

**Representative Jordan D. Teuscher** proposes the following substitute bill:

**TRAFFIC VIOLATION AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: Kirk A. Cullimore

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**LONG TITLE**

**General Description:**

This bill creates a deferred prosecution program for a person charged with a traffic infraction.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a deferred prosecution program to allow a person to apply for deferred prosecution of a traffic infraction;
- ▶ describes the application requirements for deferred prosecution;
- ▶ allows a person who applies for deferred prosecution to not have judgment of conviction entered against the person if the person is not convicted of another traffic violation in the 12 months following the application for deferred prosecution;
- ▶ requires the court to enter a judgment of conviction if the person fails to comply with the terms of the deferred prosecution; and
- ▶ provides for an administrative fee to cover the costs of the deferred prosecution program.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **77-2-4.2**, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

31 **78A-7-301**, as last amended by Laws of Utah 2014, Chapter 189



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

34 Section 1. Section **77-2-4.2** is amended to read:

35 **77-2-4.2. Compromise of traffic charges -- Deferred prosecution of traffic**  
36 **infractions -- Limitations.**

37 (1) As used in this section:

38 (a) "Compromise" means referral of a person charged with a traffic violation to traffic  
39 school or other school, class, or remedial or rehabilitative program.

40 (b) "Deferral period" means the 12-month period following the date on which a person  
41 submits an application for deferred prosecution.

42 (c) "Deferred prosecution" means the deferral of prosecution of a person charged with  
43 a traffic infraction if the person complies with the requirements described in Subsection (5).

44 (d) "Felony traffic violation" means a violation of Title 41, Chapter 6a, Traffic Code or  
45 a local traffic ordinance amounting to a felony.

46 (e) "Moving traffic infraction" means a traffic infraction that occurs when a vehicle is  
47 in motion on a highway.

48 (f) (i) "Traffic infraction" means a violation of Title 41, Chapter 6a, Traffic Code, or a  
49 local traffic ordinance that is an infraction.

50 (ii) "Traffic infraction" does not include an offense that is a misdemeanor or a felony.

51 ~~(b)~~ (g) "Traffic violation" means any charge for which bail may be forfeited in lieu of  
52 appearance, by citation or information, of a violation of:

53 (i) Title 41, Chapter 6a, Traffic Code, amounting to:

54 (A) a class B misdemeanor;

55 (B) a class C misdemeanor; or

56 (C) an infraction; or

- 57 (ii) any local traffic ordinance.
- 58 (2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance  
59 agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:
- 60 (a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; or  
61 (b) when there is a plea by the defendant to and entry of a judgment by a court for the  
62 offense originally charged or for an amended charge.
- 63 (3) In all cases which are compromised pursuant to the provisions of Subsection (2):
- 64 (a) the court, taking into consideration the offense charged, shall collect a plea in  
65 abeyance fee which shall:
- 66 (i) be subject to the same surcharge as if imposed on a criminal fine;  
67 (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section  
68 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge  
69 Allocation; and
- 70 (iii) be not more than \$25 greater than the bail designated in the Uniform Bail  
71 Schedule; or
- 72 (b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic  
73 school or other school, class, or rehabilitative program shall be collected, which surcharge  
74 shall:
- 75 (i) be computed, assessed, collected, and remitted in the same manner as if the traffic  
76 school fee and surcharge had been imposed as a criminal fine and surcharge; and
- 77 (ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4,  
78 Criminal Conviction Surcharge Allocation.
- 79 (4) If a written plea in abeyance agreement is provided, or the defendant requests a  
80 written accounting, an itemized statement of all amounts assessed by the court shall be  
81 provided, including:
- 82 (a) the Uniform Bail Schedule amount;  
83 (b) the amount of any surcharges being assessed; and  
84 (c) the amount of the plea in abeyance fee.
- 85 (5) (a) Except as provided in Subsection (5)(b), a person charged with a moving traffic  
86 infraction may apply for deferred prosecution.
- 87 (b) The following may not apply for deferred prosecution as described in this section:

- 88 (i) a person under 21 years old;
- 89 (ii) a person with a commercial driver license;
- 90 (iii) a person who has committed a felony traffic violation, traffic violation, or traffic
- 91 infraction within the 24 months immediately preceding the date of the application for deferred
- 92 prosecution;
- 93 (iv) a person charged with two or more moving traffic infractions related to the same
- 94 episode or occurrence;
- 95 (v) a person charged with multiple traffic infractions related to the same episode or
- 96 occurrence if any of the offenses is a misdemeanor or felony traffic violation;
- 97 (vi) a person charged with one or more traffic infractions if none of the traffic
- 98 infractions are moving traffic violations;
- 99 (vii) any traffic infraction or traffic violation that is part of an episode or occurrence
- 100 involving a traffic accident; or
- 101 (viii) a moving traffic violation that is for speeding 30 miles per hour or more above
- 102 the posted speed limit.
- 103 (c) A person who applies for deferred prosecution shall:
- 104 (i) (A) apply with the relevant court clerk on a form provided by the court; or
- 105 (B) apply through an online application process developed by the Administrative
- 106 Office of the Courts;
- 107 (ii) pay the relevant fine, as provided by the uniform fine schedule described in
- 108 [76-3-301.5](#), associated with each traffic infraction for which the person was charged;
- 109 (iii) pay an administrative fee to the court as established by the judicial council; and
- 110 (iv) enter a deferred plea of no contest as described in Subsection (5)(d).
- 111 (d) If an eligible person applies for deferred prosecution, the court shall:
- 112 (i) record the deferred plea of no contest;
- 113 (ii) not enter the deferred plea of no contest unless the person fails to comply with the
- 114 terms of the deferred prosecution; and
- 115 (iii) if the person fails to comply with the terms of the deferred prosecution, enter a
- 116 judgment of conviction as described in Subsection (5)(e)(ii).
- 117 (e) (i) Except as provided in Subsection (5)(e)(ii), if a person applies for deferred
- 118 prosecution and the person is not convicted of another traffic violation, felony traffic violation,

119 or traffic infraction during the deferral period:

120 (A) the prosecutor may not prosecute the person for the traffic infraction subject to the  
121 deferred prosecution;

122 (B) the court may not enter judgment of conviction against the person or impose a  
123 sentence for the traffic infraction; and

124 (C) the court shall dismiss the charge for the traffic infraction.

125 (ii) If a person that has applied for deferred prosecution is convicted of another a traffic  
126 violation within the deferral period, the court shall enter judgment of conviction against the  
127 person for:

128 (A) the traffic infraction for which the deferred prosecution was applied; and

129 (B) the traffic violation that occurred during the deferral period.

130 (f) Each court shall provide an application process, including an online application  
131 process, as developed by the Administrative Office of the Courts, for a person to apply for  
132 deferred prosecution.

133 (g) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:

134 (A) if the infraction offense has the same elements as the misdemeanor offense; or

135 (B) for the sole purpose of prohibiting a person from applying for deferred prosecution.

136 (ii) A deferred prosecution is not a prosecution for purposes of Section [76-1-403](#).

137 (h) An individual applying for deferred prosecution in accordance with this section  
138 may not be required to appear in-person in order to apply for deferred prosecution.

139 (i) (i) The judicial council shall set and periodically adjust the fee described in  
140 Subsection (5)(c)(iii) in an amount that the judicial council determines to be necessary to cover  
141 the cost to implement, operate, and maintain the deferred prosecution program described in this  
142 Subsection (5).

143 (ii) The revenue generated from the administrative fee described in Subsection  
144 (5)(c)(iii) shall be deposited into the Justice Court Technology, Security, and Training Account  
145 created in Section [78A-7-301](#).

146 Section 2. Section **78A-7-301** is amended to read:

147 **78A-7-301. Justice Court Technology, Security, and Training Account**  
148 **established -- Funding -- Uses.**

149 There is created a restricted account in the General Fund known as the Justice Court

150 Technology, Security, and Training Account.

151 (1) ~~[The state treasurer shall deposit in the account]~~ The account shall be funded by:

152 (a) deposits from the state treasurer from money collected from the surcharge

153 established in Subsection [78A-7-122\(4\)\(b\)\(iii\)](#)~~[-];~~ and

154 (b) deposits from the courts from the administrative fee from a deferred prosecution  
155 under Subsection [77-2-4.2\(5\)](#).

156 (2) Money shall be appropriated from the account to the Administrative Office of the  
157 Courts to be used for:

158 (a) audit, technology, security, and training needs in justice courts throughout the  
159 state[-]; or

160 (b) costs to implement, operate, and maintain deferred prosecution pursuant to  
161 Subsection [77-2-4.2\(5\)](#).

162 Section 3. **Effective date.**

163 This bill takes effect on October 1, 2022.