

Senator John L. Valentine proposes the following substitute bill:

ALCOHOL AND DRUG RELATED OFFENSE AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions relating to alcohol and drug related offenses.

Highlighted Provisions:

This bill:

- ▶ provides that beginning on July 1, 2013, no plea may be held in abeyance in any case involving certain alcohol or drug related offenses; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2013.

Utah Code Sections Affected:

AMENDS:

77-2a-3, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

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

Section 1. Section **77-2a-3** is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.



26 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
27 done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.

28 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
29 agreement may be entered into without a personal appearance before a magistrate.

30 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
31 defendant has successfully completed the terms of the agreement:

32 (a) reduce the degree of the offense and enter judgment of conviction and impose
33 sentence for a lower degree of offense; or

34 (b) allow withdrawal of defendant's plea and order the dismissal of the case.

35 (3) Upon finding that a defendant has successfully completed the terms of a plea in
36 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
37 provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a
38 defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not
39 invoke Section 76-3-402 to further reduce the degree of the offense.

40 (4) The court may require the Department of Corrections to assist in the administration
41 of the plea in abeyance agreement as if the defendant were on probation to the court under
42 Section 77-18-1.

43 (5) The terms of a plea in abeyance agreement may include:

44 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
45 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
46 the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a
47 surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and
48 which may not exceed in amount the maximum fine and surcharge which could have been
49 imposed upon conviction and sentencing for the same offense;

50 (b) an order that the defendant pay restitution to the victims of the defendant's actions
51 as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;

52 (c) an order that the defendant pay the costs of any remedial or rehabilitative program
53 required by the terms of the agreement; and

54 (d) an order that the defendant comply with any other conditions which could have
55 been imposed as conditions of probation upon conviction and sentencing for the same offense.

56 (6) A court may not hold a plea in abeyance without the consent of both the

57 prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a
58 plea in abeyance is final.

59 (7) No plea may be held in abeyance in any case involving a sexual offense against a
60 victim who is under the age of 14.

61 (8) Beginning on July 1, [~~2008~~] 2013, no plea may be held in abeyance in any case
62 involving a [~~driving under the influence violation under Section 41-6a-502~~] violation
63 described in Subsection 41-6a-501(2)(a).

64 Section 2. **Effective date.**

65 This bill takes effect on July 1, 2013.