

Mike Schultz proposes the following substitute bill:

Sentencing Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends statutory provisions related to sentencing.

Highlighted Provisions:

This bill:

- modifies the membership of the Sentencing Commission;
- requires the Sentencing Commission to give consideration to certain objectives when determining a recommended sentence or supervision length for the adult sentencing and supervision length guidelines;
- requires the Sentencing Commission, before November 1, 2026, to revise and review the adult sentencing and supervision length guidelines for certain offenses;
- addresses the factors and information that a sentencing court is required to consider when sentencing an individual; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-401.2, as last amended by Laws of Utah 2021, Chapter 173

63M-7-404.3, as last amended by Laws of Utah 2025, Chapter 214

76-3-201, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

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

Section 1. Section **63M-7-401.2** is amended to read:

63M-7-401.2 . Creation -- Members -- Appointment -- Qualifications.

- (1) There is created the sentencing commission, within the commission, that is composed of 15 voting members.
- (2) The sentencing commission shall:
- (a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) elect the sentencing commission's officers.
- (3) The sentencing commission's members ~~[shall be]~~ are:
- (a) the executive director of the Department of Corrections or the executive director's designee;
 - (b) the director of the [-]Division of Juvenile Justice and Youth Services or the director's designee;
 - (c) the executive director of the commission or the executive director's designee;
 - (d) the chair of the Board of Pardons and Parole or the chair's designee;
 - (e) the state court administrator or the state court administrator's designee;
 - ~~[(f) a criminal defense attorney, appointed by the Utah Association of Criminal Defense Lawyers;]~~
 - ~~[(g) an indigent defense attorney, appointed by the Indigent Defense Commission;]~~
 - ~~[(h)]~~ (f) the attorney general or the attorney general's designee;
 - ~~[(i)]~~ (g) ~~[a criminal prosecutor]~~ three criminal prosecutors, appointed by the Statewide Association of Public Attorneys and Prosecutors;
 - ~~[(j)]~~ (h) ~~[a representative-]~~ three representatives of the Utah Sheriff's Association appointed by the governor;
 - ~~[(k)]~~ (i) a licensed professional, appointed by the governor, who assists in the rehabilitation of individuals convicted of an offense;
 - ~~[(t)]~~ (j) the chair of the Utah Victim Services Commission or a member of the Utah Victim Services Commission designated by the chair;
 - ~~[(m)]~~ (k) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile Justice Oversight Committee designated by the chair; and
 - ~~[(n)]~~ (l) ~~[a juvenile prosecuting attorney]~~ three juvenile prosecutors, appointed by the Statewide Association of Public Attorneys and Prosecutors~~[-; and]~~ .
 - ~~[(o) a juvenile defense attorney, appointed by the Utah Association of Criminal Defense Lawyers;]~~
- (4) In addition to the members described in Subsection (3), the following may serve as

non-voting members:

(a) a district court judge appointed by the Judicial Council; and

(b) a juvenile court judge appointed by the Judicial Council.

- (5) The executive director of the commission shall hire a director of the sentencing commission to administer and manage the sentencing commission.

Section 2. Section **63M-7-404.3** is amended to read:

63M-7-404.3 . Adult sentencing and supervision length guidelines.

- (1) [The] Subject to Subsection (2), the sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

- (iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and
- (v) identifying community violations that may not warrant revocation of probation or parole.

~~[(2)(a) Before July 1, 2024, the sentencing commission shall revise and review the adult sentencing and supervision length guidelines to reflect appropriate penalties for the following offenses:]~~

~~[(i) an interlock restricted driver operating a vehicle without an ignition interlock system, Section 41-6a-518.2;]~~

~~[(ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and]~~

~~[(iii) negligently operating a vehicle resulting in death, Section 76-5-207.]~~

~~[(b) The guidelines under Subsection (2)(a) shall consider the following:]~~

~~[(i) the current sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not result;]~~

~~[(ii) the degree of injury and the number of victims suffering injury or death as a result of the offense;]~~

~~[(iii) the offender's number of previous convictions for driving under the influence related offenses as defined in Subsection 41-6a-501(2)(a); and]~~

~~[(iv) whether the offense amounts to extreme DUI, as that term is defined in Section 41-6a-501.]~~

~~[(3) On or before October 31, 2024, the sentencing commission shall review and revise the supervision tools in the adult sentencing and supervision length guidelines to:]~~

~~[(a) recommend appropriate sanctions for an individual who violates probation or parole by:]~~

~~[(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;]~~

~~[(ii) possessing a dangerous weapon; or]~~

~~[(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and]~~

~~[(b) recommend appropriate incentives for an individual on probation or parole that:]~~

~~[(i) completes all conditions of probation or parole; or]~~

~~[(ii) maintains eligible employment as defined in Section 64-14-301.]~~

- (2) When determining a recommended sentence or supervision length for the adult sentencing and supervision length guidelines described in Subsection (1), the sentencing commission shall give:
- (a) primary consideration to the protection of society; and
 - (b) secondary consideration to:
 - (i) the possibility of risk reduction through rehabilitation;
 - (ii) prevention of future harm;
 - (iii) deterrence of the individual and the public generally from committing the offense;
 - (iv) punishment or retribution for committing the offense; and
 - (v) the impact on any victim of the offense.
- (3) Before November 1, 2026, the sentencing commission shall review and revise the adult sentencing and supervision length guidelines, including the scoring factors, to reflect the appropriate penalties for:
- (a) a felony offense described in Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, and Part 3, Kidnapping, Trafficking, and Smuggling, when the felony offense is committed against an individual who is 18 years old or older;
 - (b) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76 Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 5c, Pornographic and Harmful Materials and Performances, and Title 76, Chapter 5d, Prostitution, and Section 76-7-102; and
 - (c) a domestic violence offense as defined in Section 77-36-1.
- (4) The sentencing commission shall establish guidelines in the adult sentencing and supervision length guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.
- (5) The sentencing commission shall modify:
- (a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and
 - (b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.
- Section 3. Section **76-3-201** is amended to read:

76-3-201 . Sentences or combination of sentences allowed -- Restitution and other costs -- Civil penalties.

(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 mental condition; or

(B) having received a judgment of guilty or a judgment of guilty with a mental condition.

(ii) "Convicted" does not include an adjudication of an offense under Section 80-6-701.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2)(a) Within the limits provided by this chapter, a court may sentence an individual convicted of an offense to any one of the following sentences, or combination of the following sentences:

~~[(a)]~~ (i) to pay a fine;

~~[(b)]~~ (ii) to removal or disqualification from public or private office;

~~[(c)]~~ (iii) except as otherwise provided by law, to probation in accordance with Section 77-18-105;

~~[(d)]~~ (iv) in accordance with Subsection 77-18-111(4), to imprisonment;

~~[(e)]~~ (v) on or after April 27, 1992, to life in prison without parole; or

~~[(f)]~~ (vi) to death.

(b) In determining the appropriate sentence for an individual convicted of an offense, the court shall consider:

(i) the nature and circumstances of the offense, including the nature and gravity of the harm caused by the individual's criminal conduct;

(ii) the history and characteristics of the individual, including the acceptance or lack of acceptance of accountability by the individual;

(iii) whether the sentence to be imposed:

(A) reflects the seriousness of the offense, promotes respect for the law, and provides just punishment for the offense;

(B) affords adequate deterrence of criminal conduct;

(C) protects the public from future offenses by the individual; and

(D) provides for the rehabilitative needs of the individual;

(iv) the adult sentencing and supervision length guidelines as defined in Section

- 199 63M-7-401.1;
200 (v) the presentence investigation report described in Section 77-18-103 if a
201 presentence investigation report has been prepared for the individual;
202 (vi) any aggravating factor that the court may, or is required to, consider by law for
203 the offense;
204 (vii) any aggravating or mitigating circumstances; and
205 (viii) the desires and interests of any victim of the offense.
206 (c) In determining the appropriate sentence for an individual convicted of a violent
207 felony, as defined in Section 76-3-203.5, or a sexual offense, as defined in Section
208 76-3-407, the sentencing court shall prioritize the factors described in Subsections
209 (2)(b)(i), (2)(b)(iii)(A), (2)(b)(iii)(B), (2)(b)(iii)(C), and (2)(b)(viii) over any interest
210 of the defendant.
211 (3)(a) This chapter does not deprive a court of authority conferred by law:
212 (i) to forfeit property;
213 (ii) to dissolve a corporation;
214 (iii) to suspend or cancel a license;
215 (iv) to permit removal of an individual from office;
216 (v) to cite for contempt; or
217 (vi) to impose any other civil penalty.
218 (b) A court may include a civil penalty in a sentence.
219 (4) In addition to any other sentence that a sentencing court may impose, the court shall
220 order an individual to:
221 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution
222 Act;
223 (b) subject to Section 77-32b-104, pay the cost expended by an appropriate
224 governmental entity under Section 77-30-24 for the extradition of the individual if
225 the individual:
226 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve
227 pending criminal charges; and
228 (ii) is convicted of an offense in the county for which the individual is returned;
229 (c) subject to Subsection (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of
230 medical care, treatment, hospitalization, and related transportation, as described in
231 Section 17-63-706, that is provided by a county to the individual while the individual
232 is in a county correctional facility before and after sentencing if:

(i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and

(ii)(A) the individual is not a state prisoner housed in the county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is a state probationary inmate or a state parole inmate; and

(d) pay any other cost that the court determines is appropriate under Section 77-32b-104.

(5) The cost of medical care under Subsection (4)(c) does not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. Secs. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

Section 4. **Effective Date.**

This bill takes effect on May 6, 2026.