

Chris H. Wilson proposes the following substitute bill:

Prosecution Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill amends the prohibition on a subsequent prosecution.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a subsequent prosecution for an offense is not barred in certain circumstances;
- allows a court to reduce a sentence for a homicide offense in certain circumstances;
- allows the Board of Pardons and Parole to provide credit for time served with regard to a homicide offense in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-1-405, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Section **76-1-405** is amended to read:

76-1-405 . Subsequent prosecution not barred -- Circumstances.

(1) As used in this section:

(a) "Homicide offense" means an offense for:

(i) aggravated murder, as described in Section 76-5-202;

- 29 (ii) murder, as described in Section 76-5-203;
 30 (iii) manslaughter, as described in Section 76-5-205;
 31 (iv) negligent homicide, as described in Section 76-5-206;
 32 (v) automobile homicide, as described in Section 76-5-207;
 33 (vi) child abuse homicide, as described in Section 76-5-208; or
 34 (vii) homicide by assault, as described in Section 76-5-209.
- 35 (b) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.
- 36 (2) [A] Notwithstanding Sections 76-1-401 and 76-1-404, a subsequent prosecution for
 37 an offense [~~shall not be barred under the following circumstances~~] is not barred if:
 38 [~~(1)~~] (a) [~~The~~] the former prosecution was procured by the defendant without the
 39 knowledge of the prosecuting attorney bringing the subsequent prosecution and with
 40 intent to avoid the sentence that might otherwise be imposed; [~~or~~]
 41 [~~(2)~~] (b) [~~The~~] the former prosecution resulted in a judgment of guilt held invalid in a
 42 subsequent proceeding on writ of habeas corpus, coram nobis, or similar collateral
 43 attack[-] ; or
- 44 (c)(i) the former prosecution was for an offense that resulted in serious bodily injury
 45 to an individual;
 46 (ii) the subsequent prosecution is for a homicide offense because the individual died
 47 from the serious bodily injury and the serious bodily injury was the proximate
 48 cause of the individual's death;
 49 (iii) the individual died after the former prosecution concluded with a conviction or a
 50 dismissal if the dismissal was without prejudice; and
 51 (iv) except as provided in Subsection (3), the individual died within 10 years after the
 52 day on which the former prosecution concluded with the conviction or dismissal.
- 53 (3) Subsection (2)(c)(iv) is not required when bringing a subsequent prosecution under
 54 Subsection (2)(c) if the former prosecution resulted in a conviction or dismissal for:
 55 (a) attempted aggravated murder, as described in Subsection 76-4-102(1)(a)(ii);
 56 (b) attempted murder, as described in Section 76-4-102(1)(c);
 57 (c) aggravated child abuse that is a first degree felony, as described in Section 76-5-109.2;
 58 or
 59 (d) child torture, as described in Section 76-5-109.4.
- 60 (4) A prosecuting attorney may not prosecute a defendant in a subsequent prosecution
 61 under Subsection (2)(c) for any other offense other than a homicide offense.
- 62 (5)(a) Notwithstanding Section 76-3-406, when sentencing a defendant convicted of a

63 homicide offense in a subsequent prosecution as described in Subsection (2)(c), the
64 court may reduce the minimum term that a defendant is statutorily required to serve
65 in prison before becoming eligible for parole if:

66 (i) the defendant was convicted of an offense in the former prosecution and served a
67 prison sentence for the conviction;

68 (ii) the court determines that it would be in the interest of justice to reduce the
69 minimum term that the defendant is statutorily required to serve in prison before
70 becoming eligible for parole for the homicide offense; and

71 (iii) the amount of time that the court reduces the minimum term of the sentence is no
72 greater than the amount of time that the defendant was in custody for the prison
73 sentence described in Subsection (5)(a)(i).

74 (b) The court may not grant probation, or suspend the execution of a defendant's
75 sentence, under Subsection (5)(a).

76 (6) When a defendant is sentenced to a term of imprisonment for a conviction under
77 Subsection (2)(c), the Board of Pardons and Parole may provide credit for any time
78 served in prison for a conviction in the former prosecution toward the term of
79 imprisonment for the subsequent conviction.

80 **Section 2. Effective Date.**

81 This bill takes effect on May 6, 2026.