

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-7-401.1, as enacted by Laws of Utah 2024, Chapter 208

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:

29 Section 1. Section **63M-7-401.1** is amended to read:

30 **63M-7-401.1 . Definitions for part.**

31 As used in this part:

32 (1) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of an
33 offense under Section 80-6-701.

34 (2) "Adult sentencing and supervision length guidelines" means the guidelines established
35 in Section 63M-7-404.3.

36 (3) "Civil disability" means a legal right or privilege that is revoked as a result of the
37 individual's conviction or adjudication.

38 (4) "Collateral consequence" means:

39 (a) a discretionary disqualification; or

40 (b) a mandatory sanction.

41 (5) "Conviction" means the same as that term is defined in Section 77-38b-102.

42 (6) "Disadvantage" means any legal or regulatory restriction that:

43 (a) is imposed on an individual as a result of the individual's conviction or adjudication;
44 and

45 (b) is not a civil disability or a legal penalty.

46 (7) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage
47 that a court in a civil proceeding, or a federal, state, or local government agency or
48 official, may impose on an individual as a result of the individual's adjudication or
49 conviction for an offense regardless of whether the penalty, the civil disability, or the
50 disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

51 (8) "Juvenile" means a minor as that term is defined in Section 80-1-102.

52 (9) "Juvenile disposition guidelines" means the guidelines established in Section
53 63M-7-404.5.

54 (10) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

55 (a) is imposed on an individual as a result of the individual's adjudication or conviction
56 for an offense regardless of whether the penalty, the civil disability, or the
57 disadvantage is specifically designated as a penalty, a civil disability, or a
58 disadvantage; and

59 (b) is not included in the judgment for the adjudication or conviction.

60 (11) "Master offense list" means a document that contains all offenses that exist in statute
61 and each offense's associated penalty.

62 (12) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the

63 laws of this state, another state, or the United States.

64 (13) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the
65 individual for the individual's conviction or adjudication.

66 (14) "Rural county" means a county in this state other than Davis County, Salt Lake
67 County, or Utah County.

68 ~~[(14)]~~ (15) "Sentencing commission" means the sentencing commission created in Section
69 63M-7-401.2.

70 Section 2. Section **63M-7-401.2** is amended to read:

71 **63M-7-401.2 . Creation -- Members -- Appointment -- Qualifications.**

72 (1) There is created the sentencing commission, within the commission, that is composed of [
73 ~~15]~~ 17 voting members.

74 (2) The sentencing commission shall:

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

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

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

79 (a) the executive director of the Department of Corrections or the executive director's
80 designee;

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

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

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

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

86 (f) ~~[a criminal defense attorney]~~ three criminal defense attorneys, appointed by the Utah
87 Association of Criminal Defense Lawyers, with at least one being a criminal defense
88 attorney in a rural county;

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

90 ~~[(h)]~~ (g) the attorney general or the attorney general's designee;

91 ~~[(i)]~~ (h) ~~[a criminal prosecutor]~~ three criminal prosecutors, appointed by the Statewide
92 Association of Public Attorneys and Prosecutors, with at least one being a criminal
93 prosecutor in a rural county;

94 ~~[(j)]~~ (i) ~~[a representative of the Utah Sheriff's Association appointed by the governor]~~
95 three representatives of the Utah Sheriffs Association, appointed by the Utah Sheriffs
96 Association;

- 97 ~~[(k)]~~ (j) ~~[a licensed professional]~~ an individual, appointed by the governor, who assists in
 98 the rehabilitation of individuals convicted of an offense; and
 99 ~~[(h)]~~ (k) the chair of the Utah Victim Services Commission or a member of the Utah
 100 Victim Services Commission designated by the chair[;] .
 101 ~~[(m)]~~ the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile
 102 Justice Oversight Committee designated by the chair;]
 103 ~~[(n)]~~ a juvenile prosecuting attorney, appointed by the Statewide Association of Public
 104 Attorneys and Prosecutors; and]
 105 ~~[(o)]~~ a juvenile defense attorney, appointed by the Utah Association of Criminal Defense
 106 Lawyers.]
- 107 (4) In addition to the members described in Subsection (3), the following may serve as
 108 non-voting members:
 109 (a) a district court judge appointed by the Judicial Council; ~~[and]~~
 110 (b) a juvenile court judge appointed by the Judicial Council[;] ; and
 111 (c) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile
 112 Justice Oversight Committee designated by the chair.
- 113 (5) The executive director of the commission shall hire a director of the sentencing
 114 commission to administer and manage the sentencing commission.
- 115 Section 3. Section **63M-7-404.3** is amended to read:
 116 **63M-7-404.3 . Adult sentencing and supervision length guidelines.**
- 117 (1) ~~[The]~~ Subject to Subsection (2), the sentencing commission shall establish and maintain
 118 adult sentencing and supervision length guidelines regarding:
 119 (a) the sentencing and release of offenders in order to:
 120 (i) accept public comment;
 121 (ii) relate sentencing practices and correctional resources;
 122 (iii) increase ~~[equity]~~ consistency in sentencing;
 123 (iv) better define responsibility in sentencing; and
 124 (v) enhance the discretion of the sentencing court while preserving the role of the
 125 Board of Pardons and Parole;
 126 (b) the length of supervision of offenders on probation or parole in order to:
 127 (i) accept public comment;
 128 (ii) increase ~~[equity]~~ consistency in criminal supervision lengths;
 129 (iii) relate the length of supervision to an offender's progress;
 130 (iv) take into account an offender's risk of offending again;

- 131 (v) relate the length of supervision to the amount of time an offender has remained
132 under supervision in the community; and
- 133 (vi) enhance the discretion of the sentencing court while preserving the role of the
134 Board of Pardons and Parole; and
- 135 (c) appropriate, evidence-based probation and parole supervision policies and services
136 that assist offenders in successfully completing supervision and reduce incarceration
137 rates from community supervision programs while ensuring public safety, including:
- 138 (i) treatment and intervention completion determinations based on individualized
139 case action plans;
- 140 (ii) measured and consistent processes for addressing violations of conditions of
141 supervision;
- 142 (iii) processes that include using positive reinforcement to recognize an offender's
143 progress in supervision;
- 144 (iv) engaging with social services agencies and other stakeholders who provide
145 services that meet the needs of an offender; and
- 146 (v) identifying community violations that may not warrant revocation of probation or
147 parole.

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

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

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

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

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

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

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

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

163 [~~(iv) whether the offense amounts to extreme DUI, as that term is defined in Section
164 41-6a-501.]~~

- 165 ~~[(3) On or before October 31, 2024, the sentencing commission shall review and revise the~~
166 ~~supervision tools in the adult sentencing and supervision length guidelines to:]~~
167 ~~[(a) recommend appropriate sanctions for an individual who violates probation or parole~~
168 ~~by:]~~
169 ~~[(i) committing a felony offense, a misdemeanor offense described in Title 76,~~
170 ~~Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving~~
171 ~~under the influence described in Section 41-6a-502;]~~
172 ~~[(ii) possessing a dangerous weapon; or]~~
173 ~~[(iii) willfully refusing to participate in treatment ordered by the court or the Board of~~
174 ~~Pardons and Parole; and]~~
175 ~~[(b) recommend appropriate incentives for an individual on probation or parole that:]~~
176 ~~[(i) completes all conditions of probation or parole; or]~~
177 ~~[(ii) maintains eligible employment as defined in Section 64-14-301.]~~
178 (2) When determining a recommended sentence or supervision length for the adult
179 sentencing and supervision length guidelines described in Subsection (1), the sentencing
180 commission shall give:
181 (a) primary consideration to the protection of society; and
182 (b) secondary consideration to:
183 (i) the possibility of risk reduction through rehabilitation;
184 (ii) prevention of future harm;
185 (iii) deterrence of the individual and the public generally from committing the
186 offense;
187 (iv) punishment or retribution for committing the offense; and
188 (v) the impact on any victim of the offense.
189 (3) Before November 1, 2026, the sentencing commission shall review and revise the adult
190 sentencing and supervision length guidelines, including the scoring factors, to reflect the
191 appropriate penalties for:
192 (a) a felony offense described in Title 76, Chapter 5, Part 1, Assault and Related
193 Offenses, Part 2, Criminal Homicide, and Part 3, Kidnapping, Trafficking, and
194 Smuggling, when the felony offense is committed against an individual who is 18
195 years old or older;
196 (b) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76 Chapter
197 5b, Sexual Exploitation Act, Title 76, Chapter 5c, Pornographic and Harmful
198 Materials and Performances, and Title 76, Chapter 5d, Prostitution, and Section

- 199 76-7-102; and
 200 (c) any other offense as determined appropriate by the sentencing commission.
 201 (4) The sentencing commission shall establish guidelines in the adult sentencing and
 202 supervision length guidelines that recommend an enhanced sentence that a court or the
 203 Board of Pardons and Parole should consider when determining the period in which a
 204 habitual offender, as defined in Section 77-18-102, will be incarcerated.
 205 (5) The sentencing commission shall modify:
 206 (a) the adult sentencing and supervision length guidelines to reduce recidivism for the
 207 purposes of protecting the public and ensuring efficient use of state funds; and
 208 (b) the criminal history score in the adult sentencing and supervision length guidelines to
 209 reduce recidivism, including factors in an offender's criminal history that are relevant
 210 to the accurate determination of an individual's risk of offending again.

211 Section 4. Section **76-3-201** is amended to read:

212 **76-3-201 . Sentences or combination of sentences allowed -- Restitution and other**
 213 **costs -- Civil penalties.**

- 214 (1) As used in this section:
 215 (a)(i) "Convicted" means:
 216 (A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a
 217 mental condition; or
 218 (B) having received a judgment of guilty or a judgment of guilty with a mental
 219 condition.
 220 (ii) "Convicted" does not include an adjudication of an offense under Section
 221 80-6-701.
 222 (b) "Restitution" means the same as that term is defined in Section 77-38b-102.
 223 (2)(a) Within the limits provided by this chapter, a court may sentence an individual
 224 convicted of an offense to any one of the following sentences, or combination of the
 225 following sentences:
 226 [~~(a)~~] (i) to pay a fine;
 227 [~~(b)~~] (ii) to removal or disqualification from public or private office;
 228 [~~(c)~~] (iii) except as otherwise provided by law, to probation in accordance with
 229 Section 77-18-105;
 230 [~~(d)~~] (iv) in accordance with Subsection 77-18-111(4), to imprisonment;
 231 [~~(e)~~] (v) on or after April 27, 1992, to life in prison without parole; or
 232 [~~(f)~~] (vi) to death.

- 233 (b) In determining the appropriate sentence for an individual convicted of an offense, the
234 court shall consider:
- 235 (i) the nature and circumstances of the offense, including the nature and gravity of the
236 harm caused by the individual's criminal conduct;
- 237 (ii) the history and characteristics of the individual, including the acceptance or lack
238 of acceptance of accountability by the individual;
- 239 (iii) whether the sentence to be imposed:
- 240 (A) reflects the seriousness of the offense, promotes respect for the law, and
241 provides just punishment for the offense;
- 242 (B) affords adequate deterrence of criminal conduct;
- 243 (C) protects the public from future offenses by the individual; and
- 244 (D) provides for the rehabilitative needs of the individual;
- 245 (iv) the adult sentencing and supervision length guidelines as defined in Section
246 63M-7-401.1;
- 247 (v) the presentence investigation report described in Section 77-18-103 if a
248 presentence investigation report has been prepared for the individual;
- 249 (vi) any aggravating factor that the court may, or is required to, consider by law for
250 the offense;
- 251 (vii) any aggravating or mitigating circumstances; and
- 252 (viii) the desires and interests of any victim of the offense.
- 253 (c) In determining the appropriate sentence for an individual convicted of a violent
254 felony, as defined in Section 76-3-203.5, or a sexual offense, as defined in Section
255 76-3-407, the sentencing court shall prioritize the factors described in Subsections
256 (2)(b)(i), (2)(b)(iii)(A), (2)(b)(iii)(B), and (2)(b)(iii)(C) over any interest of the
257 defendant.
- 258 (3)(a) This chapter does not deprive a court of authority conferred by law:
- 259 (i) to forfeit property;
- 260 (ii) to dissolve a corporation;
- 261 (iii) to suspend or cancel a license;
- 262 (iv) to permit removal of an individual from office;
- 263 (v) to cite for contempt; or
- 264 (vi) to impose any other civil penalty.
- 265 (b) A court may include a civil penalty in a sentence.
- 266 (4) In addition to any other sentence that a sentencing court may impose, the court shall

- 267 order an individual to:
- 268 (a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution
269 Act;
- 270 (b) subject to Section 77-32b-104, pay the cost expended by an appropriate
271 governmental entity under Section 77-30-24 for the extradition of the individual if
272 the individual:
- 273 (i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve
274 pending criminal charges; and
- 275 (ii) is convicted of an offense in the county for which the individual is returned;
- 276 (c) subject to Subsection (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of
277 medical care, treatment, hospitalization, and related transportation, as described in
278 Section 17-63-706, that is provided by a county to the individual while the individual
279 is in a county correctional facility before and after sentencing if:
- 280 (i) the individual is convicted of an offense that results in incarceration in the county
281 correctional facility; and
- 282 (ii)(A) the individual is not a state prisoner housed in the county correctional
283 facility through a contract with the Department of Corrections; or
- 284 (B) the reimbursement does not duplicate the reimbursement under Section
285 64-13e-104 if the individual is a state probationary inmate or a state parole
286 inmate; and
- 287 (d) pay any other cost that the court determines is appropriate under Section 77-32b-104.
- 288 (5) The cost of medical care under Subsection (4)(c) does not include expenses incurred by
289 the county correctional facility in providing reasonable accommodation for an inmate
290 qualifying as an individual with a disability as defined and covered by the Americans
291 with Disabilities Act, 42 U.S.C. Secs. 12101 through 12213, including medical and
292 mental health treatment for the inmate's disability.

293 **Section 5. Effective Date.**

294 This bill takes effect on May 6, 2026.