

**Plea in Abeyance Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Grant Amjad Miller**

Senate Sponsor:

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

This bill addresses a plea in abeyance.

**Highlighted Provisions:**

This bill:

- modifies the requirements for compensatory service;
- requires a prosecuting attorney to offer a plea in abeyance in certain circumstances and provides requirements for that agreement to a plea in abeyance; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:****AMENDS:**

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

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

**ENACTS:**

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

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

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

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

(1) As used in this section:

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

- 31 (i) a state or local government agency;
- 32 (ii) an entity that is approved as a nonprofit organization under Section 501(c) of the
- 33 Internal Revenue Code; or
- 34 (iii) any other entity or organization if prior approval is obtained from the court.
- 35 (b) "Eligible offense" means a criminal conviction, including a traffic offense.
- 36 (2)(a) When a defendant is sentenced to pay a fine for an eligible offense or a fee for a
- 37 plea in abeyance described in Section 77-2a-1.5, the court shall consider allowing the
- 38 defendant to complete compensatory service in lieu of the payment of the fine or
- 39 account receivable[, exclusive of any victim restitution imposed] or the fee.
- 40 (b) Notwithstanding Subsection (2)(a), the court may not allow a defendant to complete
- 41 compensatory service in lieu of the payment of any victim restitution that is imposed
- 42 for an eligible offense.
- 43 (3) [A] The court shall inform a defendant who intends to forfeit bail[ or who] , who is
- 44 ordered to pay a fine by the court for an eligible offense[ shall be informed by the court] ,
- 45 or who is required to pay a fee for a plea in abeyance described in Section 77-2a-1.5 for
- 46 an eligible offense, of the opportunity to perform compensatory service in lieu of the [
- 47 fine or bail] fine, fee, or bail amount.
- 48 (4) The court shall credit timely completed compensatory service reported in accordance
- 49 with Subsection (5) against the [fine or bail] fine, fee, or bail amount at the rate of \$12
- 50 per hour and shall allow the defendant a reasonable amount of time to complete the
- 51 service.
- 52 (5)(a) The court shall provide the defendant with instructions that inform the
- 53 organization:
- 54 (i) about the requirements in Subsection (5)(b); and
- 55 (ii) that making a written false statement to the court about the defendant's
- 56 compensatory service is punishable as a class B misdemeanor pursuant to Section
- 57 76-8-504.
- 58 (b) The defendant shall report compensatory service hours to the court in a letter that:
- 59 (i) is on the organization's official letterhead and includes contact information for the
- 60 organization's representative;
- 61 (ii) specifies the number of hours for which the defendant provided service;
- 62 (iii) contains a brief description of what the service involved; and
- 63 (iv)(A) is signed by an authorized representative of the organization; or
- 64 (B) is in a form otherwise acceptable to the court.

- (6) The court may refuse to accept compensatory service:
- (a) completed prior to the date of sentencing;
  - (b) that has been submitted to another court for credit; or
  - (c) completed at an agency or organization or is a type of service that is specifically prohibited by the court.
- (7) In addition to any other provision of this section, a court may order that the unpaid amount of the criminal accounts receivable, that is not the principal or interest amount owed for restitution, be reduced in the amount of the cost of any treatment or course if:
- (a) the treatment or course was ordered by the court as part of the case;
  - (b) the defendant has completed the court's requirements related to the treatment or course;
  - (c) the defendant provides proof that the defendant completed the court's requirements and paid the cost of the treatment or course; and
  - (d) the court finds that payment of an unpaid amount of a criminal accounts receivable will impose manifest hardship on the defendant or the defendant's family.

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

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

- (1) As used in this section, "convicted" means the same as that term is defined in Section 76-3-201.
- (2) A prosecuting attorney shall offer a plea in abeyance to a defendant if:
- (a) the individual has never been convicted of an offense;
  - (b) the individual is charged with:
    - (i) retail theft, as described in Section 76-6-602;
    - (ii) the unlawful purchase, possession, or consumption of alcohol by a minor, as described in Section 32B-4-409; or
    - (iii) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); and
  - (c) the individual was 18 years old at the time of the offense.

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

**77-2a-2 . Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.**

- (1) At any time after acceptance of a plea of guilty or no contest but before entry of judgment of conviction and imposition of sentence, ~~[the court may,]~~ and upon motion of both the prosecuting attorney and the defendant, the court may hold the plea in abeyance

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

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

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

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

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.