

S.B. 79
JUDICIARY AMENDMENTS

Senator **Lyle W. Hillyard** proposes the following amendments:

1. *Page 6, Line 167 through Page 7, Line 196:*

167 77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of
168 agreement -- Waiver of time for sentencing.

169 (1) At any time after acceptance of a plea of guilty or no contest but [~~prior to~~] before
170 entry of judgment of conviction and imposition of sentence, the court may, upon motion of
171 both the prosecuting attorney and the defendant, hold the plea in abeyance and not enter
172 judgment of conviction against the defendant nor impose sentence upon the defendant within
173 the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

174 (2) [~~The~~] A defendant shall be represented by counsel during negotiations for a plea in
175 abeyance and at the time of acknowledgment and affirmation of any plea in abeyance
176 agreement unless the defendant [~~shall have~~] knowingly and intelligently [~~waived his~~] waives
177 the defendant's right to counsel.

178 (3) [~~The~~] A defendant has the right to be represented by counsel at any court hearing
179 relating to a plea in abeyance agreement.

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

184 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the
185 agreement shall be in writing and shall, [~~prior to~~] before acceptance by the court, be executed
186 by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the
187 court.

188 (5) {+} A {+} ~~{Unless the prosecutor and the defendant agree to a longer term or to an~~
189 extension, a plea [shall] may not be held in abeyance for a period longer than 18 months if the
190 plea {+} was {+} {is} to {+}
191 ~~(a)}~~ any class of misdemeanor {+} or {+} ~~{of}~~ longer than three years {+} if the
192 ~~(b)}~~ any degree of felony {+} or {+} to {+}
193 ~~(c)}~~ any combination of misdemeanors and felonies.

(6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

194 {~~(6)~~} (7) A plea in abeyance agreement [~~shall~~] may not be approved unless the defendant,
195 before the court, and any written agreement, knowingly and intelligently waives time for
196 sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.