

The below is based on legislation introduced in Utah during the 2024 Legislative Session as part of [Senate Bill 213](#), [American Bar Association Resolution 502 \(2022\)](#), as well as the experience of District Attorneys in [California](#), Georgia, Minnesota, North Carolina, and elsewhere. SB213 has been modified following discussions with stakeholders. Changes to the language are noted as **additions** and ~~struck sections~~ accordingly.

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1 **Utah Judicial Code - New Section**

2 **76-3-411. 77-27-33** Modifying a **decision sentence** -- Factors for modification.

3 (1) As used in this section:

4 (a) "Offender" means an individual who is convicted within this state and is incarcerated in a
5 ~~county jail or~~ state prison.

6 (b) "Rehabilitation program" means the same as that term is defined in Section [76-3-402](#).

7 (2) On and after July 1, 2025, a prosecuting attorney may bring a petition **before the Board of Pardons**
8 **and Parole in the sentencing court** seeking to modify **a decision of the Board made regarding when,**
9 **where, and under what conditions the sentence of** an offender **convicted in the region in which the**
10 **prosecuting attorney has jurisdiction may be paroled or pardoned or have the offender's sentence**
11 **commuted or terminated,**

12 (3) Upon **receiving** a petition described in Subsection (2), the **Board of Pardons and Parole sentencing**
13 **court** may modify **the decision the sentence of an offender** to a lesser **sentence decision** if permitted by
14 this title and the **Board court** finds that modifying **the decision the sentence** is in the interest of justice.

15 (4) **The Board of Pardons and Parole shall make rules in accordance with this section to determine**
16 **In determining** whether **a modification modifying an offender's sentence** is in the interest of justice,
17 **under which:**

18 (a) the **Board sentencing court** shall consider:

19 (i) the nature, circumstances, and severity of the offense;

20 (ii) the physical, emotional, or other harm that the defendant caused any victim of the
21 offense; and

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

23 (b) the **Board sentencing court** may consider:

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

26 (ii) the offender's criminal history;

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

- 28 (iv) whether the offender has successfully completed a rehabilitation program;
29 (v) whether the level of the offense has been reduced by law after the offender's
30 conviction;
31 (vi) any potential impact that the modification ~~of the offender's sentence~~ would have on
32 public safety; or
33 (vii) any other circumstances that are reasonably related to the offender or the offense.

34 (5) The prosecuting attorney has the burden to provide evidence sufficient to demonstrate that a
35 modification ~~an offender's sentence should be modified~~ in the interest of justice.

36 **(b) Nothing in this section shall be construed to require the Board of Pardons and Parole to**
37 **gather evidence not otherwise presented by the petitioner or other parties to the petition.**

38 (6) **The Board of Pardons and Parole** ~~sentencing court~~ may not **make a modification** ~~modify a~~
39 ~~sentence~~ under this section unless:

- 40 (a) the offender is notified of the motion to modify;
41 (b) the prosecuting attorney has made reasonable efforts to notify any victim of the offense;
42 (c) a hearing is held if a hearing is requested by the prosecuting attorney or the offender; and
43 (d) any victim has been given an opportunity to submit a written or oral statement to **the Board**
44 ~~court.~~

45 (7) **A prosecutor may not submit a petition** ~~A court may not modify a sentence~~ under this section for:

- 46 (a) an individual who is on parole; or
47 (b) an offense described in Section [76-3-406](#).

48 (8) **(a)** This section does not require **the Board of Pardons and Parole** ~~sentencing court~~ to modify a
49 ~~decision an offender's sentence and nothing in this section requires the Board to set the matter for a~~
50 ~~hearing if the petition's requirements are not met or if the Board otherwise finds the request to be~~
51 ~~without merit.~~

52 **(b) If the Board finds that the petition does not meet the requirements outlined in this**
53 **section or otherwise finds the request is without merit, the Board shall state its reasoning on the**
54 **record.**

55 (9) **A prosecuting attorney may review potential cases for a petition pursuant to this section at their**
56 **discretion and is not required to respond to a request for review.**