

Ryan D. Wilcox proposes the following substitute bill:

Justice System 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 justice system.

Highlighted Provisions:

This bill:

▸ provides that a city attorney may employ a deputy attorney to perform the duties of public prosecutor or civil counsel;

▸ provides that a city attorney may deputize, for a limited time or limited purpose, an attorney licensed to practice law in the state and in good standing with the Utah State Bar;

▸ 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:

10-3-928, as last amended by Laws of Utah 2018, Chapter 24

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 **10-3-928** is amended to read:

29 **10-3-928 . Attorney duties -- Deputy attorneys.**

30 In cities with a city attorney, the city attorney:

- 31 (1) may prosecute violations of city ordinances;
- 32 (2) may prosecute, under state law, infractions and misdemeanors occurring within the
- 33 boundaries of the municipality;
- 34 (3) has the same powers in respect to violations as are exercised by a county attorney or
- 35 district attorney, except that a city attorney's authority to grant immunity shall be limited
- 36 to:
- 37 (a) granting transactional immunity for violations of city ordinances; and
- 38 (b) granting transactional immunity under state law for infractions and misdemeanors
- 39 occurring within the boundaries of the municipality;
- 40 (4) shall represent the interests of the state or the municipality in the appeal of any matter
- 41 prosecuted in any trial court by the city attorney;
- 42 (5) may cooperate with the Office of the Attorney General during investigations;~~and~~
- 43 (6) may designate a city attorney from another municipality or a public prosecutor to
- 44 prosecute a matter, in the court having jurisdiction over the matter, if the city attorney
- 45 has a conflict of interest regarding the matter being prosecuted[-];
- 46 (7) may employ a deputy attorney to perform the duties of public prosecutor or civil
- 47 counsel; and
- 48 (8) may specially deputize, for a limited time or limited purpose, an attorney licensed to
- 49 practice law in the state and in good standing with the Utah State Bar as a deputy to
- 50 assist in any public prosecutor or civil counsel duties specified in the special
- 51 deputization.

52 Section 2. Section **76-3-402** is amended to read:

53 **76-3-402 . Conviction of lower degree of offense -- Procedure and limitations.**

- 54 (1) As used in this section:
- 55 (a) "Lower degree of offense" includes an offense for which:
- 56 (i) a statutory enhancement is charged in the information or indictment that would
- 57 increase either the maximum or the minimum sentence; and
- 58 (ii) the court removes the statutory enhancement in accordance with this section.
- 59 (b) "Minor regulatory offense" means the same as that term is defined in Section
- 60 77-40a-101.
- 61 (c)(i) "Rehabilitation program" means a program designed to reduce criminogenic
- 62 and recidivism risks.

- 63 (ii) "Rehabilitation program" includes:
- 64 (A) a domestic violence treatment program, as that term is defined in Section
- 65 26B-2-101;
- 66 (B) a residential vocational or life skills program, as that term is defined in
- 67 Section 13-53-102;
- 68 (C) a substance abuse treatment program, as that term is defined in Section
- 69 26B-2-101;
- 70 (D) a substance use disorder treatment program, as that term is defined in Section
- 71 26B-2-101;
- 72 (E) a youth program, as that term is defined in Section 26B-2-101;
- 73 (F) a program that meets the standards established by the Department of
- 74 Corrections under Section 64-13-25;
- 75 (G) a drug court, a veterans court, or a mental health court certified by the Judicial
- 76 Council; or
- 77 (H) a program that is substantially similar to a program described in Subsections
- 78 (1)(c)(ii)(A) through (G).
- 79 (d) "Serious offense" means a felony or misdemeanor offense that is not a minor
- 80 regulatory offense or a traffic offense.
- 81 (e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.
- 82 (f)(i) [~~Except as provided in Subsection (1)(f)(ii), "violent felony" means~~] "Violent
- 83 felony" means, except as provided in Subsection (1)(f)(ii), the same as that term is
- 84 defined in Section 76-3-203.5.
- 85 (ii) "Violent felony" does not include an offense, or any attempt, solicitation, or
- 86 conspiracy to commit an offense, for:
- 87 (A) the purchase or possession of a dangerous weapon or firearm by a restricted
- 88 person under Section 76-11-305 or 76-11-306;
- 89 (B) unlawful conduct involving an explosive, chemical, or incendiary device
- 90 under Subsection 76-15-210(2)(a); or
- 91 (C) unlawful conduct involving an explosive, chemical, or incendiary part under
- 92 Section 76-15-211.
- 93 (2) The court may enter a judgment of conviction for a lower degree of offense than
- 94 established by statute and impose a sentence at the time of sentencing for the lower
- 95 degree of offense if the court:
- 96 (a) takes into account:

- 97 (i) the nature and circumstances of the offense of which the defendant was found
98 guilty; and
- 99 (ii) the history and character of the defendant;
- 100 (b) gives any victim present at the sentencing and the prosecuting attorney an
101 opportunity to be heard; and
- 102 (c) concludes that the degree of offense established by statute would be unduly harsh to
103 record as a conviction on the record for the defendant.
- 104 (3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
105 judgment of conviction for a lower degree of offense than established by statute:
- 106 (a) after the defendant is successfully discharged from probation or parole for the
107 conviction; and
- 108 (b) if the court finds, in accordance with Subsection (8), that entering a judgment of
109 conviction for a lower degree of offense is in the interest of justice[~~in accordance~~
110 ~~with Subsection (7)~~].
- 111 (4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
112 judgment of conviction for a lower degree of offense than established by statute if:
- 113 (a) the defendant's probation or parole for the conviction did not result in a successful
114 discharge but the defendant is successfully discharged from probation or parole for a
115 subsequent conviction of an offense;
- 116 (b)(i) at least five years have passed after the day on which the defendant is sentenced
117 for the subsequent conviction; or
- 118 (ii) at least three years have passed after the day on which the defendant is sentenced
119 for the subsequent conviction and the prosecuting attorney consents to the
120 reduction;
- 121 (c) the defendant is not convicted of a serious offense during the time period described
122 in Subsection (4)(b);
- 123 (d) there are no criminal proceedings pending against the defendant;
- 124 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
125 offense;
- 126 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
127 attorney consents to the reduction; and
- 128 (g) the court finds, in accordance with Subsection (8), that entering a judgment of
129 conviction for a lower degree of offense is in the interest of justice[~~in accordance~~
130 ~~with Subsection (7)~~].

- 131 (5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
132 judgment of conviction for a lower degree of offense than established by statute if:
- 133 (a) the defendant's probation or parole for the conviction did not result in a successful
134 discharge but the defendant is successfully discharged from a rehabilitation program;
 - 135 (b) at least three years have passed after the day on which the defendant is successfully
136 discharged from the rehabilitation program;
 - 137 (c) the defendant is not convicted of a serious offense during the time period described
138 in Subsection (5)(b);
 - 139 (d) there are no criminal proceedings pending against the defendant;
 - 140 (e) the defendant is not on probation, on parole, or currently incarcerated for any other
141 offense;
 - 142 (f) if the offense for which the reduction is sought is a violent felony, the prosecuting
143 attorney consents to the reduction; and
 - 144 (g) the court finds, in accordance with Subsection (8), that entering a judgment of
145 conviction for a lower degree of offense is in the interest of justice~~[in accordance~~
146 ~~with Subsection (7)]~~.
- 147 (6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a
148 judgment of conviction for a lower degree of offense than established by statute if:
- 149 (a) at least five years have passed after the day on which the defendant's probation or
150 parole for the conviction did not result in a successful discharge;
 - 151 (b) the defendant is not convicted of a serious offense during the time period described
152 in Subsection (6)(a);
 - 153 (c) there are no criminal proceedings pending against the defendant;
 - 154 (d) the defendant is not on probation, on parole, or currently incarcerated for any other
155 offense;
 - 156 (e) if the offense for which the reduction is sought is a violent felony, the prosecuting
157 attorney consents to the reduction; and
 - 158 (f) the court finds, in accordance with Subsection (8), that entering a judgment of
159 conviction for a lower degree of offense is in the interest of justice~~[in accordance~~
160 ~~with Subsection (7)]~~.
- 161 (7)(a) Upon a joint motion from the prosecuting attorney and the defendant, the court
162 may enter a judgment of conviction for a lower degree of offense than established by
163 statute if:
- 164 (i) the defendant, within one year after sentencing, provides substantial assistance in

165 the criminal investigation, arrest, or prosecution of another individual; and
166 (ii) the court finds, in accordance with Subsection (8), that entering a judgment of
167 conviction for a lower degree of offense is in the interest of justice and public
168 safety.

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

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

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

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

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

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

179 (vi) any other factor the court considers relevant.

180 [~~(7)~~] (8) In determining whether entering a judgment of a conviction for a lower degree of
181 offense is in the interest of justice under Subsection (3), (4), (5), [~~or~~](6), or (7):

182 (a) the court shall consider:

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

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

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

188 (b) the court may consider:

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

191 (ii) the defendant's criminal history;

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

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

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

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

- 199 (vii) any potential impact that the reduction would have on public safety; or
200 (viii) any other circumstances that are reasonably related to the defendant or the
201 offense for which the reduction is sought.
- 202 ~~[(8)]~~ (9)(a) A court may only enter a judgment of conviction for a lower degree of
203 offense under Subsection (3), (4), (5), ~~[(6), or (7)]~~ after:
204 (i) notice is provided to the other party;
205 (ii) reasonable efforts have been made by the prosecuting attorney to provide notice
206 to any victims; and
207 (iii) a hearing is held if a hearing is requested by either party.
- 208 (b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a
209 judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), [
210 ~~or~~](6), or (7).
- 211 (c) In a motion under Subsection (3), (4), (5), ~~[(6), or (7)]~~ and at a requested hearing
212 on the motion, the moving party has the burden to provide evidence sufficient to
213 demonstrate that the requirements under Subsection (3), (4), (5), ~~[(6), or (7)]~~ are
214 met.
- 215 (d) If a defendant files a motion under this section, the prosecuting attorney shall
216 respond to the motion within 35 days after the day on which the motion is filed with
217 the court.
- 218 ~~[(9)]~~ (10) A court has jurisdiction to consider and enter a judgment of conviction for a lower
219 degree of offense under Subsection (3), (4), (5), ~~[(6), or (7)]~~ regardless of whether the
220 defendant is committed to jail as a condition of probation or is sentenced to prison.
- 221 ~~[(10)]~~ (11)(a) An offense may be reduced only one degree under this section, unless the
222 prosecuting attorney specifically agrees in writing or on the court record that the
223 offense may be reduced two degrees.
- 224 (b) An offense may not be reduced under this section by more than two degrees.
- 225 ~~[(11)]~~ (12) This section does not preclude an individual from obtaining or being granted an
226 expungement of the individual's record in accordance with Title 77, Chapter 40a,
227 Expungement of Criminal Records.
- 228 ~~[(12)]~~ (13) The court may not enter a judgment for a conviction for a lower degree of
229 offense under this section if:
230 (a) the reduction is specifically precluded by law; or
231 (b) any unpaid balance remains on court-ordered restitution for the offense for which the
232 reduction is sought.

233 ~~[(13)]~~ (14) When the court enters a judgment for a lower degree of offense under this
234 section, the actual title of the offense for which the reduction is made may not be altered.

235 ~~[(14)]~~ (15)(a) An individual may not obtain a reduction under this section of a conviction
236 that requires the individual to register as a sex offender, kidnap offender, or child
237 abuse offender under Section 53-29-202 until the registration requirements under
238 Title 53, Chapter 29, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

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

244 Section 3. **Effective Date.**

245 This bill takes effect on May 6, 2026.