

Senator Jen Plumb proposes the following substitute bill:

DRUG PARAPHERNALIA AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill concerns possession of certain types of drug paraphernalia.

Highlighted Provisions:

This bill:

- ▶ provides for the dismissal of a charge of possession of certain types of drug paraphernalia under specified conditions;
 - ▶ specifies the conditions and provides the burden of proof necessary for a dismissal;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37a-5, as last amended by Laws of Utah 2011, Chapter 101

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



26 Section 1. Section ~~58-37a-5~~ is amended to read:

27 **58-37a-5. Unlawful acts.**

28 (1) (a) It is unlawful for ~~[any]~~ a person to use, or to possess with intent to use, drug
29 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
30 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
31 inhale or otherwise introduce a controlled substance into the human body in violation of this
32 chapter.

33 (b) ~~[Any]~~ A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

34 (2) (a) It is unlawful for ~~[any]~~ a person to deliver, possess with intent to deliver, or
35 manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia
36 will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
37 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
38 inhale, or otherwise introduce a controlled substance into the human body in violation of this
39 act.

40 (b) ~~[Any]~~ A person who violates Subsection (2)(a) is guilty of a class A misdemeanor.

41 (3) ~~[Any]~~ A person 18 years ~~[of age]~~ old or older who delivers drug paraphernalia to a
42 person younger than 18 years ~~[of age]~~ old and who is three years or more younger than the
43 person making the delivery is guilty of a third degree felony.

44 (4) (a) It is unlawful for ~~[any]~~ a person to place in this state in ~~[any]~~ a newspaper,
45 magazine, handbill, or other publication ~~[any]~~ an advertisement, knowing that the purpose of
46 the advertisement is to promote the sale of drug paraphernalia.

47 (b) ~~[Any]~~ A person who violates Subsection (4)(a) is guilty of a class B misdemeanor.

48 (5) (a) A person may not be charged with distribution of hypodermic syringes as drug
49 paraphernalia if at the time of sale or distribution the syringes are in a sealed sterile package
50 and are for a legitimate medical purpose, including:

51 (i) injection of prescription medications as prescribed by a practitioner; or

52 (ii) the prevention of disease transmission.

53 (b) A person may not be charged with possession of a hypodermic ~~[syringes]~~ syringe as
54 drug paraphernalia if the syringe is unused and is in a sealed sterile package.

55 (6) In a prosecution under Subsection (1) for possession of a hypodermic syringe or
56 needle, the prosecutor or the court ~~shall~~ **may** dismiss the charge if the person establishes,
56a by a

57 preponderance of the evidence, that:

58 (a) at the time of the offense:

59 (i) the hypodermic syringe or needle was stored in a sealed puncture-resistant
60 container, such as a medical sharps disposal container, that was clearly marked on the outside
61 of the container with a warning that identified the container as containing medical waste; and

62 (ii) the person was enrolled or participating in a syringe exchange program under
63 Section 26B-7-117; and

64 (b) after the day of the offense, but before the day on which the case is adjudicated, the
65 person demonstrated an intent to engage with substance abuse treatment by $\hat{H} \rightarrow$ [:

66 ~~—— (i) completing a substance use disorder screening;~~

67 ~~—— (ii) completing an educational program focused on substance use disorder treatment; or~~

68 ~~—— (iii) enrolling;] $\leftarrow \hat{H}$ commencing, $\hat{H} \rightarrow$ [or] $\leftarrow \hat{H}$ continuing $\hat{H} \rightarrow$, or completing [to~~

68a ~~participate in] $\leftarrow \hat{H}$ a substance use disorder~~
69 ~~treatment program.~~

70 [(6)] (7) A person may be charged and sentenced for a violation of this section,
71 notwithstanding a charge and sentence for a violation of any other section of this chapter.

72 Section 2. **Effective date.**

73 This bill takes effect on May 1, 2024.