

**PLEA WITHDRAWAL AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the requirements for withdrawing a guilty plea.

**Highlighted Provisions:**

This bill:

- ▶ allows a defendant to challenge a guilty plea on appeal under certain circumstances;

and

- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-13-6**, as last amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **77-13-6** is amended to read:

**77-13-6. Withdrawal of plea.**

(1) A defendant may withdraw a plea of not guilty [~~may be withdrawn~~] at any time  
[~~prior to~~] before conviction.



28 (2) (a) A ~~[plea of guilty or no contest may be withdrawn]~~ defendant may withdraw a  
29 plea of guilty or no contest only upon:

30 (i) leave of the court; and

31 (ii) a showing that [it] the plea of guilty or no contest was not knowingly and  
32 voluntarily made.

33 (b) (i) A defendant shall request to withdraw a plea of guilty or no contest, except for a  
34 plea held in abeyance, ~~[shall be made]~~ by filing a motion before any sentence is announced.  
35 ~~[Sentence may not be announced unless the motion is denied.]~~

36 (ii) If a motion is filed under Subsection (2)(b)(i), the court may not announce a  
37 sentence for the defendant, unless the court has denied the motion.

38 (iii) For a plea held in abeyance, a defendant shall file a motion to withdraw the plea  
39 ~~[shall be made]~~ within 30 days of ~~[pleading]~~ the day on which a plea of guilty or no contest is  
40 made.

41 ~~[(c) Any challenge to a guilty plea not made within the time period specified in~~  
42 ~~Subsection (2)(b) shall be pursued under Title 78B, Chapter 9, Postconviction Remedies Act,~~  
43 ~~and Rule 65C, Utah Rules of Civil Procedure.]~~

44 (3) If a defendant fails to withdraw a plea of guilty before the court announces a  
45 sentence for the defendant, the defendant may challenge the plea of guilty:

46 (a) under Title 78B, Chapter 9, Postconviction Remedies Act, and the Utah Rules of  
47 Civil Procedure, Rule 65C; or

48 (b) on appeal if the defendant claims that the defendant failed to withdraw the plea of  
49 guilty because of:

50 (i) plain error;

51 (ii) ineffective assistance of counsel; or

52 (iii) exceptional circumstances.