

Michael K. McKell 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;
- modifies the authorization process for the adult sentencing and supervision length guidelines and juvenile disposition guidelines;
- 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-7-401.1**, as enacted by Laws of Utah 2024, Chapter 208
- 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
- 63M-7-406**, as last amended by Laws of Utah 2024, Chapter 208

29 **76-3-201**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

30

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

32 Section 1. Section **63M-7-401.1** is amended to read:

33 **63M-7-401.1 . Definitions for part.**

34 As used in this part:

35 (1) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of an
36 offense under Section 80-6-701.

37 (2) "Adult sentencing and supervision length guidelines" means the guidelines established
38 in Section 63M-7-404.3.

39 (3) "Civil disability" means a legal right or privilege that is revoked as a result of the
40 individual's conviction or adjudication.

41 (4) "Collateral consequence" means:

42 (a) a discretionary disqualification; or

43 (b) a mandatory sanction.

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

45 (6) "Disadvantage" means any legal or regulatory restriction that:

46 (a) is imposed on an individual as a result of the individual's conviction or adjudication;
47 and

48 (b) is not a civil disability or a legal penalty.

49 (7) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage
50 that a court in a civil proceeding, or a federal, state, or local government agency or
51 official, may impose on an individual as a result of the individual's adjudication or
52 conviction for an offense regardless of whether the penalty, the civil disability, or the
53 disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

54 (8) "Juvenile" means a minor as that term is defined in Section 80-1-102.

55 (9) "Juvenile disposition guidelines" means the guidelines established in Section
56 63M-7-404.5.

57 (10) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

58 (a) is imposed on an individual as a result of the individual's adjudication or conviction
59 for an offense regardless of whether the penalty, the civil disability, or the
60 disadvantage is specifically designated as a penalty, a civil disability, or a
61 disadvantage; and

62 (b) is not included in the judgment for the adjudication or conviction.

63 (11) "Master offense list" means a document that contains all offenses that exist in statute
64 and each offense's associated penalty.

65 (12) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the
66 laws of this state, another state, or the United States.

67 (13) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the
68 individual for the individual's conviction or adjudication.

69 (14) "Rural county" means a county in this state other than Davis County, Salt Lake
70 County, or Utah County.

71 [~~(14)~~] (15) "Sentencing commission" means the sentencing commission created in Section
72 63M-7-401.2.

73 Section 2. Section **63M-7-401.2** is amended to read:

74 **63M-7-401.2 . Creation -- Members -- Appointment -- Qualifications.**

75 (1) There is created the sentencing commission, within the commission, that is composed of [
76 ~~15~~] 17 voting members.

77 (2) The sentencing commission shall:

78 (a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah
79 Administrative Rulemaking Act; and

80 (b) elect the sentencing commission's officers.

81 (3) The sentencing commission's members [~~shall be~~] are:

82 (a) the executive director of the Department of Corrections or the executive director's
83 designee;

84 (b) the director of the [-]Division of Juvenile Justice and Youth Services or the director's
85 designee;

86 (c) the executive director of the commission or the executive director's designee;

87 (d) the chair of the Board of Pardons and Parole or the chair's designee;

88 (e) the state court administrator or the state court administrator's designee;

89 [~~(f) a criminal defense attorney, appointed by the Utah Association of Criminal Defense
90 Lawyers;~~]

91 [~~(g) an indigent defense attorney, appointed by the Indigent Defense Commission;~~]

92 (f) three criminal defense attorneys, appointed by the Utah Association of Criminal
93 Defense Lawyers, with at least one being a criminal defense attorney in a rural
94 county;

95 [~~(h)~~] (g) the attorney general or the attorney general's designee;

96 (h) three criminal prosecutors, appointed by the Statewide Association of Public

97 Attorneys and Prosecutors, with at least one being a criminal prosecutor in a rural
 98 county;

99 [~~(i) a criminal prosecutor, appointed by the Statewide Association of Public Attorneys~~
 100 ~~and Prosecutors;]~~

101 [~~(j) a representative of the Utah Sheriff's Association appointed by the governor]~~

102 (i) two representatives of the Utah Sheriffs Association, appointed by the Utah Sheriffs
 103 Association, with at least one being a representative of a sheriff from a rural county;

104 (j) one representative of the Utah Chiefs of Police Association, appointed by the Utah
 105 Chiefs of Police Association;

106 (k) [~~a licensed professional~~] an individual, appointed by the governor, who assists in the
 107 rehabilitation of individuals convicted of an offense; and

108 (l) the chair of the Utah Victim Services Commission or a member of the Utah Victim
 109 Services Commission designated by the chair[;] .

110 [~~(m) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile~~
 111 ~~Justice Oversight Committee designated by the chair;]~~

112 [~~(n) a juvenile prosecuting attorney, appointed by the Statewide Association of Public~~
 113 ~~Attorneys and Prosecutors; and]~~

114 [~~(o) a juvenile defense attorney, appointed by the Utah Association of Criminal Defense~~
 115 ~~Lawyers.]~~

116 (4) In addition to the members described in Subsection (3), the following may serve as
 117 non-voting members:

118 (a) a district court judge appointed by the Judicial Council; [~~and~~]

119 (b) a juvenile court judge appointed by the Judicial Council[-] ; and

120 (c) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile
 121 Justice Oversight Committee designated by the chair.

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

124 Section 3. Section **63M-7-404.3** is amended to read:

125 **63M-7-404.3 . Adult sentencing and supervision length guidelines.**

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

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

129 (i) accept public comment;

130 (ii) relate sentencing practices and correctional resources;

- 131 (iii) increase [equity] consistency in sentencing;
- 132 (iv) better define responsibility in sentencing; and
- 133 (v) enhance the discretion of the sentencing court while preserving the role of the
- 134 Board of Pardons and Parole;
- 135 (b) the length of supervision of offenders on probation or parole in order to:
- 136 (i) accept public comment;
- 137 (ii) increase [equity] consistency in criminal supervision lengths;
- 138 (iii) relate the length of supervision to an offender's progress;
- 139 (iv) take into account an offender's risk of offending again;
- 140 (v) relate the length of supervision to the amount of time an offender has remained
- 141 under supervision in the community; and
- 142 (vi) enhance the discretion of the sentencing court while preserving the role of the
- 143 Board of Pardons and Parole; and
- 144 (c) appropriate, evidence-based probation and parole supervision policies and services
- 145 that assist offenders in successfully completing supervision and reduce incarceration
- 146 rates from community supervision programs while ensuring public safety, including:
- 147 (i) treatment and intervention completion determinations based on individualized
- 148 case action plans;
- 149 (ii) measured and consistent processes for addressing violations of conditions of
- 150 supervision;
- 151 (iii) processes that include using positive reinforcement to recognize an offender's
- 152 progress in supervision;
- 153 (iv) engaging with social services agencies and other stakeholders who provide
- 154 services that meet the needs of an offender; and
- 155 (v) identifying community violations that may not warrant revocation of probation or
- 156 parole.

157 [~~(2)(a) Before July 1, 2024, the sentencing commission shall revise and review the adult~~

158 ~~sentencing and supervision length guidelines to reflect appropriate penalties for the~~

159 ~~following offenses:]~~

160 [~~(i) an interlock restricted driver operating a vehicle without an ignition interlock~~

161 ~~system, Section 41-6a-518.2;]~~

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

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

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

- 165 [(i) the current sentencing requirements for driving under the influence of alcohol,
 166 drugs, or a combination of both as identified in Section 41-6a-505 when injury or
 167 death do not result;]
 168 [(ii) the degree of injury and the number of victims suffering injury or death as a
 169 result of the offense;]
 170 [(iii) the offender's number of previous convictions for driving under the influence
 171 related offenses as defined in Subsection 41-6a-501(2)(a); and]
 172 [(iv) whether the offense amounts to extreme DUI, as that term is defined in Section
 173 41-6a-501.]

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

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

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

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

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

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

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

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

187 (2) When determining a recommended sentence or supervision length for the adult
 188 sentencing and supervision length guidelines described in Subsection (1), the sentencing
 189 commission shall give:

190 (a) primary consideration to the protection of society; and

191 (b) secondary consideration to:

192 (i) the possibility of risk reduction through rehabilitation;

193 (ii) prevention of future harm;

194 (iii) deterrence of the individual and the public generally from committing the
 195 offense;

196 (iv) punishment or retribution for committing the offense; and

197 (v) the impact on any victim of the offense.

198 (3) Before November 1, 2026, the sentencing commission shall review and revise the adult

- 199 sentencing and supervision length guidelines, including the scoring factors, to reflect the
 200 appropriate penalties for:
- 201 (a) a felony offense described in Title 76, Chapter 5, Part 1, Assault and Related
 202 Offenses, Part 2, Criminal Homicide, and Part 3, Kidnapping, Trafficking, and
 203 Smuggling, when the felony offense is committed against an individual who is 18
 204 years old or older;
- 205 (b) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76,
 206 Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 5c, Pornographic and Harmful
 207 Materials and Performances, and Title 76, Chapter 5d, Prostitution, and Section
 208 76-7-102; and
- 209 (c) any other offense as determined appropriate by the sentencing commission.
- 210 (4) The sentencing commission shall establish guidelines in the adult sentencing and
 211 supervision length guidelines that recommend an enhanced sentence that a court or the
 212 Board of Pardons and Parole should consider when determining the period in which a
 213 habitual offender, as defined in Section 77-18-102, will be incarcerated.
- 214 (5) The sentencing commission shall modify:
- 215 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
 216 purposes of protecting the public and ensuring efficient use of state funds; and
- 217 (b) the criminal history score in the adult sentencing and supervision length guidelines to
 218 reduce recidivism, including factors in an offender's criminal history that are relevant
 219 to the accurate determination of an individual's risk of offending again.
- 220 Section 4. Section **63M-7-406** is amended to read:
- 221 **63M-7-406 . Reports -- Legislative approval -- Publication of reports.**
- 222 (1)(a) On or before October 31 of each year, the sentencing commission shall submit the
 223 sentencing and supervision length guidelines and juvenile disposition guidelines
 224 created in accordance with Sections 63M-7-404.3 and 63M-7-404.5 to the Law
 225 Enforcement and Criminal Justice Interim Committee and the Judiciary Interim
 226 Committee for review, including any legislative recommendations.
- 227 (b) [~~Beginning January 1, 2025~~] Except as provided in Subsection (1)(c), the Legislature
 228 shall annually authorize, by passing a concurrent resolution, the sentencing and
 229 supervision length guidelines and the juvenile disposition guidelines submitted in
 230 accordance with Subsection (1)(a).
- 231 (c) The Legislature may, by passing a concurrent resolution, authorize sentencing and
 232 supervision length guidelines and juvenile disposition guidelines that the sentencing

233 commission submits after the deadline described in Subsection (1)(a).

234 (d) Sentencing and supervision length guidelines and juvenile disposition guidelines
 235 authorized by the Legislature take effect on the date described in the concurrent
 236 resolution.

237 ~~[(e) The existing sentencing and supervision length guidelines and juvenile disposition~~
 238 ~~guidelines that were approved in accordance with Subsection (1)(b) shall remain in~~
 239 ~~effect until the day on which the Legislature reauthorizes the sentencing and~~
 240 ~~supervision length guidelines and juvenile disposition guidelines as described in~~
 241 ~~Subsection (1)(b).]~~

242 (2) The sentencing commission shall also be authorized to prepare, publish, and distribute
 243 from time to time reports of studies, recommendations, and statements from the
 244 sentencing commission.

245 Section 5. Section **76-3-201** is amended to read:

246 **76-3-201 . Sentences or combination of sentences allowed -- Restitution and other**
 247 **costs -- Civil penalties.**

248 (1) As used in this section:

249 (a)(i) "Convicted" means:

250 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a
 251 mental condition; or

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

254 (ii) "Convicted" does not include an adjudication of an offense under Section
 255 80-6-701.

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

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

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

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

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

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

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

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

- 267 (b) In determining the appropriate sentence for an individual convicted of an offense, the
268 court shall consider:
- 269 (i) the nature and circumstances of the offense, including the nature and gravity of the
270 harm caused by the individual's criminal conduct;
- 271 (ii) the history and characteristics of the individual, including the acceptance or lack
272 of acceptance of accountability by the individual;
- 273 (iii) whether the sentence to be imposed:
- 274 (A) reflects the seriousness of the offense, promotes respect for the law, and
275 provides just punishment for the offense;
- 276 (B) affords adequate deterrence of criminal conduct;
- 277 (C) protects the public from future offenses by the individual; and
- 278 (D) provides for the rehabilitative needs of the individual;
- 279 (iv) the adult sentencing and supervision length guidelines as defined in Section
280 63M-7-401.1;
- 281 (v) the presentence investigation report described in Section 77-18-103 if a
282 presentence investigation report has been prepared for the individual;
- 283 (vi) any aggravating factor that the court may, or is required to, consider by law for
284 the offense;
- 285 (vii) any aggravating or mitigating circumstances; and
- 286 (viii) the desires and interests of any victim of the offense.
- 287 (c) In determining the appropriate sentence for an individual convicted of a violent
288 felony, as defined in Section 76-3-203.5, or a sexual offense, as defined in Section
289 76-3-407, the sentencing court shall prioritize the factors described in Subsections
290 (2)(b)(i), (2)(b)(iii)(A), (2)(b)(iii)(B), and (2)(b)(iii)(C) over any interest of the
291 defendant.
- 292 (3)(a) This chapter does not deprive a court of authority conferred by law:
- 293 (i) to forfeit property;
- 294 (ii) to dissolve a corporation;
- 295 (iii) to suspend or cancel a license;
- 296 (iv) to permit removal of an individual from office;
- 297 (v) to cite for contempt; or
- 298 (vi) to impose any other civil penalty.
- 299 (b) A court may include a civil penalty in a sentence.
- 300 (4) In addition to any other sentence that a sentencing court may impose, the court shall

- 301 order an individual to:
- 302 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution
- 303 Act;
- 304 (b) subject to Section 77-32b-104, pay the cost expended by an appropriate
- 305 governmental entity under Section 77-30-24 for the extradition of the individual if
- 306 the individual:
- 307 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve
- 308 pending criminal charges; and
- 309 (ii) is convicted of an offense in the county for which the individual is returned;
- 310 (c) subject to Subsection (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of
- 311 medical care, treatment, hospitalization, and related transportation, as described in
- 312 Section 17-63-706, that is provided by a county to the individual while the individual
- 313 is in a county correctional facility before and after sentencing if:
- 314 (i) the individual is convicted of an offense that results in incarceration in the county
- 315 correctional facility; and
- 316 (ii)(A) the individual is not a state prisoner housed in the county correctional
- 317 facility through a contract with the Department of Corrections; or
- 318 (B) the reimbursement does not duplicate the reimbursement under Section
- 319 64-13e-104 if the individual is a state probationary inmate or a state parole
- 320 inmate; and
- 321 (d) pay any other cost that the court determines is appropriate under Section 77-32b-104.
- 322 (5) The cost of medical care under Subsection (4)(c) does not include expenses incurred by
- 323 the county correctional facility in providing reasonable accommodation for an inmate
- 324 qualifying as an individual with a disability as defined and covered by the Americans
- 325 with Disabilities Act, 42 U.S.C. Secs. 12101 through 12213, including medical and
- 326 mental health treatment for the inmate's disability.

327 **Section 6. Effective Date.**

328 This bill takes effect on May 6, 2026.