Stephanie Pitcher proposes the following substitute bill:

Post-Conviction Offense Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to the reduction of the degree of an offense for a conviction.

Highlighted Provisions:

This bill:

- provides that a court may enter a judgment of conviction for a lower degree of offense than established by statute if a defendant, within one year after sentencing, provides substantial assistance in the criminal investigation, arrest, or prosecution of another individual; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-402, as last amended by Laws of Utah 2025, Chapters 51, 173, 208, and 291

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

Section 1. Section **76-3-402** is amended to read:

76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c)(i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 26B-2-101;

(B) a residential vocational or life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 26B-2-101;

(E) a youth program, as that term is defined in Section 26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f)(i) [~~Except as provided in Subsection (1)(f)(ii), "violent felony" means~~] "Violent felony" means, except as provided in Subsection (1)(f)(ii), the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the purchase or possession of a dangerous weapon or firearm by a restricted person under Section 76-11-305 or 76-11-306;

(B) unlawful conduct involving an explosive, chemical, or incendiary device under Subsection 76-15-210(2)(a); or

(C) unlawful conduct involving an explosive, chemical, or incendiary part under Section 76-15-211.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice[~~in accordance with Subsection (7)~~].

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b)(i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting

attorney consents to the reduction; and

(g) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice[~~in accordance with Subsection (7)~~].

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice[~~in accordance with Subsection (7)~~].

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice[~~in accordance with Subsection (7)~~].

(7)(a) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(i) the defendant, within one year after sentencing, provides substantial assistance in the criminal investigation, arrest, or prosecution of another individual;

(ii) the prosecuting attorney consents to the reduction; and

(iii) the court finds, in accordance with Subsection (8), that entering a judgment of conviction for a lower degree of offense is in the interest of justice.

(b) In determining whether the defendant has provided substantial assistance under Subsection (7)(a)(i), the court shall consider:

(i) the significance and usefulness of the defendant's assistance, taking into account the prosecuting attorney's evaluation of the assistance rendered;

(ii) the truthfulness, completeness, and reliability of information or testimony provided by the defendant;

(iii) the nature and extent of the defendant's assistance;

(iv) any injury suffered or any danger or risk of injury to the defendant or the defendant's family resulting from the defendant's assistance;

(v) the timeliness of the defendant's assistance; and

(vi) any other factor the court considers relevant.

[~~(7)~~] (8) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), [~~or~~](6), or (7):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

[~~(8)~~] (9)(a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), [~~or~~](6), or (7) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), [~~or~~](6), or (7).

(c) In a motion under Subsection (3), (4), (5), [~~or~~](6), or (7) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), [~~or~~](6), or (7) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

[~~(9)~~] (10) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), [~~or~~](6), or (7) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

[~~(10)~~] (11)(a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

[~~(11)~~] (12) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 77, Chapter 40a, Expungement of Criminal Records.

[~~(12)~~] (13) The court may not enter a judgment for a conviction for a lower degree of

offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

[~~(13)~~] (14) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

[~~(14)~~] (15)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 until the registration requirements under Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender under Section 53-29-202 and required to register for the individual's lifetime as described in Subsection 53-29-203(1)(b), may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

Section 2. **Effective Date.**

This bill takes effect on May 6, 2026.