

Carol S. Moss proposes the following substitute bill:

**Overdose Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol S. Moss**

Senate Sponsor: Jen Plumb

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**LONG TITLE**

**General Description:**

This bill concerns criminal provisions relating to an overdose.

**Highlighted Provisions:**

This bill:

- defines terms;
- amends the affirmative defense based on reporting an overdose event, including to clarify

that the affirmative defense may apply to:

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

- creates an option for a dismissal of certain first-time drug offenses under circumstances applicable to the overdose affirmative defense;

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

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

- includes a coordination clause to coordinate changes between this bill and H.B. 301, Drug Recodification, if both bills pass and become law; and

- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides a coordination clause.

**Utah Code Sections Affected:**

AMENDS:

29 **58-37-8**, as last amended by Laws of Utah 2025, Chapters 141, 173, 198, 208, and 305  
 30 **76-3-203.11**, as last amended by Laws of Utah 2023, Chapters 310, 330

31 **Utah Code Sections affected by Coordination Clause:**

32 **58-37a-6 (05/06/26)**, as as renumbered to 76-18-303 in H.B. 301 (2026)  
 33 **58-37b-8 (05/06/26)**, as as renumbered to 76-18-402 in H.B. 301 (2026)  
 34 **76-3-203.11 (05/06/26)**, as last amended by Laws of Utah 2023, Chapters 310, 330  
 35 **76-18-207 (05/06/26)**, as as enacted in H.B. 301 (2026)

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

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

39 **58-37-8 . Prohibited acts -- Penalties -- Defenses -- Dismissal option.**

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

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

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

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

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

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

50 (A) the person participates, directs, or engages in conduct that results in a  
 51 violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter  
 52 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled  
 53 Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a  
 54 felony; and

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

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

- 63 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a  
64 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule  
65 III is guilty of a second degree felony, punishable by imprisonment for not more  
66 than 15 years, and upon a second or subsequent conviction is guilty of a first  
67 degree felony;
- 68 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or  
69 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree  
70 felony, and upon a second or subsequent conviction is guilty of a second degree  
71 felony; or
- 72 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a  
73 class A misdemeanor and upon a second or subsequent conviction is guilty of a  
74 third degree felony.
- 75 (c)(i) Except as provided in Subsection (1)(c)(iii), a person who has been convicted  
76 of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment  
77 for an indeterminate term as described in Subsection (1)(c)(ii) and Title 76,  
78 Chapter 3, Punishments.
- 79 (ii) The court shall impose an indeterminate prison term for a person who has been  
80 convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony  
81 or a second degree felony if the trier of fact finds beyond a reasonable doubt that,  
82 during the commission or furtherance of the violation, the person intentionally or  
83 knowingly:
- 84 (A) used, drew, or exhibited a dangerous weapon, as that term is defined in  
85 Section 76-11-101, that is not a firearm, in an angry, threatening, intimidating,  
86 or coercive manner;
- 87 (B) used a firearm, as that term is defined in Section 76-11-101, or had a firearm  
88 readily accessible for immediate use, as that term is defined in Section  
89 76-11-201; or
- 90 (C) distributed a firearm, as that term is defined in Section 76-11-101, or  
91 possessed a firearm with intent to distribute the firearm.
- 92 (iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate  
93 prison term for a person convicted under Subsection (1)(c)(ii) if the court:
- 94 (A) details on the record the reasons why it is in the interests of justice not to  
95 impose the indeterminate prison term;
- 96 (B) makes a finding on the record that the person does not pose a significant

- 97 safety risk to the public; and
- 98 (C) orders the person to complete the terms and conditions of supervised  
99 probation provided by the Department of Corrections.
- 100 (d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree  
101 felony punishable by imprisonment for an indeterminate term of not less than:
- 102 (A) seven years and which may be for life; or  
103 (B) 15 years and which may be for life if the trier of fact determined that the  
104 defendant knew or reasonably should have known that any subordinate under  
105 Subsection (1)(a)(iv)(B) was under 18 years old.
- 106 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
107 not eligible for probation.
- 108 (iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the  
109 offense, was under 18 years old.
- 110 (e) The Administrative Office of the Courts shall report to the Division of Professional  
111 Licensing the name, case number, date of conviction, and if known, the date of birth  
112 of each person convicted of violating Subsection (1)(a).
- 113 (f)(i) A court shall impose the mandatory jail sentence described in Subsection  
114 (1)(f)(ii), and may not suspend any portion of the jail sentence or grant early  
115 release, if:
- 116 (A) the court suspends the imposition of a prison sentence for a felony conviction  
117 under Subsection (1)(a) or sentences a person for a misdemeanor violation of  
118 an offense under Subsection (1)(a);
- 119 (B)(I) the violation is the person's second or subsequent conviction for any  
120 level of offense under Subsection (1)(a); or  
121 (II) the person previously has been convicted of a criminal violation in another  
122 jurisdiction, including a state or federal court, that is substantially  
123 equivalent to the violation of an offense under Subsection (1)(a); and
- 124 (C) the person previously has been convicted of reentry of a removed alien under  
125 8 U.S.C. Sec. 1326.
- 126 (ii) The mandatory jail sentences referred to in Subsection (1)(f)(i) are:
- 127 (A) for a felony or a class A misdemeanor, 360 days in jail;  
128 (B) for a class B misdemeanor, 180 days in jail; and  
129 (C) for a class C misdemeanor, 90 days in jail.
- 130 (iii)(A) Except as provided in Subsection (1)(f)(iii)(B), a person who is subject to

131 a mandatory jail sentence under Subsection (1)(f)(i) may not be released to the  
132 federal Immigration and Customs Enforcement Agency of the United States  
133 Department of Homeland Security for deportation until the person has served  
134 the entire jail sentence described in Subsection (1)(f)(ii).

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

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

140 (a) It is unlawful:

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

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

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

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

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

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

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

163 (d)(i) A person who violates Subsection (2)(a)(i) with respect to all other controlled  
164 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed

- 165 in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.
- 166 (ii) Upon a third conviction the person is guilty of a class A misdemeanor, if each  
167 prior offense was committed within seven years before the date of the offense  
168 upon which the current conviction is based.
- 169 (iii) Upon a fourth or subsequent conviction the person is guilty of a third degree  
170 felony if each prior offense was committed within seven years before the date of  
171 the offense upon which the current conviction is based.
- 172 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior  
173 boundaries of property occupied by a correctional facility as defined in Section  
174 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty  
175 one degree greater than provided in Subsection (2)(b), and if the conviction is with  
176 respect to controlled substances as listed in:
- 177 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an  
178 indeterminate term as provided by law, and:
- 179 (A) the court shall additionally sentence the person convicted to a term of one year  
180 to run consecutively and not concurrently; and
- 181 (B) the court may additionally sentence the person convicted for an indeterminate  
182 term not to exceed five years to run consecutively and not concurrently; and
- 183 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an  
184 indeterminate term as provided by law, and the court shall additionally sentence  
185 the person convicted to a term of six months to run consecutively and not  
186 concurrently.
- 187 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:
- 188 (i) on a first conviction, guilty of a class B misdemeanor;
- 189 (ii) on a second conviction, guilty of a class A misdemeanor; and
- 190 (iii) on a third or subsequent conviction, guilty of a third degree felony.
- 191 (g) The Administrative Office of the Courts shall report to the Division of Professional  
192 Licensing the name, case number, date of conviction, and if known, the date of birth  
193 of each person convicted of violating Subsection (2)(a).
- 194 (3) Prohibited acts C -- Penalties:
- 195 (a) It is unlawful for a person knowingly and intentionally:
- 196 (i) to use in the course of the manufacture or distribution of a controlled substance a  
197 license number which is fictitious, revoked, suspended, or issued to another  
198 person or, for the purpose of obtaining a controlled substance, to assume the title

- 199 of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician,  
200 dentist, veterinarian, or other authorized person;
- 201 (ii) to acquire or obtain possession of, to procure or attempt to procure the  
202 administration of, to obtain a prescription for, to prescribe or dispense to a person  
203 known to be attempting to acquire or obtain possession of, or to procure the  
204 administration of a controlled substance by misrepresentation or failure by the  
205 person to disclose receiving a controlled substance from another source, fraud,  
206 forgery, deception, subterfuge, alteration of a prescription or written order for a  
207 controlled substance, or the use of a false name or address;
- 208 (iii) to make a false or forged prescription or written order for a controlled substance,  
209 or to utter the same, or to alter a prescription or written order issued or written  
210 under the terms of this chapter; or
- 211 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed  
212 to print, imprint, or reproduce the trademark, trade name, or other identifying  
213 mark, imprint, or device of another or any likeness of any of the foregoing upon  
214 any drug or container or labeling so as to render a drug a counterfeit controlled  
215 substance.
- 216 (b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A  
217 misdemeanor.
- 218 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third  
219 degree felony.
- 220 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.
- 221 (4) Prohibited acts D -- Penalties:
- 222 (a) Notwithstanding other provisions of this section, a person not authorized under this  
223 chapter who commits any act that is unlawful under Subsection (1)(a) or Section  
224 58-37b-4 is upon conviction subject to the penalties and classifications under this  
225 Subsection (4) if the trier of fact finds the act is committed:
- 226 (i) in a public or private elementary or secondary school or on the grounds of any of  
227 those schools during the hours of 6 a.m. through 10 p.m.;
- 228 (ii) in a public or private vocational school or postsecondary institution or on the  
229 grounds of any of those schools or institutions during the hours of 6 a.m. through  
230 10 p.m.;
- 231 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or  
232 facility's hours of operation;

- 233 (iv) in a public park, amusement park, arcade, or recreation center when the public or  
234 amusement park, arcade, or recreation center is open to the public;
- 235 (v) in or on the grounds of a house of worship as defined in Section 76-11-201;
- 236 (vi) in or on the grounds of a library when the library is open to the public;
- 237 (vii) within an area that is within 100 feet of any structure, facility, or grounds  
238 included in Subsections (4)(a)(i) through (vi);
- 239 (viii) in the presence of a person younger than 18 years old, regardless of where the  
240 act occurs; or
- 241 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or  
242 distribution of a substance in violation of this section to an inmate or on the  
243 grounds of a correctional facility as defined in Section 76-8-311.3.
- 244 (b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony  
245 and shall be imprisoned for a term of not less than five years if the penalty that  
246 would otherwise have been established but for this Subsection (4) would have  
247 been a first degree felony.
- 248 (ii) Imposition or execution of the sentence may not be suspended, and the person is  
249 not eligible for probation.
- 250 (c) If the classification that would otherwise have been established would have been less  
251 than a first degree felony but for this Subsection (4), a person convicted under this  
252 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for  
253 that offense.
- 254 (d)(i) If the violation is of Subsection (4)(a)(ix):
- 255 (A) the person may be sentenced to imprisonment for an indeterminate term as  
256 provided by law, and the court shall additionally sentence the person convicted  
257 for a term of one year to run consecutively and not concurrently; and
- 258 (B) the court may additionally sentence the person convicted for an indeterminate  
259 term not to exceed five years to run consecutively and not concurrently; and
- 260 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with  
261 the mental state required for the commission of an offense, directly or indirectly  
262 solicits, requests, commands, coerces, encourages, or intentionally aids another  
263 person to commit a violation of Subsection (4)(a)(ix).
- 264 (e) It is not a defense to a prosecution under this Subsection (4) that:
- 265 (i) the actor mistakenly believed the individual to be 18 years old or older at the time  
266 of the offense or was unaware of the individual's true age; or

- 267 (ii) the actor mistakenly believed that the location where the act occurred was not as  
268 described in Subsection (4)(a) or was unaware that the location where the act  
269 occurred was as described in Subsection (4)(a).
- 270 (5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.
- 271 (6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of  
272 guilty or no contest to a violation or attempted violation of this section or a plea  
273 which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the  
274 equivalent of a conviction, even if the charge has been subsequently reduced or  
275 dismissed in accordance with the plea in abeyance agreement.
- 276 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a  
277 conviction that is:
- 278 (i) from a separate criminal episode than the current charge; and  
279 (ii) from a conviction that is separate from any other conviction used to enhance the  
280 current charge.
- 281 (7) A person may be charged and sentenced for a violation of this section, notwithstanding  
282 a charge and sentence for a violation of any other section of this chapter.
- 283 (8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of,  
284 a civil or administrative penalty or sanction authorized by law.
- 285 (b) When a violation of this chapter violates a federal law or the law of another state,  
286 conviction or acquittal under federal law or the law of another state for the same act  
287 is a bar to prosecution in this state.
- 288 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a person  
289 or persons produced, manufactured, possessed, distributed, or dispensed a controlled  
290 substance or substances, is prima facie evidence that the person or persons did so with  
291 knowledge of the character of the substance or substances.
- 292 (10) This section does not prohibit a veterinarian, in good faith and in the course of the  
293 veterinarian's professional practice only and not for humans, from prescribing,  
294 dispensing, or administering controlled substances or from causing the substances to be  
295 administered by an assistant or orderly under the veterinarian's direction and supervision.
- 296 (11) Civil or criminal liability may not be imposed under this section on:
- 297 (a) a person registered under this chapter who manufactures, distributes, or possesses an  
298 imitation controlled substance for use as a placebo or investigational new drug by a  
299 registered practitioner in the ordinary course of professional practice or research;
- 300 (b) a law enforcement officer acting in the course and legitimate scope of the officer's

- 301 employment; or
- 302 (c) a healthcare facility, substance use harm reduction services program, or drug  
303 addiction treatment facility that temporarily possesses a controlled or counterfeit  
304 substance to conduct a test or analysis on the controlled or counterfeit substance to  
305 identify or analyze the strength, effectiveness, or purity of the substance for a public  
306 health or safety reason.
- 307 (12)(a) Civil or criminal liability may not be imposed under this section on any Indian,  
308 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide  
309 traditional ceremonial purposes in connection with the practice of a traditional Indian  
310 religion as defined in Section 58-37-2.
- 311 (b) In a prosecution alleging violation of this section regarding peyote as defined in  
312 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or  
313 transported by an Indian for bona fide traditional ceremonial purposes in connection  
314 with the practice of a traditional Indian religion.
- 315 (c)(i) The defendant shall provide written notice of intent to claim an affirmative  
316 defense under this Subsection (12) as soon as practicable, but not later than 10  
317 days before trial.
- 318 (ii) The notice shall include the specific claims of the affirmative defense.
- 319 (iii) The court may waive the notice requirement in the interest of justice for good  
320 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely  
321 notice.
- 322 (d) The defendant shall establish the affirmative defense under this Subsection (12) by a  
323 preponderance of the evidence. If the defense is established, it is a complete defense  
324 to the charges.
- 325 (13)(a) It is an affirmative defense that the person produced, possessed, or administered  
326 a controlled substance listed in Section 58-37-4.2 if the person was:
- 327 (i) engaged in medical research; and
- 328 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.
- 329 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a  
330 controlled substance listed in Section 58-37-4.2.
- 331 (14) It is an affirmative defense that the person possessed, in the person's body, a controlled  
332 substance listed in Section 58-37-4.2 if:
- 333 (a) the person was the subject of medical research conducted by a holder of a valid  
334 license to possess controlled substances under Section 58-37-6; and

- 335 (b) the substance was administered to the person by the medical researcher.
- 336 (15) The application of any increase in penalty under this section to a violation of
- 337 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony.
- 338 This Subsection (15) takes precedence over any conflicting provision of this section.
- 339 (16)(a) As used in this Subsection (16):
- 340 (i) "Emergency medical service provider" means the same as that term is defined in
- 341 Section 53-2d-101.
- 342 (ii) "Overdosing victim" means the same as that term is defined in Section
- 343 76-3-203.11.
- 344 (b) ~~[It is]~~ Subject to Subsection (16)(e), an individual may assert an affirmative defense
- 345 to an allegation of the commission of an offense listed in [Subsection (16)(b) that the
- 346 person or bystander] Subsection (16)(c) if, in the same course of events in which the
- 347 offense was committed, the individual:
- 348 (i) ~~[reasonably believes that the person or another person is experiencing an overdose~~
- 349 ~~event due to the ingestion, injection, inhalation, or other introduction into the~~
- 350 ~~human body of a controlled substance or other substance;]~~
- 351 ~~[(ii)] (A) reasonably believes that another individual is an overdosing victim;~~
- 352 ~~(B) except as provided in Subsection (16)(d), in good faith reports, or assists [a~~
- 353 ~~person who reports, in good faith the overdose event] with the reporting of, the~~
- 354 ~~need for assistance for the overdosing victim to a medical provider, an~~
- 355 ~~emergency medical service provider[ as defined in Section 53-2d-101], a law~~
- 356 ~~enforcement officer, a 911 emergency call system, or an emergency dispatch~~
- 357 ~~system[, or the person is the subject of a report made under this Subsection (16)];~~
- 358 ~~[(iii)]~~
- 359 ~~(C) provides in the report under Subsection [(16)(a)(ii)] (16)(b)(i)(B) a functional~~
- 360 ~~description of the actual location of the overdose event that facilitates~~
- 361 ~~responding to the [person experiencing the overdose event] overdosing victim;~~
- 362 ~~[(iv)] (D) if applicable to the circumstances, remains at the location of the [person~~
- 363 ~~experiencing the overdose event] overdosing victim until a responding law~~
- 364 ~~enforcement officer or emergency medical service provider arrives, or remains~~
- 365 ~~at the medical care facility where the [person experiencing an overdose event]~~
- 366 ~~overdosing victim is located until a responding law enforcement officer arrives;~~
- 367 ~~and~~
- 368 ~~[(v)] (E) cooperates with the responding medical provider, emergency medical~~

369 service provider, and law enforcement officer, including providing information  
 370 regarding the [~~person experiencing the overdose event~~] overdosing victim and  
 371 any substances the [~~person~~] overdosing victim may have injected, inhaled, or  
 372 otherwise introduced into the [~~person's~~] overdosing victim's body; [~~and~~]  
 373 [~~(vi) is alleged to have committed the offense in the same course of events from~~  
 374 ~~which the reported overdose arose.~~]

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

378 (B) remains at the location of the overdosing victim until a responding law  
 379 enforcement officer or emergency medical service provider arrives, or remains  
 380 at the medical care facility where the overdosing victim is located until a  
 381 responding law enforcement officer arrives; and

382 (C) cooperates with the responding medical provider, emergency medical service  
 383 provider, and law enforcement officer, including providing information  
 384 regarding the overdosing victim and any substances the overdosing victim may  
 385 have injected, inhaled, or otherwise introduced into the overdosing victim's  
 386 body; or

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

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

389 (i) the possession or use of less than 16 ounces of marijuana in violation of  
 390 Subsection (2)(a)(i);

391 (ii) the possession or use of a scheduled or listed controlled substance other than  
 392 marijuana in violation of Subsection (2)(a)(i); and

393 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,  
 394 Imitation Controlled Substances Act.

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

400 (e)(i) In a prosecution for an offense listed in Subsection (16)(c), the prosecutor may  
 401 move the court to dismiss the charge if:

402 (A) the individual qualifies for an affirmative defense under Subsection (16)(b);

- 403                    (B) the charge for which the individual would be able to assert the affirmative  
 404                    defense under Subsection (16)(b) is the individual's first time being charged  
 405                    with the offense; and
- 406                    (C) after the day of the offense, but before the day on which the case is  
 407                    adjudicated, the individual provides proof of a substance abuse evaluation and  
 408                    the completion of any recommended treatment.
- 409                    (ii) An individual described in Subsection (16)(e)(i) may request a delay in the  
 410                    individual's adjudication in order to have time to complete any requirements  
 411                    described in Subsection (16)(e)(i)(C).

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

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

417                    (19) If a minor who is under 18 years old is found by a court to have violated this section or  
 418                    Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to  
 419                    complete:

420                    (a) a screening as defined in Section 41-6a-501;

421                    (b) an assessment as defined in Section 41-6a-501 if the screening indicates an  
 422                    assessment to be appropriate; and

423                    (c) an educational series as defined in Section 41-6a-501 or substance use disorder  
 424                    treatment as indicated by an assessment.

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

426                    **76-3-203.11 . Reporting an overdose or being the victim of a reported overdose --**  
 427                    **Mitigating factor.**

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

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

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

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

436                    (a) the individual is being sentenced for an offense under Title 58, Chapter 37, Utah

437 Controlled Substances Act; and

438 (b) in the same course of events in which the offense described in Subsection (2)(a) was

439 committed, the individual:

440 ~~[(1) reasonably believes that the person or another person is experiencing an overdose event~~

441 ~~due to the ingestion, injection, inhalation, or other introduction into the human body of a~~

442 ~~controlled substance or other substance;]~~

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

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

445 (B) except as provided in Subsection (3), in good faith reports, or assists with the

446 reporting of, the need for assistance for the overdosing victim to a medical

447 provider, an emergency medical service provider~~[as defined in Section~~

448 ~~53-2d-101], a law enforcement officer, a 911 emergency call system, or an~~

449 ~~emergency dispatch system~~~~[, or the person is the subject of a report made~~

450 ~~under this section];~~

451 ~~[(3) (C) provides in the report under Subsection [(2) (2)(b)(i)(B) a functional~~

452 ~~description of the location of the actual overdose event that facilitates~~

453 ~~responding to the [person experiencing the overdose event] overdosing victim;~~

454 ~~[(4) (D) if applicable to the circumstances, remains at the location of the [person~~

455 ~~experiencing the overdose event] overdosing victim until a responding law~~

456 ~~enforcement officer or emergency medical service provider arrives, or remains~~

457 ~~at the medical care facility where the [person experiencing an overdose event]~~

458 ~~overdosing victim is located until a responding law enforcement officer arrives;~~

459 and

460 ~~[(5) (E) cooperates with the responding medical provider, emergency medical~~

461 ~~service provider, and law enforcement officer, including providing information~~

462 ~~regarding the [person experiencing the overdose event] overdosing victim and~~

463 ~~any substances the [person] overdosing victim may have injected, inhaled, or~~

464 ~~otherwise introduced into the [person's] overdosing victim's body; ~~[and]~~~~

465 ~~[(6) committed the offense in the same course of events from which the reported overdose~~

466 ~~arose.]~~

467 (ii)(A) reasonably believes that another individual is an overdosing victim and

468 knows that a request for assistance for the overdosing victim is being made or

469 has been made;

470 (B) remains at the location of the overdosing victim until a responding law

471 enforcement officer or emergency medical service provider arrives, or remains  
 472 at the medical care facility where the overdosing victim is located until a  
 473 responding law enforcement officer arrives; and

474 (C) cooperates with the responding medical provider, emergency medical service  
 475 provider, and law enforcement officer, including providing information  
 476 regarding the overdosing victim and any substances the overdosing victim may  
 477 have injected, inhaled, or otherwise introduced into the overdosing victim's  
 478 body; or

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

480 (3) An individual's request for medical assistance for an overdosing victim during the  
 481 course of a law enforcement agency's execution of a search warrant, execution of an  
 482 arrest warrant, or other lawful search is not a good faith report under Subsection  
 483 (2)(b)(i)(B).

484 Section 3. **Effective Date.**

485 This bill takes effect:

486 (1) except as provided in Subsection (2), May 6, 2026; or

487 (2) if approved by two-thirds of all members elected to each house:

488 (a) upon approval by the governor;

489 (b) without the governor's signature, the day following the constitutional time limit of  
 490 Utah Constitution, Article VII, Section 8; or

491 (c) in the case of a veto, the date of veto override.

492 Section 4. **Coordinating H.B. 295 with H.B. 301.**

493 If H.B. 295, Overdose Amendments, and H.B. 301, Drug Recodification, both pass and  
 494 become law, the Legislature intends that, on May 6, 2026:

495 (1) Section 76-3-203.11 in H.B. 295 and H.B. 301 be amended to read:

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

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

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

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

504 (a) the individual is being sentenced for an offense under Chapter 18, Part 2, Offenses

Concerning Controlled Substances, or Title 58, Chapter 37, Controlled Substances; and

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

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

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

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

(B) except as provided in Subsection (3), in good faith reports, or assists with the reporting of, the need for assistance for the overdosing victim to a medical provider, an emergency medical service provider[~~as defined in Section 53-2d-101~~], a law enforcement officer, a 911 emergency call system, or an emergency dispatch system[~~, or the person is the subject of a report made under this section~~];

~~[(3) (C) provides in the report under Subsection [(2)] (2)(b)(i)(B) a functional description of the location of the actual overdose event that facilitates responding to the [person experiencing the overdose event] overdosing victim;~~

~~[(4) (D) if applicable to the circumstances, remains at the location of the [person experiencing the overdose event] overdosing victim until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the [person experiencing an overdose event] overdosing victim is located until a responding law enforcement officer arrives; and~~

~~[(5) (E) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the [person experiencing the overdose event] overdosing victim and any substances the [person] overdosing victim may have injected, inhaled, or otherwise introduced into the [person's] overdosing victim's body; [and]~~

~~[(6) committed the offense in the same course of events from which the reported overdose arose.]~~

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

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

(C) cooperates with the responding medical provider, emergency medical service

539 provider, and law enforcement officer, including providing information regarding the  
540 overdosing victim and any substances the overdosing victim may have injected, inhaled, or  
541 otherwise introduced into the overdosing victim's body; or

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

543 (3) An individual's request for medical assistance for an overdosing victim during the  
544 course of a law enforcement agency's execution of a search warrant, execution of an arrest  
545 warrant, or other lawful search is not a good faith report under Subsection (2)(b)(i)(B).";

546 (2) Subsection 76-18-207(1)(a) enacted in H.B. 301 be amended to read:

547 "(1) (a) As used in this section:

548 (i) "Correctional facility" means the same as that term is defined in Section 64-13-1.

549 (ii) "Emergency medical service provider" means the same as that term is defined in  
550 Section 53-2d-101.

551 (iii) "Overdosing victim" means the same as that term is defined in Section  
552 76-3-203.11.";

553 (3) Subsection 76-18-207(10) enacted in H.B. 301 be amended to read:

554 "(10) (a) Subject to Subsection (10)(d), an individual may assert an affirmative defense to a  
555 violation of Subsection (2) under the circumstances listed in Subsection (10)(b) if, in the same  
556 course of events in which the offense was committed, the individual:

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

558 (B) except as provided in Subsection (10)(c), in good faith reports, or assists with the  
559 reporting of, the need for assistance for the overdosing victim to a medical provider, an  
560 emergency medical service provider, a law enforcement officer, a 911 emergency call system,  
561 or an emergency dispatch system;

562 (C) provides in the report described in Subsection (10)(a)(i)(B) a functional  
563 description of the actual location of the overdose event that facilitates responding to the  
564 overdosing victim;

565 (D) if applicable to the circumstances, remains at the location of the overdosing  
566 victim until a responding law enforcement officer or emergency medical service provider  
567 arrives, or remains at the medical care facility where the overdosing victim is located until a  
568 responding law enforcement officer arrives; and

569 (E) cooperates with the responding medical provider, emergency medical service  
570 provider, and law enforcement officer, including providing information regarding the  
571 overdosing victim and any substances the overdosing victim may have injected, inhaled, or  
572 otherwise introduced into the overdosing victim's body;

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

575 (B) remains at the location of the overdosing victim until a responding law  
576 enforcement officer or emergency medical service provider arrives, or remains at the medical  
577 care facility where the overdosing victim is located until a responding law enforcement officer  
578 arrives; and

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

583 (iii) is the overdosing victim described in Subsection (10)(a)(i) or (ii).

584 (b) The circumstances referred to in Subsection (10)(a) are:

585 (i) the possession or use of less than 16 ounces of marijuana; or

586 (ii) the possession or use of a scheduled or listed controlled substance other than  
587 marijuana.

588 (c) An individual's request for medical assistance for an overdosing victim during the  
589 course of a law enforcement agency's execution of a search warrant, execution of an arrest  
590 warrant, or other lawful search is not a good faith report under Subsection (10)(a)(i)(B).

591 (d) (i) In a prosecution for a violation of Subsection (2) under the circumstances listed in  
592 Subsection (10)(b), the prosecutor may move the court to dismiss the charge if:

593 (A) the individual qualifies for an affirmative defense under Subsection (10)(a);

594 (B) the charge for which the individual would be able to assert the affirmative  
595 defense under Subsection (10)(a) is the individual's first time being charged with the offense;  
596 and

597 (C) after the day of the offense, but before the day on which the case is adjudicated,  
598 the individual provides proof of a substance abuse evaluation and the completion of any  
599 recommended treatment.

600 (ii) An individual described in Subsection (10)(d)(i) may request a delay in the  
601 individual's adjudication in order to have time to complete any requirements described in  
602 Subsection (10)(d)(i)(C).";

603 (4) Section 76-18-303 (renumbered from Section 58-37a-6) in H.B. 301 be amended to read:  
604 "(1) (a) As used in this section:

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

607 (ii) "Overdosing victim" means the same as that term is defined in Section  
608 76-3-203.11.

609 (b) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-301 apply to this  
610 section.

611 (2) Drug paraphernalia is subject to seizure and forfeiture in accordance with the  
612 procedures and substantive protections of:

613 (a) Title 77, Chapter 11a, Seizure of Property and Contraband[;]; and

614 (b) Title 77, Chapter 11b, Forfeiture of Seized Property.

615 (3) (a) Subject to Subsection (3)(c), an individual may assert an affirmative defense to a  
616 violation of an offense under this part if, in the same course of events in which the offense was  
617 committed, the individual:

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

619 (B) except as provided in Subsection (3)(b), in good faith reports, or assists with  
620 the reporting of, the need for assistance for the overdosing victim to a medical provider, an  
621 emergency medical service provider, a law enforcement officer, a 911 emergency call system,  
622 or an emergency dispatch system;

623 (C) provides in the report described in Subsection (3)(a)(i)(B) a functional  
624 description of the actual location of the overdose event that facilitates responding to the  
625 overdosing victim;

626 (D) if applicable to the circumstances, remains at the location of the overdosing  
627 victim until a responding law enforcement officer or emergency medical service provider  
628 arrives, or remains at the medical care facility where the overdosing victim is located until a  
629 responding law enforcement officer arrives; and

630 (E) cooperates with the responding medical provider, emergency medical service  
631 provider, and law enforcement officer, including providing information regarding the  
632 overdosing victim and any substances the overdosing victim may have injected, inhaled, or  
633 otherwise introduced into the overdosing victim's body;

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

636 (B) remains at the location of the overdosing victim until a responding law  
637 enforcement officer or emergency medical service provider arrives, or remains at the medical  
638 care facility where the overdosing victim is located until a responding law enforcement officer  
639 arrives; and

640 (C) cooperates with the responding medical provider, emergency medical service

641 provider, and law enforcement officer, including providing information regarding the  
 642 overdosing victim and any substances the overdosing victim may have injected, inhaled, or  
 643 otherwise introduced into the overdosing victim's body; or

644 (iii) is the overdosing victim described in Subsection (3)(a)(i) or (ii).

645 (b) An individual's request for medical assistance for an overdosing victim during the  
 646 course of a law enforcement agency's execution of a search warrant, execution of an arrest  
 647 warrant, or other lawful search is not a good faith report under Subsection (3)(a)(i)(B).

648 (c) (i) In a prosecution for a violation of an offense under this part, the prosecutor may  
 649 move the court to dismiss the charge if:

650 (A) the individual qualifies for an affirmative defense under Subsection (3)(a);

651 (B) the charge for which the individual would be able to assert the affirmative  
 652 defense under Subsection (3)(a) is the individual's first time being charged with the offense;  
 653 and

654 (C) after the day of the offense, but before the day on which the case is  
 655 adjudicated, the individual provides proof of a substance abuse evaluation and the completion  
 656 of any recommended treatment.

657 (ii) An individual described in Subsection (3)(c)(i) may request a delay in the  
 658 individual's adjudication in order to have time to complete any requirements described in  
 659 Subsection (3)(c)(i)(C)."; and

660 (5) Section 76-18-402 (renumbered from Section 58-37b-8) in H.B. 301 be amended to  
 661 read:

662 "(1) (a) As used in this section:

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

665 (ii) "Overdosing victim" means the same as that term is defined in Section  
 666 76-3-203.11.

667 (b) Terms defined in Sections 76-1-101.5, 76-18-101, and 76-18-401 apply to this  
 668 section.

669 (2) No civil or criminal liability shall be imposed by virtue of this [aet] part on:

670 (a) any person registered under [the] Title 58, Chapter 37, Controlled Substances[-Aet] ,  
 671 who manufactures, distributes, or possesses an imitation controlled substance for use as a  
 672 placebo or investigational new drug by a registered practitioner in the ordinary course of  
 673 professional practice or research; or[-on any]

674 (b) a law enforcement officer acting in the course and legitimate scope of [that] the law

675 enforcement officer's employment.

676 (3) (a) Subject to Subsection (3)(c), an individual may assert an affirmative defense to a  
677 violation of an offense under this part if, in the same course of events in which the offense was  
678 committed, the individual:

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

680 (B) except as provided in Subsection (3)(b), in good faith reports, or assists with  
681 the reporting of, the need for assistance for the overdosing victim to a medical provider, an  
682 emergency medical service provider, a law enforcement officer, a 911 emergency call system,  
683 or an emergency dispatch system;

684 (C) provides in the report described in Subsection (3)(a)(i)(B) a functional  
685 description of the actual location of the overdose event that facilitates responding to the  
686 overdosing victim;

687 (D) if applicable to the circumstances, remains at the location of the overdosing  
688 victim until a responding law enforcement officer or emergency medical service provider  
689 arrives, or remains at the medical care facility where the overdosing victim is located until a  
690 responding law enforcement officer arrives; and

691 (E) cooperates with the responding medical provider, emergency medical service  
692 provider, and law enforcement officer, including providing information regarding the  
693 overdosing victim and any substances the overdosing victim may have injected, inhaled, or  
694 otherwise introduced into the overdosing victim's body;

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

697 (B) remains at the location of the overdosing victim until a responding law  
698 enforcement officer or emergency medical service provider arrives, or remains at the medical  
699 care facility where the overdosing victim is located until a responding law enforcement officer  
700 arrives; and

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

705 (iii) is the overdosing victim described in Subsection (3)(a)(i) or (ii).

706 (b) An individual's request for medical assistance for an overdosing victim during the  
707 course of a law enforcement agency's execution of a search warrant, execution of an arrest  
708 warrant, or other lawful search is not a good faith report under Subsection (3)(a)(i)(B).

709           (c) (i) In a prosecution for a violation of an offense under this part, the prosecutor may  
710 move the court to dismiss the charge if:

711                   (A) the individual qualifies for an affirmative defense under Subsection (3)(a);

712                   (B) the charge for which the individual would be able to assert the affirmative  
713 defense under Subsection (3)(a) is the individual's first time being charged with the offense;

714 and

715                   (C) after the day of the offense, but before the day on which the case is  
716 adjudicated, the individual provides proof of a substance abuse evaluation and the completion  
717 of any recommended treatment.

718                   (ii) An individual described in Subsection (3)(c)(i) may request a delay in the  
719 individual's adjudication in order to have time to complete any requirements described in  
720 Subsection (3)(c)(i)(C)."