

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

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates a deferred prosecution program to allow an individual to apply for deferred prosecution of a traffic infraction;
- ▶ describes the application requirements for deferred prosecution;
- ▶ allows an individual who applies for deferred prosecution to not have judgment of conviction entered against the individual if the individual 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 individual 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:



26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **77-2-4.2**, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

32 **78A-7-301**, as last amended by Laws of Utah 2014, Chapter 189

33

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

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

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

38 (1) As used in this section:

39 (a) "Compromise" means referral of ~~[a person]~~ an individual charged with a traffic
40 violation to traffic school or other school, class, or remedial or rehabilitative program.

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

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

46 (d) "Felony traffic violation" means a violation of Title 41, Chapter 6a, Traffic Code,
47 amounting to a felony.

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

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

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

53 ~~[(b)]~~ (g) "Traffic violation" means any charge for which ~~[bail may be forfeited]~~ a fine
54 may be voluntarily remitted in lieu of appearance, by citation or information, of a violation of:

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

56 (A) a class B misdemeanor;

57 (B) a class C misdemeanor; or

58 (C) an infraction; or

59 (ii) any local traffic ordinance.

60 (2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance
61 agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, and Subsection (3), except:

62 (a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; ~~[or]~~

63 (b) when there is a plea by the defendant to and entry of a judgment by a court for the
64 offense originally charged or for an amended charge~~[-];~~ or

65 (c) when there is a deferred plea of no contest as provided in Subsection (5).

66 (3) In all cases which are compromised pursuant to ~~[the provisions of Subsection (2)]~~ a
67 plea in abeyance:

68 (a) the court, taking into consideration the offense charged, shall collect a plea in
69 abeyance fee which shall:

70 (i) be subject to the same surcharge as if imposed on a criminal fine;

71 (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section

72 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge

73 Allocation; and

74 (iii) be not more than \$25 greater than the ~~[bait]~~ fine designated in the Uniform ~~[Bait]~~
75 Fine Schedule; or

76 (b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic
77 school or other school, class, or rehabilitative program shall be collected, which surcharge
78 shall:

79 (i) be computed, assessed, collected, and remitted in the same manner as if the traffic
80 school fee and surcharge had been imposed as a criminal fine and surcharge; and

81 (ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4,
82 Criminal Conviction Surcharge Allocation.

83 (4) If a written plea in abeyance agreement is provided, or the defendant requests a
84 written accounting, an itemized statement of all amounts assessed by the court shall be
85 provided, including:

86 (a) the Uniform ~~[Bait]~~ Fine Schedule amount;

87 (b) the amount of any surcharges being assessed; and

88 (c) the amount of the plea in abeyance fee.

89 (5) (a) (i) Except as provided in Subsection (5)(b), an individual who receives a
90 citation for a moving traffic infraction may apply for deferred prosecution.

91 (ii) A court may not require an individual to appear in-person to apply for a deferred
92 prosecution in accordance with this Subsection (5).

93 (b) The following may not apply for or be granted a deferred prosecution as described
94 in this section:

95 (i) an individual under 21 years old;

96 (ii) an individual with a commercial driver license;

97 (iii) an individual who has not been issued a current Utah driver license;

98 (iv) an individual who has been convicted of a felony traffic violation, traffic violation,
99 or traffic infraction within the 24 months immediately preceding the date of the application for
100 deferred prosecution;

101 (v) an individual charged with two or more moving traffic infractions related to the
102 same episode or occurrence;

103 (vi) an individual charged with multiple traffic infractions related to the same episode
104 or occurrence if any of the offenses is a misdemeanor or felony traffic violation;

105 (vii) an individual charged with one or more traffic infractions if none of the traffic
106 infractions are moving traffic violations;

107 (viii) any traffic infraction or traffic violation that is part of an episode or occurrence
108 involving a traffic accident;

109 (ix) a moving traffic violation that is for speeding 30 miles per hour or more above the
110 posted speed limit;

111 (x) a moving violation that is for speeding at a speed of 100 miles per hour or more; or

112 (xi) an individual who is currently within a deferral period related to a separate episode
113 or occurrence.

114 (c) An individual who applies for deferred prosecution shall:

115 (i) apply through an online application process developed by the Administrative Office
116 of the Courts;

117 (ii) pay the relevant fine, as provided by the uniform fine schedule described in
118 [76-3-301.5](#), associated with each traffic infraction for which the individual was charged;

- 119 (iii) pay an administrative fee as established by the judicial council; and
120 (iv) enter a deferred plea of no contest as described in Subsection (5)(e).
121 (d) An individual who receives a traffic citation shall:
122 (i) comply with Section [77-7-19](#); or
123 (ii) apply for deferred prosecution as described in Subsection (5)(c) no sooner than five
124 and no later than 21 days after receiving the citation.
125 (e) If an eligible individual applies for deferred prosecution, the court shall:
126 (i) record the deferred plea of no contest;
127 (ii) not enter the deferred plea of no contest unless the individual fails to comply with
128 the terms of the deferred prosecution; and
129 (iii) if the individual fails to comply with the terms of the deferred prosecution, enter a
130 judgment of conviction as described in Subsection (5)(f)(ii).
131 (f) (i) Except as provided in Subsection (5)(f)(ii), if an individual enters a deferred plea
132 of no contest as described in Subsection (5)(c)(iv) and is not convicted of another traffic
133 violation, felony traffic violation, or traffic infraction during the deferral period:
134 (A) the prosecutor may not prosecute the individual for the traffic infraction subject to
135 the deferred prosecution;
136 (B) the court may not enter judgment of conviction against the individual or impose a
137 sentence for the traffic infraction; and
138 (C) the court shall dismiss each traffic infraction to which the individual entered a
139 deferred plea of no contest.
140 (ii) If an individual enters a deferred plea of no contest as described in Subsection
141 (5)(c)(iv) and is convicted of another a traffic violation within the deferral period, the court
142 shall enter judgment of conviction against the individual for each traffic infraction to which the
143 individual entered a deferred plea of no contest.
144 (g) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:
145 (A) if the infraction offense has the same elements as the misdemeanor offense; or
146 (B) for the sole purpose of prohibiting an individual from applying for deferred
147 prosecution.
148 (ii) A deferred prosecution is not a prosecution for purposes of Section [76-1-403](#).
149 (h) (i) The judicial council shall set and periodically adjust the fee described in

150 Subsection (5)(c)(iii) in an amount that the judicial council determines to be necessary to cover
151 the cost to implement, operate, and maintain the deferred prosecution program described in this
152 Subsection (5).

153 (ii) The state treasurer shall deposit the revenue generated from the administrative fee
154 described in Subsection (5)(c)(iii) into the Justice Court Technology, Security, and Training
155 Account created in Section [78A-7-301](#).

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

157 **78A-7-301. Justice Court Technology, Security, and Training Account**

158 **established -- Funding -- Uses.**

159 There is created a restricted account in the General Fund known as the Justice Court
160 Technology, Security, and Training Account.

161 (1) The state treasurer shall deposit in the account:

162 (a) money collected from the surcharge established in Subsection

163 [78A-7-122](#)(4)(b)(iii)[-]; and

164 (b) the administrative fee from a deferred prosecution under Subsection [77-2-4.2](#)(5).

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

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

169 (b) costs to implement, operate, and maintain deferred prosecution pursuant to

170 Subsection [77-2-4.2](#)(5).

171 Section 3. **Effective date.**

172 This bill takes effect on October 1, 2022.