

Mike Schultz proposes the following substitute bill:

Sentencing Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends statutory provisions related to sentencing.

Highlighted Provisions:

This bill:

- modifies the membership of the Sentencing Commission;
- requires the Sentencing Commission to give consideration to certain objectives when determining a recommended sentence or supervision length for the adult sentencing and supervision length guidelines;
- requires the Sentencing Commission, before November 1, 2026, to revise and review the adult sentencing and supervision length guidelines for certain offenses;
- addresses the factors and information that a sentencing court is required to consider when sentencing an individual; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-401.2, as last amended by Laws of Utah 2021, Chapter 173

63M-7-404.3, as last amended by Laws of Utah 2025, Chapter 214

76-3-201, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

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

Section 1. Section **63M-7-401.2** is amended to read:

29 **63M-7-401.2 . Creation -- Members -- Appointment -- Qualifications.**

30 (1) There is created the sentencing commission, within the commission, that is composed of
 31 15 voting members.

32 (2) The sentencing commission shall:

33 (a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah
 34 Administrative Rulemaking Act; and

35 (b) elect the sentencing commission's officers.

36 (3) The sentencing commission's members [~~shall be~~] are:

37 (a) the executive director of the Department of Corrections or the executive director's
 38 designee;

39 (b) the director of the [-]Division of Juvenile Justice and Youth Services or the director's
 40 designee;

41 (c) the executive director of the commission or the executive director's designee;

42 (d) the chair of the Board of Pardons and Parole or the chair's designee;

43 (e) the state court administrator or the state court administrator's designee;

44 ~~h~~ → ~~[(f)]~~ ~~]~~ **[a criminal defense attorney, appointed by the Utah Association of**
 44a **Criminal Defense**

45 **Lawyers;] ~~h~~ ← ~~h~~**

46 [~~g~~] an indigent defense attorney, appointed by the Indigent Defense Commission;]

47 [~~h~~ ~~h~~ → ~~(f)~~] ~~(g)~~ ← ~~h~~ the attorney general or the attorney general's designee;

48 [~~i~~ ~~h~~ → ~~(g)~~] ~~(h)~~ ← ~~h~~ [~~a criminal prosecutor~~] three criminal prosecutors, appointed by
 48a the Statewide

49 Association of Public Attorneys and Prosecutors;

50 [~~j~~ ~~h~~ → ~~(h)~~] ~~(i)~~ ← ~~h~~ [~~a representative~~] three representatives of the Utah Sheriff's
 50a Association

51 appointed by the governor;

52 [~~k~~ ~~h~~ → ~~(i)~~] ~~(j)~~ ← ~~h~~ a licensed professional, appointed by the governor, who assists
 52a in the

53 rehabilitation of individuals convicted of an offense;

54 [~~l~~ ~~h~~ → ~~(j)~~] ~~(k)~~ ← ~~h~~ the chair of the Utah Victim Services Commission or a member
 54a of the Utah

55 Victim Services Commission designated by the chair;

56 [~~m~~ ~~h~~ → ~~(k)~~] ~~(l)~~ ← ~~h~~ the chair of the Juvenile Justice Oversight Committee or a

56a member of the
 57 Juvenile Justice Oversight Committee designated by the chair; and
 58 ~~[(n) H → (f)] (m) ← H~~ [a juvenile prosecuting attorney] three juvenile prosecutors,
 58a appointed by the
 59 Statewide Association of Public Attorneys and Prosecutors[; ~~and~~] .
 60 ~~[(o) a juvenile defense attorney, appointed by the Utah Association of Criminal Defense~~
 61 ~~Lawyers.]~~

62 (4) In addition to the members described in Subsection (3), the following may serve as
 63 non-voting members:

- 64 (a) a district court judge appointed by the Judicial Council; and
- 65 (b) a juvenile court judge appointed by the Judicial Council.

66 (5) The executive director of the commission shall hire a director of the sentencing
 67 commission to administer and manage the sentencing commission.

68 Section 2. Section **63M-7-404.3** is amended to read:

69 **63M-7-404.3 . Adult sentencing and supervision length guidelines.**

70 (1) ~~[The]~~ Subject to Subsection (2), the sentencing commission shall establish and maintain
 71 adult sentencing and supervision length guidelines regarding:

- 72 (a) the sentencing and release of offenders in order to:
 - 73 (i) accept public comment;
 - 74 (ii) relate sentencing practices and correctional resources;
 - 75 (iii) increase equity in sentencing;
 - 76 (iv) better define responsibility in sentencing; and
 - 77 (v) enhance the discretion of the sentencing court while preserving the role of the
 78 Board of Pardons and Parole;
- 79 (b) the length of supervision of offenders on probation or parole in order to:
 - 80 (i) accept public comment;
 - 81 (ii) increase equity in criminal supervision lengths;
 - 82 (iii) relate the length of supervision to an offender's progress;
 - 83 (iv) take into account an offender's risk of offending again;
 - 84 (v) relate the length of supervision to the amount of time an offender has remained
 85 under supervision in the community; and
 - 86 (vi) enhance the discretion of the sentencing court while preserving the role of the
 87 Board of Pardons and Parole; and
- 88 (c) appropriate, evidence-based probation and parole supervision policies and services

89 that assist offenders in successfully completing supervision and reduce incarceration
 90 rates from community supervision programs while ensuring public safety, including:

- 91 (i) treatment and intervention completion determinations based on individualized
 92 case action plans;
- 93 (ii) measured and consistent processes for addressing violations of conditions of
 94 supervision;
- 95 (iii) processes that include using positive reinforcement to recognize an offender's
 96 progress in supervision;
- 97 (iv) engaging with social services agencies and other stakeholders who provide
 98 services that meet the needs of an offender; and
- 99 (v) identifying community violations that may not warrant revocation of probation or
 100 parole.

101 [~~(2)(a) Before July 1, 2024, the sentencing commission shall revise and review the adult
 102 sentencing and supervision length guidelines to reflect appropriate penalties for the
 103 following offenses:]~~

104 [~~(i) an interlock restricted driver operating a vehicle without an ignition interlock
 105 system, Section 41-6a-518.2;]~~

106 [~~(ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and]~~

107 [~~(iii) negligently operating a vehicle resulting in death, Section 76-5-207.]~~

108 [(b) The guidelines under Subsection (2)(a) shall consider the following:]

109 [(i) the current sentencing requirements for driving under the influence of alcohol,
 110 drugs, or a combination of both as identified in Section 41-6a-505 when injury or
 111 death do not result;]

112 [(ii) the degree of injury and the number of victims suffering injury or death as a
 113 result of the offense;]

114 [(iii) the offender's number of previous convictions for driving under the influence
 115 related offenses as defined in Subsection 41-6a-501(2)(a); and]

116 [(iv) whether the offense amounts to extreme DUI, as that term is defined in Section
 117 41-6a-501.]

118 [(3) On or before October 31, 2024, the sentencing commission shall review and revise the
 119 supervision tools in the adult sentencing and supervision length guidelines to:]

120 [(a) recommend appropriate sanctions for an individual who violates probation or parole
 121 by:]

122 [(i) committing a felony offense, a misdemeanor offense described in Title 76,

- 123 Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving
124 under the influence described in Section 41-6a-502;]
- 125 [(ii) possessing a dangerous weapon; or]
- 126 [(iii) willfully refusing to participate in treatment ordered by the court or the Board of
127 Pardons and Parole; and]
- 128 [(b) recommend appropriate incentives for an individual on probation or parole that:]
- 129 [(i) completes all conditions of probation or parole; or]
- 130 [(ii) maintains eligible employment as defined in Section 64-14-301.]
- 131 (2) When determining a recommended sentence or supervision length for the adult
132 sentencing and supervision length guidelines described in Subsection (1), the sentencing
133 commission shall give:
- 134 (a) primary consideration to the protection of society; and
- 135 (b) secondary consideration to:
- 136 (i) the possibility of risk reduction through rehabilitation;
- 137 (ii) prevention of future harm;
- 138 (iii) deterrence of the individual and the public generally from committing the
139 offense;
- 140 (iv) punishment or retribution for committing the offense; and
- 141 (v) the impact on any victim of the offense.
- 142 (3) Before November 1, 2026, the sentencing commission shall review and revise the adult
143 sentencing and supervision length guidelines, including the scoring factors, to reflect the
144 appropriate penalties for:
- 145 (a) a felony offense described in Title 76, Chapter 5, Part 1, Assault and Related
146 Offenses, Part 2, Criminal Homicide, and Part 3, Kidnapping, Trafficking, and
147 Smuggling, when the felony offense is committed against an individual who is 18
148 years old or older;
- 149 (b) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76 Chapter
150 5b, Sexual Exploitation Act, Title 76, Chapter 5c, Pornographic and Harmful
151 Materials and Performances, and Title 76, Chapter 5d, Prostitution, and Section
152 76-7-102; and
- 153 (c) a domestic violence offense as defined in Section 77-36-1.
- 154 (4) The sentencing commission shall establish guidelines in the adult sentencing and
155 supervision length guidelines that recommend an enhanced sentence that a court or the
156 Board of Pardons and Parole should consider when determining the period in which a

157 habitual offender, as defined in Section 77-18-102, will be incarcerated.

158 (5) The sentencing commission shall modify:

159 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
160 purposes of protecting the public and ensuring efficient use of state funds; and

161 (b) the criminal history score in the adult sentencing and supervision length guidelines to
162 reduce recidivism, including factors in an offender's criminal history that are relevant
163 to the accurate determination of an individual's risk of offending again.

164 Section 3. Section **76-3-201** is amended to read:

165 **76-3-201 . Sentences or combination of sentences allowed -- Restitution and other**
166 **costs -- Civil penalties.**

167 (1) As used in this section:

168 (a)(i) "Convicted" means:

169 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a
170 mental condition; or

171 (B) having received a judgment of guilty or a judgment of guilty with a mental
172 condition.

173 (ii) "Convicted" does not include an adjudication of an offense under Section
174 80-6-701.

175 (b) "Restitution" means the same as that term is defined in Section 77-38b-102.

176 (2)(a) Within the limits provided by this chapter, a court may sentence an individual
177 convicted of an offense to any one of the following sentences, or combination of the
178 following sentences:

179 [~~(a)~~] (i) to pay a fine;

180 [~~(b)~~] (ii) to removal or disqualification from public or private office;

181 [~~(c)~~] (iii) except as otherwise provided by law, to probation in accordance with
182 Section 77-18-105;

183 [~~(d)~~] (iv) in accordance with Subsection 77-18-111(4), to imprisonment;

184 [~~(e)~~] (v) on or after April 27, 1992, to life in prison without parole; or

185 [~~(f)~~] (vi) to death.

186 (b) In determining the appropriate sentence for an individual convicted of an offense, the
187 court shall consider:

188 (i) the nature and circumstances of the offense, including the nature and gravity of the
189 harm caused by the individual's criminal conduct;

190 (ii) the history and characteristics of the individual, including the acceptance or lack

- 191 of acceptance of accountability by the individual;
192 (iii) whether the sentence to be imposed:
193 (A) reflects the seriousness of the offense, promotes respect for the law, and
194 provides just punishment for the offense;
195 (B) affords adequate deterrence of criminal conduct;
196 (C) protects the public from future offenses by the individual; and
197 (D) provides for the rehabilitative needs of the individual;
198 (iv) the adult sentencing and supervision length guidelines as defined in Section
199 63M-7-401.1;
200 (v) the presentence investigation report described in Section 77-18-103 if a
201 presentence investigation report has been prepared for the individual;
202 (vi) any aggravating factor that the court may, or is required to, consider by law for
203 the offense;
204 (vii) any aggravating or mitigating circumstances; and
205 (viii) the desires and interests of any victim of the offense.
206 (c) In determining the appropriate sentence for an individual convicted of a violent
207 felony, as defined in Section 76-3-203.5, or a sexual offense, as defined in Section
208 76-3-407, the sentencing court shall prioritize the factors described in Subsections
209 (2)(b)(i), (2)(b)(iii)(A), (2)(b)(iii)(B), (2)(b)(iii)(C), and (2)(b)(viii) over any interest
210 of the defendant.
211 (3)(a) This chapter does not deprive a court of authority conferred by law:
212 (i) to forfeit property;
213 (ii) to dissolve a corporation;
214 (iii) to suspend or cancel a license;
215 (iv) to permit removal of an individual from office;
216 (v) to cite for contempt; or
217 (vi) to impose any other civil penalty.
218 (b) A court may include a civil penalty in a sentence.
219 (4) In addition to any other sentence that a sentencing court may impose, the court shall
220 order an individual to:
221 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution
222 Act;
223 (b) subject to Section 77-32b-104, pay the cost expended by an appropriate
224 governmental entity under Section 77-30-24 for the extradition of the individual if

- 225 the individual:
- 226 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve
- 227 pending criminal charges; and
- 228 (ii) is convicted of an offense in the county for which the individual is returned;
- 229 (c) subject to Subsection (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of
- 230 medical care, treatment, hospitalization, and related transportation, as described in
- 231 Section 17-63-706, that is provided by a county to the individual while the individual
- 232 is in a county correctional facility before and after sentencing if:
- 233 (i) the individual is convicted of an offense that results in incarceration in the county
- 234 correctional facility; and
- 235 (ii)(A) the individual is not a state prisoner housed in the county correctional
- 236 facility through a contract with the Department of Corrections; or
- 237 (B) the reimbursement does not duplicate the reimbursement under Section
- 238 64-13e-104 if the individual is a state probationary inmate or a state parole
- 239 inmate; and
- 240 (d) pay any other cost that the court determines is appropriate under Section 77-32b-104.
- 241 (5) The cost of medical care under Subsection (4)(c) does not include expenses incurred by
- 242 the county correctional facility in providing reasonable accommodation for an inmate
- 243 qualifying as an individual with a disability as defined and covered by the Americans
- 244 with Disabilities Act, 42 U.S.C. Secs. 12101 through 12213, including medical and
- 245 mental health treatment for the inmate's disability.

246 **Section 4. Effective Date.**

247 This bill takes effect on May 6, 2026.