - (A) a felony;
    - (B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or
    - (C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the division is ordered by a court to supervise the offender under Section 77-18-105.
- (b) If a sentenced offender participates in substance use treatment or a residential vocational or life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the division shall monitor the offender's compliance with and completion of the treatment or program.
- (c) The department shall establish standards for:
- (i) the supervision of offenders in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection [58-37-8(2)(b)(ii)] 58-37-8(2)(b); and
  - (ii) the monitoring described in Subsection (1)(b).
- (2) The division shall apply the graduated and evidence-based responses established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:
- (a) sanctions to be used in response to a violation of the terms of probation or parole; and
  - (b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of six days within a period of 30 days.
- (3) The division shall implement a program of graduated incentives as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1

to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4)(a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Use and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the division who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision by the division;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6)(a)(i) A monthly supervision fee of \$30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the division upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b)(i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the division shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(c) The division shall deposit money received from the monthly supervision fee

established in this Subsection (6) into the General Fund as a parole and probation dedicated credit to be used to cover costs incurred in the collection of the fee and in the development of offender supervision programs.

(7)(a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the division shall establish a program allowing an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender complies with the terms of the offender's probation or parole agreement, including the case action plan.

(b)(i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the division shall establish a program, consistent with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.

(ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.

(iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:

(A) the offender presents a substantial risk to public safety;

(B) termination would prevent the offender from completing risk reduction programming or treatment; or

(C) the eligibility criteria for termination of supervision, as established in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, have not been met.

(iv) This Subsection (7)(b) does not prohibit the division, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(c) The division shall:

(i) maintain a record of credits earned by an offender under this Subsection (7); and

(ii) request from the court or the Board of Pardons and Parole the termination of



- 540                   probation or parole not fewer than 30 days [~~prior to~~] before the termination date  
541                   that reflects the credits earned under this Subsection (7).
- 542       (d) This Subsection (7) does not prohibit the division from requesting a termination date  
543           earlier than the termination date established by earned credits under Subsection (7)(c).
- 544       (e) The court or the Board of Pardons and Parole shall terminate an offender's probation  
545           or parole upon completion of the period of probation or parole accrued by time  
546           served and credits earned under this Subsection (7) unless the court or the Board of  
547           Pardons and Parole finds that termination would interrupt the completion of a  
548           necessary treatment program, in which case the termination of probation or parole  
549           shall occur when the treatment program is completed.
- 550       (f) The department shall report annually to the State Commission on Criminal and  
551           Juvenile Justice on or before August 31:
- 552           (i) the number of offenders who have earned probation or parole credits under this  
553                Subsection (7) in one or more months of the preceding fiscal year and the  
554                percentage of the offenders on probation or parole during that time that this  
555                number represents;
- 556           (ii) the average number of credits earned by those offenders who earned credits;
- 557           (iii) the number of offenders who earned credits by county of residence while on  
558                probation or parole;
- 559           (iv) the cost savings associated with sentencing reform programs and practices; and
- 560           (v) a description of how the savings will be invested in treatment and  
561                early-intervention programs and practices at the county and state levels.
- 562       (8)(a) The department shall coordinate with a local mental health authority to complete  
563           the requirements of this Subsection (8) for an offender who:
- 564           (i) is a habitual offender as that term is defined in Section 77-18-102;
- 565           (ii) has a mental illness as that term is defined in Section 26B-5-301; and
- 566           (iii) based on a risk and needs assessment:
- 567                (A) is at a high risk of reoffending; and
- 568                (B) has risk factors that may be addressed by available community-based services.
- 569       (b) For an offender described in Subsection (8)(a), at any time clinically appropriate or  
570           at least three months before termination of an offender's parole or expiration of an  
571           offender's sentence, the department shall coordinate with the Department of Health  
572           and Human Services and the relevant local mental health authority to provide  
573           applicable clinical assessments and transitional treatment planning and services for

the offender so that the offender may receive appropriate treatment and support services after the termination of parole or expiration of sentence.

(c) The local mental health authority may determine whether the offender:

(i) meets the criteria for civil commitment;

(ii) meets the criteria for assisted outpatient treatment; or

(iii) would benefit from assignment to an assertive community treatment team or available community-based services.

(d) Based on the local mental health authority's determination under Subsection (8)(c), the local mental health authority shall, as appropriate:

(i) initiate an involuntary commitment court proceeding;

(ii) file a written application for assisted outpatient treatment; or

(iii) seek to have the offender assigned to an assertive community treatment team or available community-based services.

(e) On or before November 1, 2025, the department shall provide a report to the Law Enforcement and Criminal Justice Interim Committee regarding any proposed changes to the requirements in this Subsection (8), including whether the requirements of this Subsection (8) should also apply to any other category of offenders.

Section 5. Section **77-2-4.6** is enacted to read:

**77-2-4.6 . Deferred prosecution for certain marijuana use or possession offenses.**

(1) As used in this section:

(a) "Deferral period" means the 12-month period following the date on which an individual submits an application for deferred prosecution.

(b) "Deferred prosecution" means the deferral of prosecution of an individual charged with an eligible marijuana offense if the individual complies with the requirements described in Subsections (2) and (3).

(c) "Drug offense" means an offense described in:

(i) Title 58, Chapter 37, Utah Controlled Substances Act;

(ii) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(iii) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(iv) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(v) Title 58, Chapter 37d, Clandestine Drug Lab Act.

(d) "Eligible marijuana offense" means an individual's first drug offense that is a marijuana offense punishable as a class B misdemeanor under Subsection

608           58-37-8(2)(e)(i)(A).

609           (e) "Marijuana offense" means a violation of Subsection 58-37-8(2)(a)(i) for the use or  
610           possession of marijuana.

611       (2)(a) Except as provided in Subsection (2)(b), for an offense committed on or after  
612           October 1, 2026, an individual who is charged with an eligible marijuana offense  
613           may apply for deferred prosecution under Subsection (3).

614           (b) The following individuals may not apply for or be granted a deferred prosecution as  
615           described in this section:

616           (i) an individual under 21 years old; or

617           (ii) an individual with a commercial driver license.

618       (3) An individual who applies for deferred prosecution shall:

619           (a) apply through an online application process developed by the Administrative Office  
620           of the Courts;

621           (b) pay the relevant fine, as provided by the uniform fine schedule described in Section  
622           76-3-301.5, associated with the eligible marijuana offense;

623           (c) pay an administrative fee as established by the Judicial Council; and

624           (d) enter a deferred plea of no contest as described in Subsection (4).

625       (4) If an eligible individual applies for deferred prosecution, the court shall:

626           (a) record the deferred plea of no contest;

627           (b) not enter the deferred plea of no contest unless the individual fails to comply with the  
628           terms of the deferred prosecution; and

629           (c) if the individual fails to comply with the terms of the deferred prosecution, enter a  
630           judgment of conviction as described in Subsection (5)(b).

631       (5)(a) Except as provided in Subsection (5)(b), if an individual enters a deferred plea of  
632           no contest as described in Subsection (3)(d) and is not convicted of another drug  
633           offense during the deferral period:

634           (i) the prosecutor may not prosecute the individual for the eligible marijuana offense  
635           subject to the deferred prosecution;

636           (ii) the court may not enter judgment of conviction against the individual or impose a  
637           sentence for the eligible marijuana offense; and

638           (iii) the court shall dismiss the eligible marijuana offense to which the individual  
639           entered a deferred plea of no contest.

640           (b) If an individual enters a deferred plea of no contest as described in Subsection (3)(d)  
641           and is convicted of a drug offense within the deferral period, the court shall enter

judgment of conviction against the individual for the eligible marijuana offense to which the individual entered a deferred plea of no contest.

(6) A deferred prosecution is not a prosecution for purposes of Section 76-1-403.

(7)(a) The Judicial Council shall set and periodically adjust the fee described in Subsection (3)(c) in an amount that the Judicial Council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program described in this section.

(b) The state treasurer shall deposit the revenue generated from the administrative fee described in Subsection (3)(c) into the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.

Section 6. Section **77-11b-102** is amended to read:

**77-11b-102 . Property subject to forfeiture.**

(1)(a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to forfeit:

(i) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; or

(ii) seized proceeds.

(b) An agency, or the prosecuting attorney, may not forfeit the seized property of an innocent owner or an interest holder.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-5c-202, 76-5c-203, 76-5c-204, 76-5c-205, 76-5c-206, or 76-5c-305, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502[,] or 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502 or Subsection 76-5-102.1(2)(a);

- 676 (ii) a felony violation under Subsection 76-5-102.1(2)(b);  
677 (iii) a violation under Section 76-5-207; or  
678 (iv) operating a motor vehicle with any amount of a controlled substance in an  
679 individual's body and causing serious bodily injury or death, as codified before  
680 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection  
681 58-37-8(2)(g); or
- 682 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or  
683 disqualified license and:
- 684 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)  
685 was imposed because of a violation under:
- 686 (A) Section 41-6a-502;  
687 (B) Section 41-6a-517;  
688 (C) a local ordinance that complies with the requirements of Subsection  
689 41-6a-510(1);  
690 (D) Section 41-6a-520.1;  
691 (E) operating a motor vehicle with any amount of a controlled substance in an  
692 individual's body and causing serious bodily injury or death, as codified before  
693 May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection  
694 58-37-8(2)(g);  
695 (F) Section 76-5-102.1;  
696 (G) Section 76-5-207; or  
697 (H) a criminal prohibition as a result of a plea bargain after having been originally  
698 charged with violating one or more of the sections or ordinances described in  
699 Subsections (3)(b)(i)(A) through (G); or
- 700 (ii) the denial, suspension, revocation, or disqualification described in Subsection  
701 (3)(b)(i):
- 702 (A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension,  
703 revocation, or disqualification; and  
704 (B) the original denial, suspension, revocation, or disqualification was imposed  
705 because of a violation described in Subsection (3)(b)(i).
- 706 (4) If a peace officer seizes property incident to an arrest solely for possession of a  
707 controlled substance under Subsection 58-37-8(2)(a)(i) ~~but not Subsection~~  
708 ~~58-37-8(2)(b)(i)],~~ an agency may not seek to forfeit the property that was seized in  
709 accordance with the arrest.

- (5) If a peace officer seizes an individual's firearm as the result of an offense under Section 76-11-218, an agency may not seek to forfeit the individual's firearm if the individual may lawfully possess the firearm.

Section 7. 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.
- (4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.
- (5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- (7) "Civil protective order" means the same as that term is defined in Section 78B-7-102.
- (8) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.
- (9) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.
- (10) "Court" means a district court or a justice court.
- (11) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- (12) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.
- (13) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.
- (14) "Department" means the Department of Public Safety established in Section 53-1-103.
- (15) "Drug possession offense" means:

(a) an offense described in Subsection 58-37-8(2), except for:

~~[(i) an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;]~~

~~[(ii)]~~ (i) an offense enhanced under Subsection ~~[58-37-8(2)(e)]~~ 58-37-8(2)(f), violation in a correctional facility; or

~~[(iii)]~~ (ii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) an offense described in Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) an offense described in Section 58-37b-6, possession or use of an imitation 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 8. Section **78A-7-301** is amended to read:

**78A-7-301 . Justice Court Technology, Security, and Training Account  
established -- Funding -- Uses.**

(1) There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(2) The state treasurer shall deposit in the account:

(a) money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii);  
and

(b) the administrative fee from[-] :

(i) a deferred prosecution or traffic school deferred prosecution under Subsection  
77-2-4.2(5) or (6)[-] ; and

(ii) a deferred prosecution for certain marijuana use or possession offenses under  
Section 77-2-4.6.

(3) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state;

(b) additional compensation for presiding judges and associate presiding judges for justice courts under Section 78A-7-209.5; and

(c) costs to implement, operate, and maintain[-] :

(i) deferred prosecution and traffic school deferred prosecution [~~pursuant to~~] in  
accordance with Subsections 77-2-4.2(5) and (6)[-] ; and

(ii) deferred prosecution for certain marijuana use or possession offenses under  
Section 77-2-4.6.

Section 9. **Effective Date.**

This bill takes effect on May 6, 2026.