

HB0303S01 compared with HB0303

~~deleted text~~ shows text that was in HB0303 but was deleted in HB0303S01.

inserted text shows text that was not in HB0303 but was inserted into HB0303S01.

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Representative Andrew Stoddard proposes the following substitute bill:

DIVERSION FEES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill authorizes a court to assess a diversion fee on a criminal defendant when that defendant is eligible for a diversion, enters into a diversion agreement with the prosecuting attorney, and the court approves that agreement.

Highlighted Provisions:

This bill:

- ▶ allows a court to assess a diversion fee; and
- ▶ does not disqualify those eligible for diversion due to an inability to pay the diversion fee.

Money Appropriated in this Bill:

None

Other Special Clauses:

HB0303S01 compared with HB0303

None

Utah Code Sections Affected:

AMENDS:

77-2-5, as enacted by Laws of Utah 1980, Chapter 15

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

Section 1. Section 77-2-5 is amended to read:

77-2-5. Diversion agreement -- Negotiation -- Contents.

(1) At any time after the filing of an information or indictment and prior to conviction, the prosecuting attorney may, by written agreement with the defendant, filed with the court, and upon approval of the court, divert a defendant to a non-criminal diversion program.

(2) A defendant shall be represented by counsel during negotiations for diversion and at the time of execution of any diversion agreement unless he shall have knowingly and intelligently waived his right to counsel.

(3) The defendant has the right to be represented by counsel at any court hearing relating to a diversion program.

(4) Any diversion agreement entered into between the prosecution and the defense and approved by a magistrate shall contain a full, detailed statement of the requirements agreed to by the defendant and the reasons for diversion. A decision by a prosecuting attorney not to divert a defendant is not subject to judicial review.

~~[(5) Diversion programs longer than two years shall not be permitted.]~~

(5) Any diversion agreement entered into between the prosecution and the defense and approved by a magistrate may contain an order that the defendant pay a nonrefundable diversion fee, which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110, or Section 78A-7-120, and which may not exceed the {maximum fine that could have been imposed upon conviction and sentencing for the same offense} suggested fine listed in the Uniform Fine and Bail Forfeiture Schedule adopted by the Judicial Council.

(6) A diversion agreement [~~shall~~] may not be approved unless the defendant, before a magistrate and in the agreement, knowingly and intelligently waives his constitutional right to a speedy trial.

HB0303S01 compared with HB0303

- (7) A defendant ~~{,}~~ who is eligible for a diversion agreement under this chapter ~~{, shall}~~ may not be denied a diversion agreement based on an inability to pay the diversion fee.
- (8) Diversion programs longer than two years ~~{shall}~~ are not ~~{be}~~ permitted.