

PLEA IN ABEYANCE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lawanna Shurtliff

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to a plea held in abeyance.

Highlighted Provisions:

This bill:

- ▶ makes a plea held in abeyance the equivalent of a conviction for the purpose of a future sentencing enhancement; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-2a-2, as last amended by Laws of Utah 2018, Chapter 30

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 before 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, Rule 22(a).

32 (2) A 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 knowingly and intelligently waives the defendant's right to
35 counsel.

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

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

42 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the
43 agreement shall:

44 (i) be in writing; and [~~shall;~~]

45 (ii) before acceptance by the court, be executed by the prosecuting attorney, the
46 defendant, and the defendant's counsel in the presence of the court.

47 (5) A plea may not be held in abeyance for a period longer than:

48 (a) 18 months if the plea was to any class of misdemeanor; or [~~longer than~~]

49 (b) three years if the plea was to:

50 (i) any degree of felony; or [~~to~~]

51 (ii) any combination of misdemeanors and felonies.

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

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

59 (8) For a period of 10 years beginning on the day on which an individual enters a plea
60 in abeyance, the plea in abeyance is the equivalent of a conviction for the purpose of a future
61 sentencing enhancement, even if the charge, to which the plea in abeyance is made, is reduced
62 or dismissed in accordance with the plea in abeyance agreement.