

1 **PLEA IN ABEYANCE AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel W. Thatcher**

5 House Sponsor: Stephanie Pitcher

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses plea in abeyance agreements.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ enacts provisions relating to termination of a plea in abeyance agreement based on
- 13 certain guidelines developed by the Sentencing Commission; and
- 14 ▶ makes technical changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **77-2a-2**, as last amended by Laws of Utah 2018, Chapter 30

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

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

25 **77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of**
26 **agreement -- Waiver of time for sentencing.**

27 (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.

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 plea in abeyance agreement entered into between the prosecution and the
39 defendant and approved by the court shall include a full, detailed recitation of the requirements
40 and conditions agreed to by the defendant and the reason for requesting the court to hold the
41 plea in abeyance.

42 (b) If the plea is to a felony or any combination of misdemeanors and felonies, the
43 agreement shall be in writing and shall, before acceptance by the court, be executed by the
44 prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

45 (5) (a) [A] Except as provided in Subsection (5)(b), a plea may not be held in abeyance
46 for a period longer than 18 months if the plea [was] is to any class of misdemeanor or longer
47 than three years if the plea [was] is to any degree of felony or to any combination of
48 misdemeanors and felonies.

49 (b) (i) For a plea in abeyance agreement that Adult Probation and Parole supervises, the
50 plea may not be held in abeyance for a period longer than the initial term of probation required
51 under the supervision length guidelines described in Section 63M-7-404, if the initial term of
52 probation is shorter than the period required under Subsection (5)(a).

53 (ii) Subsection (5)(b)(i) does not:

54 (A) apply to a plea that is held in abeyance in a drug court created under Title 78A,
55 Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

56 (B) prohibit court supervision of a plea in abeyance agreement after the day on which
57 the Adult Probation and Parole supervision described in Subsection (5)(b)(i) ends and before

58 the day on which the plea in abeyance agreement ends.

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

63 (7) A plea in abeyance agreement may not be approved unless the defendant, before the
64 court, and any written agreement, knowingly and intelligently waives time for sentencing as
65 designated in Rule 22(a), Utah Rules of Criminal Procedure.