

**Representative Stephanie Pitcher** proposes the following substitute bill:

**CRIMINAL PROCEEDING AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Pitcher**

Senate Sponsor: Daniel W. Thatcher

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**LONG TITLE**

**General Description:**

This bill creates pleading requirements for certain crimes.

**Highlighted Provisions:**

This bill:

► requires a prosecuting attorney to agree in writing before a defendant may enter a plea of guilty or no contest to:

- a domestic violence offense; or
- driving under the influence of drugs or alcohol.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-513**, as renumbered and amended by Laws of Utah 2005, Chapter 2

**77-36-1.2**, as enacted by Laws of Utah 2015, Chapter 426

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



26 Section 1. Section **41-6a-513** is amended to read:

27 **41-6a-513. Acceptance of plea of guilty to DUI -- Restrictions -- Verification of**  
 28 **prior violations -- Prosecutor to examine defendant's record.**

29 (1) ~~[A court may not accept a plea of guilty or no contest to a charge under Section~~  
 30 ~~41-6a-502]~~ An entry of a plea of guilty or no contest to a criminal charge under Section  
 31 41-6a-502 is invalid unless~~[(a)]~~ the prosecutor agrees to the plea:

32 ~~[(i)]~~ (a) in open court;

33 ~~[(ii)]~~ (b) in writing; or

34 ~~[(iii)]~~ (c) by another means of communication which the court finds adequate to record  
 35 the prosecutor's agreement~~[:]~~.

36 ~~[(b) the charge is filed by information as defined under Section 77-1-3; or]~~

37 ~~[(c) the court receives verification from a law enforcement agency that the defendant's~~  
 38 ~~driver license record contains no record of a conviction, arrest, or charge for:]~~

39 ~~[(i) more than one prior violation within the previous 10 years of any offense which, if~~  
 40 ~~the defendant were convicted, would qualify as a "conviction" as defined under Subsection~~  
 41 ~~41-6a-501(2);]~~

42 ~~[(ii) a felony violation of Section 41-6a-502; or]~~

43 ~~[(iii) automobile homicide under Section 76-5-207.]~~

44 ~~[(2) A verification under Subsection (1)(c) may be made by:]~~

45 ~~[(a) a written indication on the citation;]~~

46 ~~[(b) a separate written document; or]~~

47 ~~[(c) any other means which the court finds adequate to record the law enforcement~~  
 48 ~~agency's verification.]~~

49 ~~[(3)]~~ (2) (a) Prior to agreeing to a plea of guilty or no contest ~~[or to filing an~~  
 50 ~~information]~~ under Subsection (1), the prosecutor shall examine the criminal history or driver  
 51 license record of the defendant~~[:]~~ to determine if the defendant's record contains a conviction,  
 52 arrest or charge for:

53 (i) more than one prior violation within the previous 10 years of any offense that, if the  
 54 defendant were convicted, would qualify as a conviction as defined in Subsection  
 55 41-6a-501(2);

56 (ii) a felony violation of Section 41-6a-502; or

57 (iii) automobile homicide under Section 76-5-207.

58 (b) If the defendant's record contains a conviction or unresolved arrest or charge for an  
59 offense listed in [~~Subsections (1)(c)(i) through (iii)~~] Subsection (2)(a), a plea may only be  
60 accepted if:

61 (i) approved by:

62 (A) a district attorney;

63 (B) a deputy district attorney;

64 (C) a county attorney;

65 (D) a deputy county attorney;

66 (E) the attorney general; or

67 (F) an assistant attorney general; and

68 (ii) the attorney giving approval under Subsection (3)(b)(i) has felony jurisdiction over  
69 the case.

70 [~~(4) A plea of guilty or no contest is not made invalid by the failure of the court,  
71 prosecutor, or law enforcement agency to comply with this section.~~]

72 Section 2. Section **77-36-1.2** is amended to read:

73 **77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence --**  
74 **Restrictions.**

75 (1) For purposes of this section, "qualifying domestic violence offense" means:

76 (a) a domestic violence offense in Utah; or

77 (b) an offense in any other state, or in any district, possession, or territory of the United  
78 States, that would be a domestic violence offense under Utah law.

79 (2) For purposes of this section and Section 77-36-1.1, a plea of guilty or no contest to  
80 any domestic violence offense in Utah, which plea is held in abeyance under Title 77, Chapter  
81 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been  
82 subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

83 (3) (a) Before agreeing to a plea of guilty or no contest [~~or to filing an information~~], the  
84 prosecutor shall examine the criminal history of the defendant.

85 [~~(b) The court may not accept a plea of guilty or no contest to a domestic violence  
86 offense, unless:~~]

87 [~~(i)~~] (b) An entry of a plea of guilty or no contest to a domestic violence offense is

88 invalid unless the prosecutor agrees to the plea:

89           ~~[(A)]~~ (i) in open court;

90           ~~[(B)]~~ (ii) in writing; or

91           ~~[(C)]~~ (iii) by another means of communication that the court finds adequate to record  
92 the prosecutor's agreement~~[; or]~~.

93           ~~[(ii) (A) the domestic violence offense is filed by information;]~~

94           ~~[(B) the court receives a copy of the defendant's criminal history; and]~~

95           ~~[(C) the criminal history contains no record of a conviction or a pending charge of a  
96 qualifying domestic violence offense within five years before the date on which the plea is  
97 entered.]~~

98           ~~[(c) A plea of guilty or no contest is not made invalid by the failure of a court, a  
99 prosecutor, or a law enforcement agency to comply with this section.]~~