

TRAFFIC VIOLATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ expands the availability of a deferred prosecution for certain traffic infractions to certain individuals if the individual completes a traffic school course as part of the deferred prosecution agreement;
- ▶ requires an applicant for deferred prosecution to complete a traffic school course in certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-2-4.2, as last amended by Laws of Utah 2022, Chapter 136

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

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



28 **77-2-4.2. Compromise of traffic charges -- Deferred prosecution of traffic**
29 **infractions -- Limitations.**

30 (1) As used in this section:

31 (a) "Compromise" means referral of an individual charged with a traffic violation to
32 traffic school or other school, class, or remedial or rehabilitative program.

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

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

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

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

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

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

45 (g) "Traffic violation" means any charge for which a fine may be voluntarily remitted
46 in lieu of appearance, by citation or information, of a violation of:

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

48 (A) a class B misdemeanor;

49 (B) a class C misdemeanor; or

50 (C) an infraction; or

51 (ii) any local traffic ordinance.

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

54 (a) when the criminal prosecution is dismissed pursuant to Section 77-2-4;

55 (b) when there is a plea by the defendant to and entry of a judgment by a court for the
56 offense originally charged or for an amended charge; or

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

58 (3) In all cases which are compromised pursuant to a plea in abeyance:

- 59 (a) the court, taking into consideration the offense charged, shall collect a plea in
60 abeyance fee which shall:
- 61 (i) be subject to the same surcharge as if imposed on a criminal fine;
62 (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section
63 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge
64 Allocation; and
- 65 (iii) be not more than \$25 greater than the fine designated in the Uniform Fine
66 Schedule; or
- 67 (b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic
68 school or other school, class, or rehabilitative program shall be collected, which surcharge
69 shall:
- 70 (i) be computed, assessed, collected, and remitted in the same manner as if the traffic
71 school fee and surcharge had been imposed as a criminal fine and surcharge; and
72 (ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4,
73 Criminal Conviction Surcharge Allocation.
- 74 (4) If a written plea in abeyance agreement is provided, or the defendant requests a
75 written accounting, an itemized statement of all amounts assessed by the court shall be
76 provided, including:
- 77 (a) the Uniform Fine Schedule amount;
78 (b) the amount of any surcharges being assessed; and
79 (c) the amount of the plea in abeyance fee.
- 80 (5) (a) (i) Except as provided in Subsection (5)(b), an individual who receives a
81 citation for a moving traffic infraction may apply for deferred prosecution.
- 82 (ii) A court may not require an individual to appear in-person to apply for a deferred
83 prosecution in accordance with this Subsection (5).
- 84 (b) ~~[The]~~ Except as provided in Subsection (5)(c), the following may not apply for or
85 be granted a deferred prosecution as described in this section:
- 86 (i) an individual under 21 years old;
87 (ii) an individual with a commercial driver license;
88 (iii) an individual who has not been issued a current Utah driver license;
89 (iv) an individual who has been convicted of a felony traffic violation, traffic violation,

90 or traffic infraction within the 24 months immediately preceding the date of the application for
91 deferred prosecution;

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

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

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

98 (viii) an individual charged with any traffic infraction or traffic violation that is part of
99 an episode or occurrence involving a traffic accident;

100 (ix) an individual charged with a moving traffic violation that is for speeding 20 miles
101 per hour or more above the posted speed limit;

102 (x) an individual charged with a moving violation that is for speeding at a speed of 100
103 miles per hour or more; ~~[or]~~

104 (xi) an individual charged with reckless driving under Section 41-6a-528 or a motor
105 vehicle speed contest or exhibition of speed on a highway as described in Section 41-6a-606; or

106 ~~[(xii)]~~ (xii) an individual who is currently within a deferral period related to a separate
107 episode or occurrence.

108 (c) (i) Notwithstanding Subsection (5)(b), the following may apply for and be granted a
109 deferred prosecution as described in this section if the individual completes a traffic school
110 course approved by the Department of Public Safety as a condition of the deferred prosecution:

111 (A) an individual older than 16 years old but younger than 21 years old;

112 (B) an individual with one or fewer moving traffic infraction convictions in the 24
113 months immediately preceding the current citation;

114 (C) an individual that receives a citation for more than one moving traffic infraction
115 from the same incident or occurrence;

116 (D) an individual who caused an accident, excluding an accident resulting in a serious
117 injury or fatality, during the commission of the traffic infraction; or

118 (E) an individual that receives a citation for speeding between 20 and 30 miles per hour
119 over the legal speed limit if the speeding violation is not over double the legal speed limit.

120 (ii) An individual who applies for deferred prosecution under Subsection (5)(c)(i) shall

121 complete the traffic school course within 3 months of the date on which the individual applies
 122 for the deferred prosecution.

123 ~~[(e)]~~ (d) An individual who applies for deferred prosecution shall:

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

126 (ii) pay the relevant fine, as provided by the uniform fine schedule described in Section
 127 76-3-301.5, associated with each traffic infraction for which the individual was charged;

128 (iii) pay an administrative fee as established by the judicial council; and

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

130 ~~[(d)]~~ (e) An individual who receives a traffic citation shall:

131 (i) comply with Section 77-7-19; or

132 (ii) apply for deferred prosecution as described in Subsection ~~[(5)(e)]~~ (5)(d) no sooner
 133 than five and no later than 21 days after receiving the citation.

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

135 (i) record the deferred plea of no contest;

136 (ii) not enter the deferred plea of no contest unless the individual fails to comply with
 137 the terms of the deferred prosecution; and

138 (iii) if the individual fails to comply with the terms of the deferred prosecution, enter a
 139 judgment of conviction as described in Subsection ~~[(5)(f)(ii)]~~ (5)(g)(ii).

140 ~~[(f)]~~ (g) (i) Except as provided in Subsection ~~[(5)(f)(ii)]~~ (5)(g)(ii), if an individual

141 enters a deferred plea of no contest as described in Subsection ~~[(5)(e)(iv)]~~ (5)(d)(iv) and is not
 142 convicted of another traffic violation, felony traffic violation, or traffic infraction during the
 143 deferral period:

144 (A) the prosecutor may not prosecute the individual for the traffic infraction subject to
 145 the deferred prosecution;

146 (B) the court may not enter judgment of conviction against the individual or impose a
 147 sentence for the traffic infraction; and

148 (C) the court shall dismiss each traffic infraction to which the individual entered a
 149 deferred plea of no contest.

150 (ii) If an individual enters a deferred plea of no contest as described in Subsection

151 ~~[(5)(e)(iv)]~~ (5)(d)(iv) and is convicted of another a traffic violation within the deferral period,

152 or if an individual that applies for deferred prosecution pursuant to Subsection (5)(c) fails to
153 complete the traffic school course as required in Subsection (5)(c)(ii), the court shall enter
154 judgment of conviction against the individual for each traffic infraction to which the individual
155 entered a deferred plea of no contest.

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

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

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

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