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Overdose Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol S. Moss

Senate Sponsor: Jen Plumb

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LONG TITLE

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General Description:

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This bill concerns criminal provisions relating to an overdose.

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Highlighted Provisions:

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This bill:

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- ▶ defines terms;

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- ▶ amends the affirmative defense based on reporting an overdose event, including to clarify that the affirmative defense may apply to:

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- an individual who remains with the individual experiencing the overdose event; and
 - the individual experiencing the overdose event;

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- ▶ creates an option for a court or a prosecutor to dismiss a first offense for certain drug offenses under circumstances applicable to the overdose affirmative defense if the individual demonstrates an intent to engage with substance abuse treatment;

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- ▶ amends the sentencing mitigating factor based on reporting an overdose event, including to clarify that the mitigating factor may apply to:

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- an individual who remains with the individual experiencing the overdose event; and
 - the individual experiencing the overdose event; and

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- ▶ makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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58-37-8, as last amended by Laws of Utah 2025, Chapters 141, 173, 198, 208, and 305

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76-3-203.11, as last amended by Laws of Utah 2023, Chapters 310, 330

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

H.B. 295

31 Section 1. Section **58-37-8** is amended to read:

32 **58-37-8 . Prohibited acts -- Penalties -- Defenses -- Dismissal option.**

33 (1) Prohibited acts A -- Penalties and reporting:

34 (a) Except as authorized by this chapter, and under circumstances not amounting to an
35 offense described in Section 58-37-8.1, trafficking of fentanyl or a fentanyl-related
36 substance, it is unlawful for a person to knowingly and intentionally:

37 (i) produce, manufacture, or dispense, or to possess with intent to produce,
38 manufacture, or dispense, a controlled or counterfeit substance;

39 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
40 arrange to distribute a controlled or counterfeit substance;

41 (iii) possess a controlled or counterfeit substance with intent to distribute; or

42 (iv) engage in a continuing criminal enterprise where:

43 (A) the person participates, directs, or engages in conduct that results in a
44 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter
45 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled
46 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a
47 felony; and

48 (B) the violation is a part of a continuing series of two or more violations of this
49 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation
50 Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor
51 Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are
52 undertaken in concert with five or more persons with respect to whom the
53 person occupies a position of organizer, supervisor, or any other position of
54 management.

55 (b) A person convicted of violating Subsection (1)(a) with respect to:

56 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a
57 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule
58 III is guilty of a second degree felony, punishable by imprisonment for not more
59 than 15 years, and upon a second or subsequent conviction is guilty of a first
60 degree felony;

61 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
62 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree
63 felony, and upon a second or subsequent conviction is guilty of a second degree
64 felony; or

- (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.
- (c)(i) Except as provided in Subsection (1)(c)(iii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as described in Subsection (1)(c)(ii) and Title 76, Chapter 3, Punishments.
- (ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:
 - (A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-11-101, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;
 - (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm readily accessible for immediate use, as that term is defined in Section 76-11-201; or
 - (C) distributed a firearm, as that term is defined in Section 76-11-101, or possessed a firearm with intent to distribute the firearm.
- (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:
 - (A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;
 - (B) makes a finding on the record that the person does not pose a significant safety risk to the public; and
 - (C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.
- (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:
 - (A) seven years and which may be for life; or
 - (B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

99 (ii) Imposition or execution of the sentence may not be suspended, and the person is
100 not eligible for probation.

101 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the
102 offense, was under 18 years old.

103 (e) The Administrative Office of the Courts shall report to the Division of Professional
104 Licensing the name, case number, date of conviction, and if known, the date of birth
105 of each person convicted of violating Subsection (1)(a).

106 (f)(i) A court shall impose the mandatory jail sentence described in Subsection
107 (1)(f)(ii), and may not suspend any portion of the jail sentence or grant early
108 release, if:

109 (A) the court suspends the imposition of a prison sentence for a felony conviction
110 under Subsection (1)(a) or sentences a person for a misdemeanor violation of
111 an offense under Subsection (1)(a);

112 (B)(I) the violation is the person's second or subsequent conviction for any
113 level of offense under Subsection (1)(a); or

114 (II) the person previously has been convicted of a criminal violation in another
115 jurisdiction, including a state or federal court, that is substantially
116 equivalent to the violation of an offense under Subsection (1)(a); and

117 (C) the person previously has been convicted of reentry of a removed alien under
118 8 U.S.C. Sec. 1326.

119 (ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:

120 (A) for a felony or a class A misdemeanor, 360 days in jail;

121 (B) for a class B misdemeanor, 180 days in jail; and

122 (C) for a class C misdemeanor, 90 days in jail.

123 (iii)(A) Except as provided in Subsection (1)(f)(iii)(B), a person who is subject to
124 a mandatory jail sentence under Subsection (1)(f)(i) may not be released to the
125 federal Immigration and Customs Enforcement Agency of the United States
126 Department of Homeland Security for deportation until the person has served
127 the entire jail sentence described in Subsection (1)(f)(ii).

128 (B) A person may be released to the federal Immigration and Customs
129 Enforcement Agency of the United States Department of Homeland Security
130 for deportation at any time during the 14-day period before the final day of the
131 person's jail sentence described in Subsection (1)(f)(ii).

132 (2) Prohibited acts B -- Penalties and reporting:

133 (a) It is unlawful:

134 (i) for a person knowingly and intentionally to possess or use a controlled substance
135 analog or a controlled substance, unless it was obtained under a valid prescription
136 or order, directly from a practitioner while acting in the course of the person's
137 professional practice, or as otherwise authorized by this chapter;

138 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
139 vehicle, boat, aircraft, or other place to knowingly and intentionally permit a
140 person to occupy the building, room, tenement, vehicle, boat, aircraft, or other
141 place while the person is unlawfully manufacturing, possessing, using, or
142 distributing a controlled substance at that location; or

143 (iii) for a person knowingly and intentionally to possess an altered or forged
144 prescription or written order for a controlled substance.

145 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

146 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree
147 felony; or

148 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is
149 guilty of a class A misdemeanor on a first or second conviction, and on a third or
150 subsequent conviction if each prior offense was committed within seven years
151 before the date of the offense upon which the current conviction is based is guilty
152 of a third degree felony.

153 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
154 conviction under Subsection (1)(a), that person shall be sentenced to a one degree
155 greater penalty than provided in this Subsection (2).

156 (d)(i) A person who violates Subsection (2)(a)(i) with respect to all other controlled
157 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed
158 in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

159 (ii) Upon a third conviction the person is guilty of a class A misdemeanor, if each
160 prior offense was committed within seven years before the date of the offense
161 upon which the current conviction is based.

162 (iii) Upon a fourth or subsequent conviction the person is guilty of a third degree
163 felony if each prior offense was committed within seven years before the date of
164 the offense upon which the current conviction is based.

165 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
166 boundaries of property occupied by a correctional facility as defined in Section

167 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty
168 one degree greater than provided in Subsection (2)(b), and if the conviction is with
169 respect to controlled substances as listed in:

170 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
171 indeterminate term as provided by law, and:
172 (A) the court shall additionally sentence the person convicted to a term of one year
173 to run consecutively and not concurrently; and
174 (B) the court may additionally sentence the person convicted for an indeterminate
175 term not to exceed five years to run consecutively and not concurrently; and
176 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
177 indeterminate term as provided by law, and the court shall additionally sentence
178 the person convicted to a term of six months to run consecutively and not
179 concurrently.

180 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

181 (i) on a first conviction, guilty of a class B misdemeanor;
182 (ii) on a second conviction, guilty of a class A misdemeanor; and
183 (iii) on a third or subsequent conviction, guilty of a third degree felony.

184 (g) The Administrative Office of the Courts shall report to the Division of Professional
185 Licensing the name, case number, date of conviction, and if known, the date of birth
186 of each person convicted of violating Subsection (2)(a).

187 (3) Prohibited acts C -- Penalties:

188 (a) It is unlawful for a person knowingly and intentionally:

189 (i) to use in the course of the manufacture or distribution of a controlled substance a
190 license number which is fictitious, revoked, suspended, or issued to another
191 person or, for the purpose of obtaining a controlled substance, to assume the title
192 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,
193 dentist, veterinarian, or other authorized person;
194 (ii) to acquire or obtain possession of, to procure or attempt to procure the
195 administration of, to obtain a prescription for, to prescribe or dispense to a person
196 known to be attempting to acquire or obtain possession of, or to procure the
197 administration of a controlled substance by misrepresentation or failure by the
198 person to disclose receiving a controlled substance from another source, fraud,
199 forgery, deception, subterfuge, alteration of a prescription or written order for a
200 controlled substance, or the use of a false name or address;

201 (iii) to make a false or forged prescription or written order for a controlled substance,
202 or to utter the same, or to alter a prescription or written order issued or written
203 under the terms of this chapter; or
204 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed
205 to print, imprint, or reproduce the trademark, trade name, or other identifying
206 mark, imprint, or device of another or any likeness of any of the foregoing upon
207 any drug or container or labeling so as to render a drug a counterfeit controlled
208 substance.

209 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
210 misdemeanor.
211 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
212 degree felony.
213 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

214 (4) Prohibited acts D -- Penalties:

215 (a) Notwithstanding other provisions of this section, a person not authorized under this
216 chapter who commits any act that is unlawful under Subsection (1)(a) or Section
217 58-37b-4 is upon conviction subject to the penalties and classifications under this
218 Subsection (4) if the trier of fact finds the act is committed:
219 (i) in a public or private elementary or secondary school or on the grounds of any of
220 those schools during the hours of 6 a.m. through 10 p.m.;
221 (ii) in a public or private vocational school or postsecondary institution or on the
222 grounds of any of those schools or institutions during the hours of 6 a.m. through
223 10 p.m.;
224 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
225 facility's hours of operation;
226 (iv) in a public park, amusement park, arcade, or recreation center when the public or
227 amusement park, arcade, or recreation center is open to the public;
228 (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
229 (vi) in or on the grounds of a library when the library is open to the public;
230 (vii) within an area that is within 100 feet of any structure, facility, or grounds
231 included in Subsections (4)(a)(i) through (vi);
232 (viii) in the presence of a person younger than 18 years old, regardless of where the
233 act occurs; or
234 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or

235 distribution of a substance in violation of this section to an inmate or on the
236 grounds of a correctional facility as defined in Section 76-8-311.3.

237 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony
238 and shall be imprisoned for a term of not less than five years if the penalty that
239 would otherwise have been established but for this Subsection (4) would have
240 been a first degree felony.

241 (ii) Imposition or execution of the sentence may not be suspended, and the person is
242 not eligible for probation.

243 (c) If the classification that would otherwise have been established would have been less
244 than a first degree felony but for this Subsection (4), a person convicted under this
245 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for
246 that offense.

247 (d)(i) If the violation is of Subsection (4)(a)(ix):

248 (A) the person may be sentenced to imprisonment for an indeterminate term as
249 provided by law, and the court shall additionally sentence the person convicted
250 for a term of one year to run consecutively and not concurrently; and

251 (B) the court may additionally sentence the person convicted for an indeterminate
252 term not to exceed five years to run consecutively and not concurrently; and

253 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
254 the mental state required for the commission of an offense, directly or indirectly
255 solicits, requests, commands, coerces, encourages, or intentionally aids another
256 person to commit a violation of Subsection (4)(a)(ix).

257 (e) It is not a defense to a prosecution under this Subsection (4) that:

258 (i) the actor mistakenly believed the individual to be 18 years old or older at the time
259 of the offense or was unaware of the individual's true age; or

260 (ii) the actor mistakenly believed that the location where the act occurred was not as
261 described in Subsection (4)(a) or was unaware that the location where the act
262 occurred was as described in Subsection (4)(a).

263 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

264 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
265 guilty or no contest to a violation or attempted violation of this section or a plea
266 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the
267 equivalent of a conviction, even if the charge has been subsequently reduced or
268 dismissed in accordance with the plea in abeyance agreement.

269 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
270 conviction that is:
271 (i) from a separate criminal episode than the current charge; and
272 (ii) from a conviction that is separate from any other conviction used to enhance the
273 current charge.

274 (7) A person may be charged and sentenced for a violation of this section, notwithstanding
275 a charge and sentence for a violation of any other section of this chapter.

276 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,
277 a civil or administrative penalty or sanction authorized by law.
278 (b) When a violation of this chapter violates a federal law or the law of another state,
279 conviction or acquittal under federal law or the law of another state for the same act
280 is a bar to prosecution in this state.

281 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person
282 or persons produced, manufactured, possessed, distributed, or dispensed a controlled
283 substance or substances, is prima facie evidence that the person or persons did so with
284 knowledge of the character of the substance or substances.

285 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
286 veterinarian's professional practice only and not for humans, from prescribing,
287 dispensing, or administering controlled substances or from causing the substances to be
288 administered by an assistant or orderly under the veterinarian's direction and supervision.

289 (11) Civil or criminal liability may not be imposed under this section on:
290 (a) a person registered under this chapter who manufactures, distributes, or possesses an
291 imitation controlled substance for use as a placebo or investigational new drug by a
292 registered practitioner in the ordinary course of professional practice or research;
293 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
294 employment; or
295 (c) a healthcare facility, substance use harm reduction services program, or drug
296 addiction treatment facility that temporarily possesses a controlled or counterfeit
297 substance to conduct a test or analysis on the controlled or counterfeit substance to
298 identify or analyze the strength, effectiveness, or purity of the substance for a public
299 health or safety reason.

300 (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,
301 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
302 traditional ceremonial purposes in connection with the practice of a traditional Indian

303 religion as defined in Section 58-37-2.

304 (b) In a prosecution alleging violation of this section regarding peyote as defined in
305 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or
306 transported by an Indian for bona fide traditional ceremonial purposes in connection
307 with the practice of a traditional Indian religion.

308 (c)(i) The defendant shall provide written notice of intent to claim an affirmative
309 defense under this Subsection (12) as soon as practicable, but not later than 10
310 days before trial.

311 (ii) The notice shall include the specific claims of the affirmative defense.

312 (iii) The court may waive the notice requirement in the interest of justice for good
313 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely
314 notice.

315 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a
316 preponderance of the evidence. If the defense is established, it is a complete defense
317 to the charges.

318 (13)(a) It is an affirmative defense that the person produced, possessed, or administered
319 a controlled substance listed in Section 58-37-4.2 if the person was:
320 (i) engaged in medical research; and
321 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

322 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a
323 controlled substance listed in Section 58-37-4.2.

324 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled
325 substance listed in Section 58-37-4.2 if:

326 (a) the person was the subject of medical research conducted by a holder of a valid
327 license to possess controlled substances under Section 58-37-6; and
328 (b) the substance was administered to the person by the medical researcher.

329 (15) The application of any increase in penalty under this section to a violation of
330 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.
331 This Subsection (15) takes precedence over any conflicting provision of this section.

332 (16)(a) As used in this Subsection (16):

333 (i) "Emergency medical service provider" means the same as that term is defined in
334 Section 53-2d-101.

335 (ii) "Overdosing victim" means the same as that term is defined in Section
336 76-3-203.11.

337 (b) [It is] Subject to Subsection (16)(e), an individual may assert an affirmative defense
338 to an allegation of the commission of an offense listed in [Subsection (16)(b) that the
339 person or bystander] Subsection (16)(c) if, in the same course of events in which the
340 offense was committed, the individual:
341 (i) [reasonably believes that the person or another person is experiencing an overdose
342 event due to the ingestion, injection, inhalation, or other introduction into the
343 human body of a controlled substance or other substance;]
344 [(ii)] (A) reasonably believes that another individual is an overdosing victim;
345 (B) except as provided in Subsection (16)(d), in good faith reports, or assists [a
346 person who reports, in good faith the overdose event] with the reporting of, the
347 need for assistance for the overdosing victim to a medical provider, an
348 emergency medical service provider[as defined in Section 53-2d-101], a law
349 enforcement officer, a 911 emergency call system, or an emergency dispatch
350 system[, or the person is the subject of a report made under this Subsection (16)];
351 [(iii)]
352 (C) provides in the report under Subsection [(16)(a)(ii)] (16)(b)(i)(B) a functional
353 description of the actual location of the overdose event that facilitates
354 responding to the [person experiencing the overdose event] overdosing victim;
355 [(iv)] (D) if applicable to the circumstances, remains at the location of the [person
356 experiencing the overdose event] overdosing victim until a responding law
357 enforcement officer or emergency medical service provider arrives, or remains
358 at the medical care facility where the [person experiencing an overdose event]
359 overdosing victim is located until a responding law enforcement officer arrives;
360 and
361 [(v)] (E) cooperates with the responding medical provider, emergency medical
362 service provider, and law enforcement officer, including providing information
363 regarding the [person experiencing the overdose event] overdosing victim and
364 any substances the [person] overdosing victim may have injected, inhaled, or
365 otherwise introduced into the [person's] overdosing victim's body; [and]
366 [(vi) is alleged to have committed the offense in the same course of events from
367 which the reported overdose arose.]
368 (ii)(A) reasonably believes that another individual is an overdosing victim and
369 knows that a request for assistance for the overdosing victim is being made or
370 has been made;

371 (B) remains at the location of the overdosing victim until a responding law
372 enforcement officer or emergency medical service provider arrives, or remains
373 at the medical care facility where the overdosing victim is located until a
374 responding law enforcement officer arrives; and

375 (C) cooperates with the responding medical provider, emergency medical service
376 provider, and law enforcement officer, including providing information
377 regarding the overdosing victim and any substances the overdosing victim may
378 have injected, inhaled, or otherwise introduced into the overdosing victim's
379 body; or

380 (iii) is the overdosing victim described in Subsection (16)(b)(i) or (ii).

381 [(b)] (c) The offenses referred to in Subsection [(16)(a)] (16)(b) are:

382 (i) the possession or use of less than 16 ounces of marijuana;
383 (ii) the possession or use of a scheduled or listed controlled substance other than
384 marijuana; and
385 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
386 Imitation Controlled Substances Act.

387 [(c)] (d) [As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does
388 not include seeking medical assistance under this section] An individual's request for
389 medical assistance for an overdosing victim during the course of a law enforcement
390 agency's execution of a search warrant, execution of an arrest warrant, or other lawful
391 search is not a good faith report under Subsection (16)(b)(i)(B).

392 (e) In a prosecution for an offense listed in Subsection (16)(c), the prosecutor or the
393 court may dismiss the charge if:
394 (i) the individual qualifies for an affirmative defense under Subsection (16)(b);
395 (ii) the charge for which the individual would be able to assert the affirmative
396 defense under Subsection (16)(b) is the individual's first time being charged with
397 the offense; and
398 (iii) after the day of the offense, but before the day on which the case is adjudicated,
399 the individual demonstrated an intent to engage with substance abuse treatment by
400 commencing, continuing, or completing a substance use disorder treatment
401 program.

402 (17) If any provision of this chapter, or the application of any provision to any person or
403 circumstances, is held invalid, the remainder of this chapter shall be given effect without
404 the invalid provision or application.

405 (18) A legislative body of a political subdivision may not enact an ordinance that is less
406 restrictive than any provision of this chapter.

407 (19) If a minor who is under 18 years old is found by a court to have violated this section or
408 Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
409 complete:
410 (a) a screening as defined in Section 41-6a-501;
411 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
412 assessment to be appropriate; and
413 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
414 treatment as indicated by an assessment.

415 Section 2. Section **76-3-203.11** is amended to read:

416 **76-3-203.11 . Reporting an overdose or being the victim of a reported overdose --**

417 **Mitigating factor.**

418 (1) [It is a mitigating factor in sentencing for an offense under Title 58, Chapter 37, Utah
419 Controlled Substances Act, that the person or bystander:] As used in this section:

420 (a) "Emergency medical service provider" means the same as that term is defined in
421 Section 53-2d-101.

422 (b) "Overdosing victim" means an individual who is, or appears to be, experiencing an
423 overdose event due to the ingestion, injection, inhalation, or other introduction into
424 the human body of a controlled substance or other substance.

425 (2) An individual may assert a mitigating factor at sentencing if:

426 (a) the individual is being sentenced for an offense under Title 58, Chapter 37, Utah
427 Controlled Substances Act; and

428 (b) in the same course of events in which the offense described in Subsection (2)(a) was
429 committed, the individual:

430 [(1) reasonably believes that the person or another person is experiencing an overdose event
431 due to the ingestion, injection, inhalation, or other introduction into the human body of a
432 controlled substance or other substance;]

433 [(2)] (i) [reports, or assists a person who reports, in good faith the overdose event]

434 (A) reasonably believes that another individual is an overdosing victim;

435 (B) except as provided in Subsection (3), in good faith reports, or assists with the
436 reporting of, the need for assistance for the overdosing victim to a medical
437 provider, an emergency medical service provider[as defined in Section
438 53-2d-101], a law enforcement officer, a 911 emergency call system, or an

439 emergency dispatch system[, or the person is the subject of a report made
440 under this section];

441 [43] (C) provides in the report under Subsection [42] (2)(b)(i)(B) a functional
442 description of the location of the actual overdose event that facilitates
443 responding to the [person experiencing the overdose event] overdosing victim;

444 [44] (D) if applicable to the circumstances, remains at the location of the [person
445 experiencing the overdose event] overdosing victim until a responding law
446 enforcement officer or emergency medical service provider arrives, or remains
447 at the medical care facility where the [person experiencing an overdose event]
448 overdosing victim is located until a responding law enforcement officer arrives;
449 and

450 [45] (E) cooperates with the responding medical provider, emergency medical
451 service provider, and law enforcement officer, including providing information
452 regarding the [person experiencing the overdose event] overdosing victim and
453 any substances the [person] overdosing victim may have injected, inhaled, or
454 otherwise introduced into the [person's] overdosing victim's body; [and]

455 [46] committed the offense in the same course of events from which the reported overdose
456 arose.]

457 (ii)(A) reasonably believes that another individual is an overdosing victim and
458 knows that a request for assistance for the overdosing victim is being made or
459 has been made;

460 (B) remains at the location of the overdosing victim until a responding law
461 enforcement officer or emergency medical service provider arrives, or remains
462 at the medical care facility where the overdosing victim is located until a
463 responding law enforcement officer arrives; and

464 (C) cooperates with the responding medical provider, emergency medical service
465 provider, and law enforcement officer, including providing information
466 regarding the overdosing victim and any substances the overdosing victim may
467 have injected, inhaled, or otherwise introduced into the overdosing victim's
468 body; or

469 (iii) is the overdosing victim described in Subsection (2)(b)(i) or (ii).

470 (3) An individual's request for medical assistance for an overdosing victim during the
471 course of a law enforcement agency's execution of a search warrant, execution of an
472 arrest warrant, or other lawful search is not a good faith report under Subsection

473 (2)(b)(i)(B).

474 **Section 3. Effective Date.**

475 This bill takes effect on May 6, 2026.