

How to Withdraw a Plea in Utah

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It's a frightening experience to find yourself accepting a plea deal, in order to avoid potentially going to trial and receiving the maximum penalty for a crime you have been accused of committing. There are naturally many reasons why [an innocent person might agree to a plea deal](#), in an attempt to reduce that dreadful risk. But, pleading guilty is often not the best available option. Even if you actually did commit a crime, withdrawing the plea deal, if you can, may be in your best interest. An experienced [Utah criminal defense attorney](#) can help you determine the lowest-risk legal course for you to pursue in the Utah court system.

How Do You Change a Plea in Utah?

Under Code Title 77 of the Utah Code of Criminal Procedure, Chapter 13 Pleas, [Section 6, 77-13-6, Withdrawal of plea](#), a not guilty plea may be withdrawn any time before conviction. Under Section 6, a guilty plea or a plea of “no contest” can only be withdrawn with the permission of the court, and only if the defendant can show that the plea was not made “knowingly” and “voluntarily.”

Section 6 goes on to stipulate that a request either to withdraw a guilty plea or to enter a plea of “no contest” must be presented by making a motion, prior to announcement of the sentence. If the motion is granted, then the sentence will not be announced. If the motion is denied, then the sentence is announced.

The only exception to this process is for a plea held in abeyance. When a plea is being held in abeyance, the defendant can make a motion to withdraw the plea within 30 days from the time he or she pleads guilty or no contest.

Further under Section 6. If a request to change a guilty plea is not made within the specified time frame, it can still be pursued under Title 78B, Chapter 9, Postconviction Remedies Act, and Rule 65C, Utah Rules of Civil Procedure.

How Hard is it to Withdraw a Plea in Utah?

So, a plea can be withdrawn in Utah. However, it's not quite as simple as that. On the contrary, while changing a plea to guilty is likely to be approved by the court, getting a plea changed from guilty to not guilty can be extremely difficult to accomplish. There are scenarios in which it can happen, but their outcomes are far from certain. For example:

Sometimes judges don't permit plea bargains early in the Utah criminal court process. So, either the defendant or the prosecutor can change their minds about a plea agreement before sentencing. But, after the plea agreement is in place, having it later waived by the court, if you change your mind about your decision, is possible, but it is very unlikely to be allowed.

In other cases, an appeal can be obtained. For example, if some evidence was obtained in an illegal way, or if the prosecutor has attempted to use such evidence to compel you to accept a plea deal. In such an instance, if there is an appeal and the inappropriate handling by a prosecutor is exposed, then the judge might throw out the plea deal you accepted.

In yet other cases, certain criteria for entering a plea agreement may not have been met. For example, according to the Supreme Court in Utah (2012), a person entering a plea agreement must know what he's agreeing to. For example:

- If the record reveals that he or she does not understand the kinds of protections under the constitution that he is giving up in making a plea bargain, the plea deal is not viewed as a valid agreement.
- Or, if the individual doesn't clearly understand the nature of the charge(s) against him/her, the defendant's plea cannot be an intelligently and voluntarily made admission of guilt, according to the court.

In consideration of the third scenario above, Rule of Criminal Procedure 11 was created, as a so-called "prophylactic measure," to protect the rights of a person entering guilty pleas. Rule 11 also applies to making sure defendants understand the consequences of doing so and that the plea is reasonable:

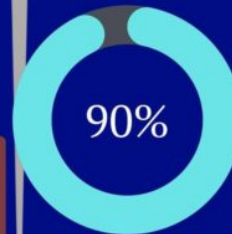
- The defendant must be aware that he would be presumed innocent at trial, and that the State's prosecutors must prove ALL claims in their case beyond a reasonable doubt.

- The accused must also know he could cross-examine prosecution witnesses, that he would not have to testify himself, that he could force witnesses who could help his case to come and testify for him.
- The plea must have a factual basis that establishes that the defendant actually did commit the offense and that there is, therefore, significant potential for conviction.

Plea for Criminal Cases in Utah



of federal criminal cases and a same number of state cases are solved via a plea bargain.



of federal criminal cases in Utah are solved via a plea bargain arrangement.

Types of Plea in Utah

To determine how should you plead, carefully consider the legal counsel of your attorney.

1

Not Guilty

2

Guilty

3

No Contest



4

Not Guilty by Reason of Insanity

5

Guilty With a Mental Illness at the Time of

Benefits of Plea Arrangements

Plea arrangements come with a wide range of advantages for defendants, which can include:

- The reduction of a felony charge to a misdemeanor.
- The dismissal of some charges against the defendant.
- The avoidance of maximum sentence terms.
- A faster, more affordable path to resolving the charges.

It's best to have an experienced attorney guide you through the legal process. Call Wasatch Defense Lawyers.



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Why You Need an Experienced Salt Lake City Criminal Defense Attorney

Naturally, being a defendant in a criminal case is a frightening experience. It is not uncommon for clients to express that they have pled guilty, and have changed their minds about it. Other clients explain that the first lawyer handling their case seemed to be hurrying through the process and did not thoroughly explain everything.

There are various ways to manage pleas in Utah courts including a negotiated plea, diversion, or even a plea in abeyance for some types of cases and circumstances. Consult with your criminal trial lawyer, for clear explanations of your best options.

An experienced Utah criminal law attorney knows how to build your strongest possible case for withdrawing a guilty plea. Your lawyer can obtain the written plea agreement signed by the client at the time you pled guilty as well as the [audio file from the court](#), which typically provides a large amount of useful information.

Wasatch Defense Lawyers, Salt Lake City UT

We are among the most experienced and effective criminal defense attorneys in Salt Lake City, Utah. We specialize in defense against charges of sex crimes. We are highly responsive, and start immediately working to get charges reduced or dropped completely, and to keep you from going to jail, and to keep you from being entered on the Utah sex offender registry.

For more information about withdrawing a plea, or to set an appointment for a free confidential case assessment, call Wasatch Defense Lawyers at (801) 980-9965, or [contact us online](#).