

PLEA IN ABEYANCE FEE

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: M. Susan Lawrence

Senate Sponsor: _____

LONG TITLE

General Description:

This bill describes fines and fees for pleas in abeyance.

Highlighted Provisions:

This bill:

- ▶ requires that fines for pleas in abeyance adhere to the Uniform Bail Schedule; and
- ▶ allows courts to charge an administrative fee for pleas in abeyance of not more than

\$25.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-2a-2, as enacted by Chapter 82, Laws of Utah 1993

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

Section 1. Section **77-2a-2** is amended to read:

77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.

(1) At any time after acceptance of a plea of guilty or no contest but prior to entry of



28 judgment of conviction and imposition of sentence, the court may, upon motion of both the
29 prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of
30 conviction against the defendant nor impose sentence upon the defendant within the time
31 periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

32 (2) The defendant shall be represented by counsel during negotiations for a plea in
33 abeyance and at the time of acknowledgment and affirmation of any plea in abeyance
34 agreement unless the defendant shall have knowingly and intelligently waived his right to
35 counsel.

36 (3) The defendant has the right to be represented by counsel at any court hearing
37 relating to a plea in abeyance agreement.

38 (4) (a) Any plea in abeyance agreement entered into between the prosecution and the
39 defendant and approved by the court shall include a full, detailed recitation of the requirements
40 and conditions agreed to by the defendant and the reason for requesting the court to hold the
41 plea in abeyance.

42 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the
43 agreement shall be in writing and shall, prior to acceptance by the court, be executed by the
44 prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

45 (5) Any fine imposed as a result of a plea in abeyance agreement shall be in accordance
46 with the Uniform Bail Schedule adopted by the Judicial Council. An administrative fee of not
47 more than \$25 may also be charged.

48 [~~5~~] (6) A plea shall not be held in abeyance for a period longer than 18 months if the
49 plea was to any class of misdemeanor or longer than three years if the plea was to any degree of
50 felony or to any combination of misdemeanors and felonies.

51 [~~6~~] (7) A plea in abeyance agreement shall not be approved unless the defendant,
52 before the court, and any written agreement, knowingly and intelligently waives time for
53 sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.

Legislative Review Note

as of 1-6-06 3:28 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0247

Plea in Abeyance Fee

20-Jan-06

8:40 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst