

**39<sup>th</sup> LEGISLATURE  
1ST REGULAR SESSION**

**S.B. NO. 39-09  
IN THE SENATE**

13 MARCH 2025

INTRODUCED BY: Sen. Tuaolo Manaia E. Fruean, D-6

REFERRED TO COMMITTEE ON:

**SUBJECT:**  
CRIMINAL JUSTICE – PLEA IN ABEYANCE – PROBATION

**SUMMARY:**  
This bill amends the law to clarify the importance of probation as an essential component of the plea in abeyance process, promoting a fair and rehabilitative approval to justice.

OWN VOTE			LEGISLATIVE VOTE		
YES	NO		YES	NO	DATE
<input type="checkbox"/>	<input type="checkbox"/>	1ST READING			
<input type="checkbox"/>	<input type="checkbox"/>	COMMITTEE REPORT			
<input type="checkbox"/>	<input type="checkbox"/>	2ND READING			
<input type="checkbox"/>	<input type="checkbox"/>	3RD READING			
<input type="checkbox"/>	<input type="checkbox"/>	AMENDED - SEE CALENDAR DATED			
<input type="checkbox"/>	<input type="checkbox"/>	AMENDED - SEE JOURNAL DATED			
<input type="checkbox"/>	<input type="checkbox"/>	AMENDED - SEE JOURNAL DATED			
<input type="checkbox"/>	<input type="checkbox"/>	RECOMMITTED			
<input type="checkbox"/>	<input type="checkbox"/>	ORDERED TO LIE			
<input type="checkbox"/>	<input type="checkbox"/>	WITHDRAWN			

1 S.B. NO. 39-091  
2 INTRODUCED BY: Jim West  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAW TO  
5 CLARIFY THE IMPORTANCE OF PROBATION AS AN ESSENTIAL  
6 COMPONENT OF THE PLEA IN ABEYANCE PROCESS, PROMOTING A  
7 FAIR AND REHABILITATIVE APPROVAL TO JUSTICE, AMENDING  
8 SECTIONS 46.3002 AND 46.3003, A.S.C.A."  
9

10 Preamble:

11 WHEREAS, the judicial system seeks to balance accountability, rehabilitation and  
12 public safety in resolving criminal cases; and  
13

14 WHEREAS, probation serves as a critical mechanism for supervising defendants  
15 and supporting their rehabilitation while they remain integrated within  
16 the community; and  
17

18 WHEREAS, the placement of a defendant on probation during the duration of a  
19 plea held in abeyance provides an opportunity to address underlying  
20 issues such as substance abuse or behavioral challenges, that may  
21 have contributed to the alleged offense; and  
22

23 WHEREAS, a structured probation period ensures that defendants demonstrate a  
24 commitment to lawful behavior and compliance with court-order  
25 conditions, thereby fostering their reintegration into society and  
26 reducing the likelihood of recidivism; and  
27

28 WHEREAS, if it is assessed by the court in the plea in abeyance agreement, the  
29 court shall retain a non-refundable plea in abeyance fee, equivalent to

1 the amount that would ordinarily be assessed as a fine for the offense,  
2 to offset the administrative cost of probationary services during the  
3 plea in abeyance period; and  
4

5 WHEREAS, this amendment underscores the importance of probation as an  
6 essential component of the plea in abeyance process, promoting a fair  
7 and rehabilitative approval to justice.  
8

9 BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:  
10

11 Section 1. Section 46.3002 is amended to read:

12 “46.3002 Plea of Abeyance agreement - Negotiation - Contents -Terms of  
13 Agreement- Waiver of time for sentencing.

14 (a) At any time after acceptance of a plea of guilty or no contest but  
15 before entry of judgment of conviction and imposition of sentence, the court may,  
16 upon motion of both the prosecuting attorney and the defendant, hold the plea in  
17 abeyance and not enter judgment of conviction against the defendant nor impose  
18 sentence upon the defendant within the time periods contained in local rules.

19 (b) A defendant has the right to be represented by counsel at any court  
20 hearing relating to a plea in abeyance agreement.

21 (c) A defendant shall be represented by counsel during negotiations for a  
22 plea in abeyance and at the time of acknowledgment and affirmation of any plea in  
23 abeyance agreement unless the defendant knowingly and intelligently waives the  
24 defendant's right to counsel.

25 (d) Contents of plea in abeyance:

26 (1) Any plea in abeyance agreement entered into between the prosecution  
27 and the defendant and approved by the court shall include a full, detailed recitation  
28 of the requirements and conditions agreed to by the defendant and the reason for  
29 requesting the court to hold the plea in abeyance.

1           (2) Upon acceptance by the court, the defendant shall be placed on  
2 probation for the duration of the plea in abeyance period, as they would be with  
3 straight forward probationary sentences. The court’s probation office shall monitor  
4 and enforce this plea in abeyance agreement and provide regular status reports to  
5 the court.

6           ~~(2)~~(3) If the plea is to a felony or any combination of misdemeanors and  
7 felonies, the agreement shall be in writing and shall, before acceptance by the court,  
8 be executed by the prosecuting attorney, the defendant, and the defendant's counsel  
9 in the presence of the court.

10           (e) A plea may not be held in abeyance for a period longer than 18  
11 months if the plea was to any class of misdemeanor or longer than three (3) years, if  
12 the plea was to any degree of felony or to any combination of misdemeanors and  
13 felonies.

14           (f) A plea in abeyance agreement may not be approved unless the  
15 defendant, before the court, and any written agreement, knowingly and intelligently  
16 waives time for sentencing as designated in the High Court Rules.”

17  
18 Sec 2.           Section 46.3003 is amended to read:

19 “46.3003       Terms of plea of abeyance.

20           (a) The terms of a plea in abeyance agreement may include:

21           (1) an order that the defendant pay a non-refundable plea in abeyance fee, of  
22 which shall be allocated in the same manner as if paid as a fine for a criminal  
23 conviction and which may not exceed in amount the maximum fine which could  
24 have been imposed upon conviction and sentencing for the same offense.

25           (A) The court shall retain 10% of the non-refundable plea in abeyance fee  
26 to offset administrative costs of probationary services during the plea in abeyance  
27 period.

28           (B) The court shall include a detailed report of the total amount collected  
29 from plea in abeyance fees in its annual budget submission. This report shall specify

1 the allocation and usage of these funds to ensure transparency and compliance with  
2 statutory requirements.

3 (2) an order that the defendant pay restitution to the victims of the  
4 defendant's actions;

5 (3) an order that the defendant pay the costs of any remedial or rehabilitative  
6 program required by the terms of the agreement; and

7 (4) an order that the defendant comply with any other conditions which could  
8 have been imposed as conditions of probation upon conviction and sentencing for  
9 the same offense.”

10

11 Sec 3. Effective date.

12 This Act shall become effective immediately upon passage by the  
13 Legislature and approval by the Governor.

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17

----- END -----

**NOFOA'IGA TOLUSEFULU-IVA  
FONO TELE MUAMUA**

**PMM NU. 39-09  
I LE MAOTA O MAUALUGA**

13 MATI 2025

FA'AULUFALEINA E: Senatoa Tuaolo Manaia E. Fruean, Itumalo - 6

TU'UINA ATU I LE KOMITI:

**MATA'UPU:**

FAAMASINOGA SOLITULAFONO—TALOSAGA E FAATUAI - NOFO VAAVAALIA

**'OTO'OTOGA:**

O lenei pili e suia ai le tulafono e faamalamalama ai le taua o le nofova'ava'aia o se vaega taua o le talosaga mo le faatuai o le faagasologa, e siitia ai le agatonu ma le faamaoni o le toe faaleleia o le faamasinoga.

LANA PALOTA MONI			PALOTAGA A FAIPULE		
IOE	LEAI		IOE	LEAI	ASO
<input type="checkbox"/>	<input type="checkbox"/>	FAITAUGA MUAMUA			
<input type="checkbox"/>	<input type="checkbox"/>	RIPOTI A LE KOMITI			
<input type="checkbox"/>	<input type="checkbox"/>	FAITAUGA FA'ALUA			
<input type="checkbox"/>	<input type="checkbox"/>	FAITAUGA FA'ATOLU			
<input type="checkbox"/>	<input type="checkbox"/>	SUI - VA'AI ASO I LE KALENA			
<input type="checkbox"/>	<input type="checkbox"/>	SUI - VA'AI ASO TALA 'OTO'OTO			
<input type="checkbox"/>	<input type="checkbox"/>	SUI - VA'AI ASO TALA 'OTO'OTO			
<input type="checkbox"/>	<input type="checkbox"/>	TU'U ATU LE ISI KOMITI			
<input type="checkbox"/>	<input type="checkbox"/>	FA'ATONU E FA'ATA'ATIA			
<input type="checkbox"/>	<input type="checkbox"/>	TOE TAOFI			

1 P.M.M. NU. 39-09  
2 FAAULUFALEINA E: [Signature]  
3

4 O SE PILI MO SE TULAFONO E FAAULUTALAINA: “O LE TULAFONO E  
5 SUIA AI LE TULAFONO E FAAMALAMALAMA AI LE TAUA O LE  
6 FA’ANOFO VA’AVA’AIA O SE VAEGA TAUA LEA O LE TALOSAGA MO  
7 LE FAATUAI OSE FAAGASOLOGA, E SI’ITIA AI LE TALAFEAGAI LELEI  
8 MA LE TOE FUATA’IINA O FAAMASINOVA TONU, SUIA AI MAGA  
9 46.3002 MA LE 46.3003, T.T.A.S.”

10  
11 Faatomuaga:  
12

13 TALUAI, o le faagasologa o le faamasinoga e saili le paleni e tali atu, toe  
14 fuata’iina ma le saogalemu lautele e fō’ia ai mataupu tau  
15 solitulafono; ma

16  
17 TALUAI, o le faanofova’ava’aia e aveva ose auala taua mo le va’ava’aia o  
18 tagata ua molia ma lagolagoina lo latou toe fuata’iina a o mau faatasi  
19 ai pea ma isi; ma

20  
21 TALUAI, o le faanofova’ava’aia o lē ua molia i le umi o le talosaga e faatuai ai  
22 e maua ai le avanoa e faatalanoa ai mataupu e pei o le faaoga sesē o  
23 vaila’au po o lu’itau i le amio, e masalomia e iai se aafiaga i le  
24 solitulafono ua tuua’ia ai; ma

25  
26 TALUAI, o le taimi faatulagaina lelei o le faanofova’avaa’ia e faamautinoa ai  
27 ua faaalua e lē ua molia i se ta’utinoga o le a ia tausia le tulafono ma  
28 usita’ia poloa’iga a le faamasinoga, ma faaosofaia ai lo latou toe foi

1                   atu e soifua faatasi ma le lautele, ma faaitiitia ai le toe foi i tua o le  
2                   olaga; ma

3

4   TALUAI,       afai e iloiloina e le faamasinoga i le maliliega o le talosaga e faatuai,  
5                   e taofia e le faamasinoga le tupe e le toe faafo'ia sa totonu o le  
6                   talosaga e tusa ma le aofa'iga e masani ona iloiloina o se sala tupe  
7                   mo se solitulafono, e faapaleni ai le tau o le faagaoiiga o galuega  
8                   faanofova'ava'aia i le taimi o le talosaga e faatuai; ma

9

10   TALUAI,       o lenei suiga e faamamafaina le taua o le nofova'ava'aia o se vaega  
11                   taua tele o le faagasologa o le talosaga e faatuai se tali, faatupuina ai  
12                   se toe fuata'ia talafeagai e faamaonia mo faamasinoga tonu.

13

#### 14   IA FAATULAFONOINA E LE FONO FAITULAFONO A AMERIKA SAMOA:

15

16   Maga 1.       46.3002 ua suia e faitauina faapea:

17   “46.3002       Maliega o le Talosaga e Faatuai – Feutaga'iga – Mea o i totonu  
18                   Tuutuuga o le Maliega – Faagafua o le taimi o le faasalaga.

19               (a)   I soo se taimi lava pe a mae'a ona talia o le tali e nofo sala poo le lē  
20               faatautee foi i le moliaga, ae lei oo ina faauluina le iuga o le nofo sala ma tuuina  
21               mai foi le faasalaga, e mafai e le faamasinoga, i luga o se manatu faatu mai e itu e  
22               lua o le faamasinoga, ona taofia o lana faaiuga ma lē faataunuina le faasalaga i  
23               totonu o taimi ia o loo i ai i ana tulafono o galuega.

24               (e)   E i ai le aia o le ua molia i se loia e fai ma ona sui i soo se iloiloga a  
25               le faamasinoga e faia faatatau i le maliega e faatuai le faauluina o le tali.

26               (i)   E i ai le loia e fai ma sui o se tagata molia i le taimi o feutaga'iga mo  
27               se talosaga e faatuai le faaulu o le tali, ma le taimi e faailoa ai ma faamaonia soo

1 se maliega i le talosaga e faatuai, sei vagana ai ua faagafua e le tagata molia ma  
2 lona iloa ma le malamalama atoatoa lona aia i se loia.

3 (o) Mea i totonu o le talosaga mo le faatuai:

4 (1) Soo se maliega i se talosaga e faatuai le faauluina o se tali i le vā o le  
5 malo ma lē ua molia ma faamaonia e le faamasinoga, e tatau ona aofia ai le  
6 auiliiliga atoa o mana’oga ma tuutuuga na malie i ai lē na molia ma le mafuaaga  
7 na talosaga ai le faamasinoga ina ia umia le talosaga lea.

8 (2) Afai e talia e le faamasinoga, o le a nofova’ava’aia lē ua molia mo  
9 le umi o le talosaga e faatuai ai e pei ona oġatusa ma faasalaga faanofova’ava’aia.  
10 E mata’itūina ma faamalasia e le ofisa faanofova’ava’aia a le faamasinoga ma  
11 faamalasia le maliliega o le talosaga e faatuai ma tuuina atu ripoti o taualumaga  
12 uma i le faamasinoga.

13 ~~(2)~~(3) o le tali na faia mo se solitulafono mamafa, poo se tuufaatasiga foi o  
14 ni solitulafono mama ma solitulafono mamafa, e tatau ona tusitusia le maliliega  
15 ma e tatau, ona faagaioia e le loia a le malo, o le na molia, ma lana loia i le auai  
16 ai o le faamasinoga, a o lei oo ina talia e le faamasinoga.

17 (u) E le mafai ona taofia o se talosaga e faatuai mo le silia i le 18 masina  
18 pe afai o le tali sa faia i soo se tulaga o solitulafono mama poo le sili atu i le 3  
19 tausaga, pe afai o se solitulafono mamafa i soo se tulaga, poo se tuufaatasiga o  
20 solitulafono mama ma le mamafa.

21 (f) E le mafai ona faamaonia o se talosaga e faatuai ai le faauluina o le  
22 tali i se solitulafono sei vagana ai ua faagafua ma le iloa lelei ma le malamalama o  
23 lē na molia i luma o le faamasinoga, le taimi o le faasalaga e pei ona faatonu mai i  
24 Tulafono Galue a le Faamasinoga Maualuga.”

25

26 Maga 2. 46.3003 ua suia e faitauina faapea:

27 “46.3003 Tuutuuga o le talosaga e faatuai le faauluina o le tali.

28 (a) O tuutuuga o se maliega i se talosaga e faatuai e aofia ai:

1 (1) se poloaiga ina ia totogi e lē na molia le tupe e faia ai le talosaga lea  
2 e faatuai, e pei lava ona faia e foliga o loo totogi se salatupe mo se faasalaga  
3 solitulafono, ma ia le silia le aofai aupito maualuga o le sala sa mafai ona faaee i le  
4 taimi e faamaonia ai le nofosala mo le solitulafono lea;

5 (A) E taofia e le faamasinoga le 10% o le talosaga aioi ma usita'i e  
6 faatumuina ai tau mo le fagaio'iga o auauunaga tau i le faanofova'ava'aia i taimi o  
7 le talosaga ma le tolopoina.

8 (B) E faia e le faamasinoga se ripoti au'ili'ili o le aofa'iga o le tupe na  
9 aoina mai o talosaga mo le faatuai i lana tala faatatau faaletausaga o le tupe. O lea  
10 ripoti e faamanino lelei ai le vaevaega ma le faaogaina o nei tupe ina ia mautinoa  
11 ai le faamanino lelei mai ma le usita'ia o mana'oga faaletulafono.

12 (2) se poloaiga ina ia totogi e lē na molia se tupe i e na afaina i ana mea  
13 na fai;

14 (3) se poloaiga ina ia totogi e lē na molia soo se gaoioiga poo  
15 porokalama na manaomia ona faia i tuutuuga o le maliega; ma

16 (4) se poloaiga ina ia usita'ia e lē na molia soo se tuutuuga lava sa mafai  
17 ona faaono faaee e fai ma tuutuuga o le nofovaavaaia i le taimi na faamaonia ai le  
18 solitulafono ma le faasalaga mo le solitulafono lava lea.”

19

20 Maga 3. Aso e taualoaina ai.

21 O lenei tulafono o le a taualoa i le taimi lava e pasia ai e le Fonofaitulafono  
22 ma faamaonia e le Kovana.

23

24

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----IUGA----

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