

1 **Plea in Abeyance Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Grant Amjad Miller

Senate Sponsor:

LONG TITLE**General Description:**

5 This bill addresses a plea in abeyance.

Highlighted Provisions:

7 This bill:

8 ▶ modifies the requirements for compensatory service;

9 ▶ requires a prosecuting attorney to offer a plea in abeyance in certain circumstances and

10 provides requirements for that agreement to a plea in abeyance; and

11 ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

13 None

Other Special Clauses:

15 None

Utah Code Sections Affected:**AMENDS:**

18 **76-3-301.7**, as last amended by Laws of Utah 2025, Chapters 259, 331

19 **77-2a-2**, as last amended by Laws of Utah 2025, Chapters 214, 431

ENACTS:

21 **77-2a-1.5**, Utah Code Annotated 1953

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

24 Section 1. Section **76-3-301.7** is amended to read:

25 **76-3-301.7 . Compensatory service -- Credit for cost of court-ordered treatment**
or course.

27 (1) As used in this section:

28 (a) "Compensatory service" means service or unpaid work performed by a person, in
29 lieu of the payment of a criminal fine or a fee for a plea in abeyance described in
30 Section 77-2a-1.5, for:

- (i) a state or local government agency;
- (ii) an entity that is approved as a nonprofit organization under Section 501(c) of the Internal Revenue Code; or
- (iii) any other entity or organization if prior approval is obtained from the court.

(b) "Eligible offense" means a criminal conviction, including a traffic offense.

(2)(a) When a defendant is sentenced to pay a fine for an eligible offense or a fee for a plea in abeyance described in Section 77-2a-1.5, the court shall consider allowing the defendant to complete compensatory service in lieu of the payment of the fine or account receivable[~~exclusive of any victim restitution imposed~~] or the fee.

(b) Notwithstanding Subsection (2)(a), the court may not allow a defendant to complete compensatory service in lieu of the payment of any victim restitution that is imposed for an eligible offense.

(3) [A] The court shall inform a defendant who intends to forfeit bail[~~or who~~] , who is ordered to pay a fine by the court for an eligible offense[shall be informed by the court] , or who is required to pay a fee for a plea in abeyance described in Section 77-2a-1.5 for an eligible offense, of the opportunity to perform compensatory service in lieu of the [fine or bail] fine, fee, or bail amount.

(4) The court shall credit timely completed compensatory service reported in accordance with Subsection (5) against the [fine or bail] fine, fee, or bail amount at the rate of \$12 per hour and shall allow the defendant a reasonable amount of time to complete the service.

(5)(a) The court shall provide the defendant with instructions that inform the organization:

- (i) about the requirements in Subsection (5)(b); and
- (ii) that making a written false statement to the court about the defendant's compensatory service is punishable as a class B misdemeanor pursuant to Section 76-8-504.

(b) The defendant shall report compensatory service hours to the court in a letter that:

- (i) is on the organization's official letterhead and includes contact information for the organization's representative;
- (ii) specifies the number of hours for which the defendant provided service;
- (iii) contains a brief description of what the service involved; and
- (iv)(A) is signed by an authorized representative of the organization; or
- (B) is in a form otherwise acceptable to the court.

65 (6) The court may refuse to accept compensatory service:

66 (a) completed prior to the date of sentencing;

67 (b) that has been submitted to another court for credit; or

68 (c) completed at an agency or organization or is a type of service that is specifically

69 prohibited by the court.

70 (7) In addition to any other provision of this section, a court may order that the unpaid

71 amount of the criminal accounts receivable, that is not the principal or interest amount

72 owed for restitution, be reduced in the amount of the cost of any treatment or course if:

73 (a) the treatment or course was ordered by the court as part of the case;

74 (b) the defendant has completed the court's requirements related to the treatment or

75 course;

76 (c) the defendant provides proof that the defendant completed the court's requirements

77 and paid the cost of the treatment or course; and

78 (d) the court finds that payment of an unpaid amount of a criminal accounts receivable

79 will impose manifest hardship on the defendant or the defendant's family.

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

81 **77-2a-1.5 . Offer of a plea in abeyance.**

82 (1) As used in this section, "convicted" means the same as that term is defined in Section

83 76-3-201.

84 (2) A prosecuting attorney shall offer a plea in abeyance to a defendant if:

85 (a) the individual has never been convicted of an offense;

86 (b) the individual is charged with:

87 (i) retail theft, as described in Section 76-6-602;

88 (ii) the unlawful purchase, possession, or consumption of alcohol by a minor, as

89 described in Section 32B-4-409; or

90 (iii) a misdemeanor offense for possession of a controlled substance in violation of

91 Subsection 58-37-8(2)(a)(i); and

92 (c) the individual was 18 years old at the time of the offense.

93 Section 3. Section **77-2a-2** is amended to read:

94 **77-2a-2 . Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**

95 **agreement -- Waiver of time for sentencing.**

96 (1) At any time after acceptance of a plea of guilty or no contest but before entry of

97 judgment of conviction and imposition of sentence, [the court may,] and upon motion of

98 both the prosecuting attorney and the defendant, the court may hold the plea in abeyance

99 and not enter judgment of conviction against the defendant nor impose sentence upon
100 the defendant within the time periods contained in Rule 22(a)[,] of the Utah Rules of
101 Criminal Procedure.

102 (2) A defendant shall be represented by counsel during negotiations for a plea in abeyance
103 and at the time of acknowledgment and affirmation of any plea in abeyance agreement
104 unless the defendant knowingly and intelligently waives the defendant's right to counsel.

105 (3) A defendant has the right to be represented by counsel at any court hearing relating to a
106 plea in abeyance agreement.

107 (4)(a) [Any] Subject to Subsection (6), a plea in abeyance agreement entered into
108 between the prosecution and the defendant and approved by the court shall~~[, subject~~
109 ~~to Subseetion (7),]~~ include a full, detailed recitation of the requirements and
110 conditions agreed to by the defendant and the reason for requesting the court to hold
111 the plea in abeyance.

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

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

120 (b)(i) For a plea in abeyance agreement that the Division of Adult Probation and
121 Parole created in Section 64-14-202 supervises, the plea may not be held in
122 abeyance for a period longer than the initial term of probation required under the
123 adult sentencing and supervision length guidelines, as defined in Section
124 63M-7-401.1, if the initial term of probation is shorter than the period required
125 under Subsection (5)(a).

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

127 (A) apply to a plea that is held in abeyance in a drug court created under Title
128 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by
129 the Judicial Council; or

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

133 agreement ends.

134 [({6})] (c) [Notwithstanding Subsection (5),-a] A plea may be held in abeyance for up to
135 two years if the plea is to any class of misdemeanor and the plea in abeyance
136 agreement includes a condition that the defendant participate in a problem solving
137 court approved by the Judicial Council.

138 [({7})] (6)(a) A plea in abeyance agreement may not:

139 [({a})] (i) be approved unless the defendant, before the court, and any written
140 agreement, knowingly and intelligently waives time for sentencing as designated
141 in Rule 22(a)[,] of the Utah Rules of Criminal Procedure; or
142 [({b})] (ii) notwithstanding any other provision of law, include as part of the
143 requirements and conditions agreed to by the defendant that the defendant will
144 forfeit a firearm owned by the defendant if the offense the defendant will plea to is
145 not an offense that would make the defendant a restricted person under Section
146 76-11-302 or 76-11-303 or federal law.

147 (b) For a plea in abeyance described in Section 77-2a-1.5:

148 (i) the plea in abeyance agreement may not:

149 (A) require incarceration of the defendant; or
150 (B) require the defendant to pay a fee of \$200 or more; and

151 (ii) the plea in abeyance agreement shall allow the defendant to perform
152 compensatory service as described in Section 76-3-301.7 in lieu of the fee
153 described in Subsection (6)(b)(i)(B).

154 Section 4. **Effective Date.**

155 This bill takes effect on May 6, 2026.