

1 **TRAFFIC VIOLATION AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jordan D. Teuscher**

5 Senate Sponsor: Kirk A. Cullimore

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7 **LONG TITLE**

8 **General Description:**

9 This bill expands the availability of a deferred prosecution for certain traffic infractions.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ expands the availability of a deferred prosecution for certain traffic infractions to  
13 certain individuals if the individual completes a traffic school course as part of the  
14 deferred prosecution agreement;

15 ▶ requires an applicant for deferred prosecution to complete a traffic school course in  
16 certain circumstances;

17 ▶ requires the Department of Public Safety to contract with one or more traffic school  
18 providers to create a traffic school program;

19 ▶ grants rulemaking authority to the Department of Public Safety to make rules  
20 related to the establishment of a traffic school program;

21 ▶ requires a traffic citation to include information about the individual's possible  
22 eligibility for deferred prosecution; and

23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **77-2-4.2**, as last amended by Laws of Utah 2022, Chapter 136  
 31 **77-7-20**, as last amended by Laws of Utah 2021, Chapter 431  
 32 **78A-7-301**, as last amended by Laws of Utah 2022, Chapters 136, 276

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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 an individual charged with a traffic violation to  
 40 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 (g) "Traffic school deferred prosecution" means a deferred prosecution for which  
 54 completion of traffic school is required as a condition of the application.

55 [~~g~~] (h) "Traffic violation" means any charge for which a fine may be voluntarily  
 56 remitted in lieu of appearance, by citation or information, of a violation of:

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

58 (A) a class B misdemeanor;  
59 (B) a class C misdemeanor; or  
60 (C) an infraction; or  
61 (ii) any local traffic ordinance.

62 (2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance  
63 agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, and Subsection (3), except:  
64 (a) when the criminal prosecution is dismissed pursuant to Section 77-2-4;  
65 (b) when there is a plea by the defendant to and entry of a judgment by a court for the  
66 offense originally charged or for an amended charge; or  
67 (c) when there is a deferred plea of no contest as provided in Subsection (5).

68 (3) In all cases which are compromised pursuant to a plea in abeyance:  
69 (a) the court, taking into consideration the offense charged, shall collect a plea in  
70 abeyance fee which shall:  
71 (i) be subject to the same surcharge as if imposed on a criminal fine;  
72 (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section  
73 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge  
74 Allocation; and  
75 (iii) be not more than \$25 greater than the fine designated in the Uniform Fine  
76 Schedule; or  
77 (b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic  
78 school or other school, class, or rehabilitative program shall be collected, which surcharge  
79 shall:  
80 (i) be computed, assessed, collected, and remitted in the same manner as if the traffic  
81 school fee and surcharge had been imposed as a criminal fine and surcharge; and  
82 (ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4,  
83 Criminal Conviction Surcharge Allocation.

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

86 provided, including:

- 87 (a) the Uniform Fine Schedule amount;
- 88 (b) the amount of any surcharges being assessed; and
- 89 (c) the amount of the plea in abeyance fee.

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

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

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

- 96 (i) an individual under 21 years old;
- 97 (ii) an individual with a commercial driver license;
- 98 (iii) an individual who has not been issued a current Utah driver license;
- 99 (iv) an individual who has been convicted of a felony traffic violation, traffic violation,  
100 or traffic infraction within the 24 months immediately preceding the date of the application for  
101 deferred prosecution;
- 102 (v) an individual charged with two or more moving traffic infractions related to the  
103 same episode or occurrence;
- 104 (vi) an individual charged with multiple traffic infractions related to the same episode  
105 or occurrence if any of the offenses is a misdemeanor or felony traffic violation;
- 106 (vii) an individual charged with one or more traffic infractions if none of the traffic  
107 infractions are moving traffic violations;
- 108 (viii) an individual charged with any traffic infraction or traffic violation that is part of  
109 an episode or occurrence involving a traffic accident;
- 110 (ix) an individual charged with a moving traffic violation that is for speeding 20 miles  
111 per hour or more above the posted speed limit;
- 112 (x) an individual charged with a moving violation that is for speeding at a speed of 100  
113 miles per hour or more; or

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

116 (6) (a) Except as provided in Subsection (6)(b), and upon availability of the traffic  
117 school program described in Subsection (11), if an individual completes a traffic school course  
118 as described in Subsection (11) within 28 days after the date the individual applies for traffic  
119 school deferred prosecution, an individual may apply for and be granted a traffic school  
120 deferred prosecution if:

121 (i) the individual has one or fewer moving traffic infraction convictions in the 24  
122 months immediately preceding the current citation;

123 (ii) the individual received a citation for more than one but less than three moving  
124 traffic infractions from the same incident or occurrence;

125 (iii) the individual was involved in an accident during the commission of the traffic  
126 infraction, other than an accident resulting in serious bodily injury, as defined in Section  
127 41-6a-401.3, or death; or

128 (iv) the individual received a citation for speeding between 20 and 30 miles per hour  
129 over the legal speed limit if the speeding violation is not more than double the legal speed  
130 limit.

131 (b) The following may not apply for or be granted a traffic school deferred prosecution  
132 in accordance with this Subsection (6):

133 (i) an individual to whom more than one of the conditions in Subsection (6)(a) apply;

134 (ii) an individual under 21 years old;

135 (iii) an individual with a commercial driver license;

136 (iv) an individual who has not been issued a current Utah driver license;

137 (v) an individual who has been convicted of a felony traffic violation or traffic  
138 violation within the 24 months immediately preceding the date of the application for deferred  
139 prosecution;

140 (vi) an individual charged with three or more moving traffic infractions related to the  
141 same episode or occurrence; or

142 (vii) an individual charged with multiple traffic infractions related to the same episode  
143 or occurrence if any of the offenses is a misdemeanor or felony traffic violation.

144 (c) A court may not require an individual to appear in-person to apply for traffic school  
145 deferred prosecution in accordance with this Subsection (6).

146 ~~[(e)]~~ (7) An individual who applies for deferred prosecution or traffic school deferred  
147 prosecution shall:

148 ~~[(i)]~~ (a) apply through an online application process developed by the Administrative  
149 Office of the Courts;

150 ~~[(ii)]~~ (b) pay the relevant fine, as provided by the uniform fine schedule described in  
151 Section 76-3-301.5, associated with each traffic infraction for which the individual was  
152 charged;

153 ~~[(iii)]~~ (c) pay an administrative fee as established by the judicial council; and

154 ~~[(iv)]~~ (d) enter a deferred plea of no contest as described in Subsection ~~[(5)(e)]~~ (9).

155 ~~[(d)]~~ (8) An individual who receives a traffic citation shall:

156 ~~[(i)]~~ (a) comply with Section 77-7-19; ~~[or]~~

157 ~~[(ii)]~~ (b) apply for deferred prosecution as described in Subsection ~~[(5)(e)]~~ (7) no  
158 sooner than five and no later than 21 days after receiving the citation[-]; or

159 (c) for a traffic school deferred prosecution as described in Subsection (6), apply for  
160 deferred prosecution as described in Subsection (7) no later than 28 days after submitting an  
161 application into the deferred prosecution system.

162 ~~[(e)]~~ (9) If an eligible individual applies for deferred prosecution, the court shall:

163 ~~[(i)]~~ (a) record the deferred plea of no contest;

164 ~~[(ii)]~~ (b) not enter the deferred plea of no contest unless the individual fails to comply  
165 with the terms of the deferred prosecution; and

166 ~~[(iii)]~~ (c) if the individual fails to comply with the terms of the deferred prosecution,  
167 enter a judgment of conviction as described in Subsection ~~[(5)(f)(ii)]~~ (10)(b).

168 ~~[(f)]~~ (10) [(i)] (a) Except as provided in Subsection ~~[(5)(f)(i)]~~ (10)(b), if an individual  
169 enters a deferred plea of no contest as described in Subsection ~~[(5)(e)(iv)]~~ (7)(d) and is not

170 convicted of another traffic violation, felony traffic violation, or traffic infraction during the  
171 deferral period:

172 ~~[(A)]~~ (i) the prosecutor may not prosecute the individual for the traffic infraction  
173 subject to the deferred prosecution;

174 ~~[(B)]~~ (ii) the court may not enter judgment of conviction against the individual or  
175 impose a sentence for the traffic infraction; and

176 ~~[(C)]~~ (iii) the court shall dismiss each traffic infraction to which the individual entered  
177 a deferred plea of no contest.

178 ~~[(iv)]~~ (b) If an individual enters a deferred plea of no contest as described in Subsection  
179 ~~[(5)(c)(iv)]~~ (7)(d) and is convicted of another a traffic violation within the deferral period, the  
180 court shall enter judgment of conviction against the individual for each traffic infraction to  
181 which the individual entered a deferred plea of no contest.

182 ~~[(g)]~~ (c) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:  
183 (A) if the infraction offense has the same elements as the misdemeanor offense; or  
184 (B) for the sole purpose of prohibiting an individual from applying for deferred  
185 prosecution.

186 (ii) A deferred prosecution is not a prosecution for purposes of Section 76-1-403.

187 ~~[(h)]~~ (d) (i) The judicial council shall set and periodically adjust the fee described in  
188 Subsection ~~[(5)(c)(iii)]~~ (7)(c) in an amount that the judicial council determines to be necessary  
189 to cover the cost to implement, operate, and maintain the deferred prosecution program  
190 described in this Subsection (5).

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

194 (11) (a) The Department of Public Safety may enter into a contract with a traffic school  
195 provider to establish a traffic school course as described in this section.

196 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
197 Department of Public Safety may make rules necessary to establish a traffic school program,

198 including:

199 (i) establishing requirements and standards for the curriculum of a traffic school  
200 program;

201 (ii) establishing a fee for an individual to enroll and complete the traffic school course;  
202 and

203 (iii) creating a method to electronically transmit the completion of the course to the  
204 relevant court as required in Subsection (11)(c).

205 (c) The Department of Public Safety shall ensure that any traffic school program  
206 created under this Subsection (11) includes the ability for the traffic school provider to  
207 electronically transmit successful completion of the traffic school course to the relevant court.

208 (d) The Department of Public Safety shall ensure that the traffic school program  
209 required under this Subsection (11) is established no later than November 1, 2023.

210 (e) After the Department of Public Safety enters into a contract with a traffic school  
211 provider as described in this Subsection (11), no later than March 1, 2024, the Administrative  
212 Office of the Courts shall coordinate with the traffic school provider to ensure the traffic school  
213 provider and the Administrative Office of the Courts:

214 (i) establish the traffic school program as described in this Subsection (11); and

215 (ii) establish means by which completion of the traffic school course may be verified  
216 electronically.

217 Section 2. Section **77-7-20** is amended to read:

218 **77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing --**  
219 **Contents of citations.**

220 (1) Except as provided in Subsection (4), a peace officer or other authorized official  
221 who issues a citation pursuant to Section **77-7-18** shall give the citation to the individual cited  
222 and shall, within five business days, electronically file the data from Subsections (2)(a) through  
223 (2)(h) with the court specified in the citation. The data transmission shall use the court's  
224 electronic filing interface. A nonconforming filing is not effective.

225 (2) The citation issued under authority of this chapter shall contain the following data:



226 (a) the name, address, and phone number of the court before which the individual is to  
227 appear;

228 (b) the name and date of birth of the individual cited;

229 (c) a brief description of the offense charged;

230 (d) the date, time, and place at which the offense is alleged to have occurred;

231 (e) the date on which the citation was issued;

232 (f) the name of the peace officer or official who issued the citation, and the name of the  
233 arresting individual if a private party made the arrest and the citation was issued in lieu of  
234 taking the arrested individual before a magistrate;

235 (g) the time and date on or date range during which the individual is to appear or a  
236 statement that the court will notify the individual of the time to appear;

237 (h) whether the offense is a domestic violence offense; ~~and~~

238 (i) language informing the individual that the individual may be eligible for deferred  
239 prosecution under Section [77-2-4.2](#), including a link to a website with information regarding  
240 deferred prosecution; and

241 ~~(i)~~ (j) a notice containing substantially the following language:

242 READ CAREFULLY

243 This citation is not an information and will not be used as an information without your  
244 consent. If an information is filed you will be provided a copy by the court. You MUST  
245 appear in court on or before the time set in this citation or as directed by the court. IF YOU  
246 FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

247 (3) By electronically filing the data with the court, the peace officer or official affirms  
248 to the court that:

249 (a) the citation or information, including the summons and complaint, was served upon  
250 the defendant in accordance with the law;

251 (b) the defendant committed the offense described in the served documents; and

252 (c) the court to which the defendant was directed to appear has jurisdiction over the  
253 offense charged.

254 (4) (a) If a citing law enforcement officer is not reasonably able to access the e-filing  
255 system, the citation need not be filed electronically if being filed with a justice court.

256 (b) The court may accept an electronic filing received after five business days if:

257 (i) the defendant consents to the filing; and

258 (ii) the court finds the interests of justice would be best served by accepting the filing.

259 Section 3. Section **78A-7-301** is amended to read:

260 **78A-7-301. Justice Court Technology, Security, and Training Account**

261 **established -- Funding -- Uses.**

262 (1) There is created a restricted account in the General Fund known as the Justice  
263 Court Technology, Security, and Training Account.

264 (2) The state treasurer shall deposit in the account:

265 (a) money collected from the surcharge established in Subsection [78A-7-122\(4\)\(b\)\(iii\)](#);

266 and

267 (b) the administrative fee from a deferred prosecution or traffic school deferred  
268 prosecution under Subsection [77-2-4.2\(5\)](#) or [\(6\)](#).

269 (3) Money shall be appropriated from the account to the Administrative Office of the  
270 Courts to be used for:

271 (a) audit, technology, security, and training needs in justice courts throughout the state;

272 (b) additional compensation for presiding judges and associate presiding judges for  
273 justice courts under Section [78A-7-209.5](#); and

274 (c) costs to implement, operate, and maintain deferred prosecution and traffic school  
275 deferred prosecution pursuant to [~~Subsection [77-2-4.2\(5\)](#)~~] Subsections [77-2-4.2\(5\)](#) and [\(6\)](#).