

CRIMINAL PROCEDURE AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

This act modifies the Code of Criminal Procedure and the Judicial Code to allow for expanded authority for certain magistrates for a limited time period during the Winter Olympics in 2002. It also provides for the disposition of fines and fees collected during that time. This act takes effect on January 14, 2002 and certain amendments are repealed or reinstated on March 16, 2002.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

77-7-19, as last amended by Chapter 198, Laws of Utah 1996

78-7-17.5, as last amended by Chapter 212, Laws of Utah 1997

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

Section 1. Section **77-7-19** is amended to read:

77-7-19. Appearance required by citation -- Arrest for failure to appear -- Transfer of cases -- Motor vehicle violations -- Disposition of fines and costs.

(1) Persons receiving misdemeanor citations shall appear before the magistrate designated in the citation on or before the time and date specified in the citation unless the uniform bail schedule adopted by the Judicial Council or Subsection 77-7-21(1) permits forfeiture of bail for the offense charged.

(2) A citation may not require a person to appear [~~sooner than five days or~~] later than 14 days following its issuance.

(3) A person who receives a citation and who fails to comply with Section 77-7-21 on or before the time and date and at the court specified is subject to arrest. The magistrate may issue a warrant of arrest.

(4) Except where otherwise provided by law, a citation or information issued for violations of Title 41, Motor Vehicles, shall state that the person receiving the citation or information shall appear before the magistrate who has jurisdiction over the offense charged.

(5) Any justice court judge may, upon the motion of either the defense attorney or prosecuting attorney, based on a lack of territorial jurisdiction or the disqualification of the judge, transfer cases to a justice court with territorial jurisdiction or the district court within the county.

(6) (a) Clerks and other administrative personnel serving the courts shall ensure that all citations for violation of Title 41, Motor Vehicles, are filed in a court with jurisdiction and venue and shall refuse to receive citations that should be filed in another court.

(b) Fines, fees, costs, and forfeitures imposed or collected for violations of Title 41, Motor Vehicles, which are filed contrary to this section shall be paid to the entitled municipality or county by the state, county, or municipal treasurer who has received the fines, fees, costs, or forfeitures from the court which collected them.

(c) The accounting and remitting of sums due shall be at the close of the fiscal year of the municipality or county which has received fines, fees, costs, or forfeitures as a result of any improperly filed citations.

Section 2. Section **78-7-17.5** is amended to read:

78-7-17.5. Authority of magistrate.

(1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:

- (a) commit a person to incarceration prior to trial;
- (b) set or deny bail under Section 77-20-1 and release upon the payment of bail and satisfaction of any other conditions of release;
- (c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;
- (d) conduct an initial appearance in a felony;
- (e) conduct arraignments;
- (f) conduct a preliminary examination to determine probable cause;
- (g) appoint attorneys and order recoupment of attorney fees;
- (h) order the preparation of presentence investigations and reports;
- (i) issue temporary orders as provided by rule of the Judicial Council; and

(j) perform any other act or function authorized by statute.

(2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

(a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment in a felony case as provided by rule of the Judicial Council; ~~and~~

(b) a judge of the justice court may not set bail in a capital or first degree felony nor deny bail in any case; and

(c) a judge of the justice court may authorize administrative traffic checkpoints under Section 77-23-104 and issue search warrants only within the judicial district.

(3) From January 14, 2002 until February 28, 2002, the chief justice may designate any magistrate to hear final disposition of any misdemeanors filed in the judicial district in which that magistrate sits as a judge. These specially designated magistrates may hear misdemeanors on behalf of any justice court, district court, or juvenile court within that judicial district. During this period of special designation, a magistrate that hears a case on behalf of a court other than the court in which that magistrate usually sits shall order any fines, fees, or forfeitures collected on behalf of another court to be transferred to that court within three days, along with any records pertaining to the matter.

Section 3. Effective date.

This act takes effect on January 14, 2002.

Section 4. Repeal and reinstatement of certain provisions.

It is the intent of the Legislature that on March 16, 2002:

(1) the deleted language in Subsection 77-7-19(2) "sooner than five days or" be reinstated;

and

(2) Subsection 78-7-17.5(3) is repealed.