

**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 This act takes effect on January 14, 2002 and certain amendments are repealed or reinstated on March 16, 2002.**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

28 of Title 41, Motor Vehicles, shall state that the person receiving the citation or information shall  
29 appear before the magistrate who has jurisdiction over the offense charged.

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

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

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

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

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

44 **78-7-17.5. Authority of magistrate.**

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

47 (a) commit a person to incarceration prior to trial;

48 (b) set or deny bail under Section 77-20-1 and release upon the payment of bail and  
49 satisfaction of any other conditions of release;

50 (c) issue to any place in the state summonses and warrants of search and arrest and  
51 authorize administrative traffic checkpoints under Section 77-23-104;

52 (d) conduct an initial appearance in a felony;

53 (e) conduct arraignments;

54 (f) conduct a preliminary examination to determine probable cause;

55 (g) appoint attorneys and order recoupment of attorney fees;

56 (h) order the preparation of presentence investigations and reports;

57 (i) issue temporary orders as provided by rule of the Judicial Council; and

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

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

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

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

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

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

75 Section 3. **Effective date.**

76 This act takes effect on January 14, 2002.

77 Section 4. **Repeal and reinstatement of certain provisions.**

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

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

80 and

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

---

---

**Legislative Review Note**  
**as of 1-15-01 9:23 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**