

Karianne Lisonbee proposes the following substitute bill:

Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Brady Brammer

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LONG TITLE

General Description:

This bill modifies statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- ▶ modifies compliance requirements for sheriffs;
- ▶ modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- ▶ requires a county sheriff who permits probation to establish probations standards and procedures established by the Utah Sheriffs' Association;
- ▶ modifies contractual term requirements for the state court administrator in relation to provision of security;
- ▶ modifies provisions related to the definition and calculation of the state daily incarceration rate;
- ▶ modifies the definition of habitual offender and makes conforming changes;
- ▶ removes references to unsecured bonds;
- ▶ modifies provisions related to a county sheriff's release of individuals on their own recognizance;
- ▶ prohibits a county jail official from fixing a financial condition for an individual with a misdemeanor charge for certain domestic violence and driving under the influence offenses; and
- ▶ modifies provisions related to a magistrate's orders for pretrial release or detention.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

29 **Utah Code Sections Affected:**

30 AMENDS:

- 31 **17-22-2**, as last amended by Laws of Utah 2024, Chapter 21
 32 **17-22-5.5**, as last amended by Laws of Utah 2024, Chapter 419
 33 **17-22-5.6**, as enacted by Laws of Utah 2024, Chapter 16
 34 **17-22-27**, as last amended by Laws of Utah 2011, Chapter 297
 35 **64-13e-102**, as last amended by Laws of Utah 2024, Chapter 467
 36 **64-13e-103.1**, as last amended by Laws of Utah 2024, Chapter 467
 37 **77-18-102**, as last amended by Laws of Utah 2024, Chapters 245, 434
 38 **77-18-103**, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434
 39 **77-20-102**, as last amended by Laws of Utah 2023, Chapter 408
 40 **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16
 41 **77-20-204**, as last amended by Laws of Utah 2024, Chapter 16
 42 **77-20-205**, as last amended by Laws of Utah 2024, Chapters 187, 434
 43 **77-20-402**, as renumbered and amended by Laws of Utah 2021, Second Special Session,
 44 Chapter 4

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

47 Section 1. Section **17-22-2** is amended to read:

48 **17-22-2 . Sheriff -- General duties.**

49 (1) The sheriff shall:

- 50 (a) preserve the peace;
 51 (b) make all lawful arrests;
 52 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when
 53 required or when the court is held within his county, all courts of record, and court
 54 commissioner and referee sessions held within his county, obey their lawful orders
 55 and directions[, and comply with the court security rule, Rule 3-414, of the Utah
 56 Code of Judicial Administration];
 57 (d) upon request of the juvenile court, aid the court in maintaining order during hearings
 58 and transport a minor to and from youth corrections facilities, other institutions, or
 59 other designated places;
 60 (e) attend county justice courts if the judge finds that the matter before the court requires
 61 the sheriff's attendance for security, transportation, and escort of jail prisoners in his
 62 custody, or for the custody of jurors;

- 63 (f) command the aid of as many inhabitants of the sheriff's county as the sheriff
64 considers necessary in the execution of these duties;
- 65 (g) take charge of and keep the county jail and the jail prisoners;
- 66 (h) receive and safely keep all persons committed to the sheriff's custody, file and
67 preserve the commitments of those persons in custody, and record the name, age,
68 place of birth, and description of each person committed;
- 69 (i) release on the record all attachments of real property when the attachment the sheriff
70 receives has been released or discharged;
- 71 (j) endorse on all process and notices the year, month, day, hour, and minute of
72 reception, and, upon payment of fees, issue a certificate to the person delivering
73 process or notice showing the names of the parties, title of paper, and the time of
74 receipt;
- 75 (k) serve all process and notices as prescribed by law;
- 76 (l) if the sheriff makes service of process or notice, certify on the process or notices the
77 manner, time, and place of service, or, if the sheriff fails to make service, certify the
78 reason upon the process or notice, and return them without delay;
- 79 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public
80 land within his county;
- 81 (n) perform as required by any contracts between the county and private contractors for
82 management, maintenance, operation, and construction of county jails entered into
83 under the authority of Section 17-53-311;
- 84 (o) for the sheriff of a county of the second through sixth class that enters into an
85 interlocal agreement for law enforcement service under Title 11, Chapter 13,
86 Interlocal Cooperation Act, provide law enforcement service as provided in the
87 interlocal agreement;
- 88 (p) manage and direct search and rescue services in his county, including emergency
89 medical responders and other related incident response activities;
- 90 (q) obtain saliva DNA specimens as required under Section 53-10-404;
- 91 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
92 detention, or search of any person when the action is solely motivated by
93 considerations of race, color, ethnicity, age, or gender;
- 94 (s) as applicable, select a representative of law enforcement to serve as a member of a
95 child protection team, as defined in Section 80-1-102;
- 96 (t) appoint a county security chief in accordance with Section 53-22-103 and ensure the

97 county security chief fulfills the county security chief's duties; and

98 (u) perform any other duties that are required by law.

99 (2)(a) Violation of Subsection (1)(j) is a class C misdemeanor.

100 (b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.

101 (3)(a) As used in this Subsection (3):

102 (i) "Police interlocal entity" means the same as that term is defined in Sections

103 17-30-3 and 17-30a-102.

104 (ii) "Police special district" means the same as that term is defined in Section 17-30-3.

105 (b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county
106 which includes within its boundary a police special district or police interlocal entity,
107 or both:

108 (i) serves as the chief executive officer of each police special district and police
109 interlocal entity within the county with respect to the provision of law
110 enforcement service within the boundary of the police special district or police
111 interlocal entity, respectively; and

112 (ii) is subject to the direction of the police special district board of trustees or police
113 interlocal entity governing body, as the case may be, as and to the extent provided
114 by agreement between the police special district or police interlocal entity,
115 respectively, and the sheriff.

116 (c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202
117 (4), if a police interlocal entity or police special district enters an interlocal agreement
118 with a public agency, as defined in Section 11-13-103, for the provision of law
119 enforcement service, the sheriff:

120 (i) does not serve as the chief executive officer of any interlocal entity created under
121 that interlocal agreement, unless the agreement provides for the sheriff to serve as
122 the chief executive officer; and

123 (ii) shall provide law enforcement service under that interlocal agreement as provided
124 in the agreement.

125 Section 2. Section **17-22-5.5** is amended to read:

126 **17-22-5.5 . Sheriff's classification of jail facilities -- Maximum operating capacity**
127 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**
128 **release.**

129 (1)(a) Except as provided in Subsection [~~(4)~~] (5), a county sheriff shall determine:

130 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a

- 131 jail facility under the sheriff's control;
- 132 (ii) the nature of each program conducted at a jail facility under the sheriff's control;
- 133 and
- 134 (iii) the internal operation of a jail facility under the sheriff's control.
- 135 (b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any
- 136 applicable zoning ordinance or conditional use permit of the county or municipality.
- 137 (2) Except as provided in Subsection [~~(4)~~] (5), each county sheriff shall:
- 138 (a) with the approval of the county legislative body, establish a maximum operating
- 139 capacity for each jail facility under the sheriff's control, based on facility design and
- 140 staffing; and
- 141 (b) upon a jail facility reaching the jail facility's maximum operating capacity:
- 142 (i) transfer prisoners to another appropriate facility:
- 143 (A) under the sheriff's control; or
- 144 (B) available to the sheriff by contract;
- 145 (ii) subject to the requirements of Subsection (4), release prisoners:
- 146 (A) to a supervised release program, according to release criteria established by
- 147 the sheriff; or
- 148 (B) to another alternative incarceration program developed by the sheriff; or
- 149 (iii) admit prisoners in accordance with law and a uniform admissions policy
- 150 imposed equally upon all entities using the county jail.
- 151 (3)(a) The sheriff shall keep records of the release status and the type of release program
- 152 or alternative incarceration program for any prisoner released under Subsection
- 153 (2)(b)(ii).
- 154 (b) The sheriff shall make these records available upon request to the Department of
- 155 Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.
- 156 (4) Before releasing an individual due to overcrowding, a sheriff shall, consistent with the
- 157 requirements of Subsection (5), contract with another county jail to house an individual
- 158 who:
- 159 (a) is arrested or convicted of a violent criminal offense as defined in Section
- 160 76-3-203.10;
- 161 (b) is arrested or convicted of a drug offense that is a felony;
- 162 (c) is arrested or convicted of possession of any composition or mixture, including pills,
- 163 that contains 100 grams or more of fentanyl or a fentanyl-related substance;
- 164 (d) is arrested or convicted of an offense of driving under the influence or driving with a

165 measurable controlled substance in the body, if the offense results in death or serious
 166 bodily injury to an individual;

167 (e) has been arrested or convicted of another crime within the 30-day period
 168 immediately preceding the date of the arrest or conviction;

169 (f) has been arrested or charged with a crime that:

170 (i) classifies the individual as a habitual offender as defined in Section 77-18-102; or

171 (ii) will classify the individual as a habitual offender under Section 77-18-102 if the
 172 individual is convicted of the crime; or

173 (g) has an outstanding warrant for failing, without just cause, to appear at a time and
 174 place that was ordered as a condition of pretrial release.

175 [(4)] (5)(a) This section may not be construed to authorize a sheriff to modify provisions
 176 of a contract with the Department of Corrections to house in a county jail an
 177 individual sentenced to the Department of Corrections.

178 (b) A county contracting with another county to house an individual:

179 (i) shall contract with the nearest county that:

180 (A) has available capacity in its county jail; and

181 (B) contracts to house the individual;

182 (ii) may not house federal detainees; and

183 (iii) shall, subject to the agreement of the parties to the contract, pay to the county
 184 contracting to receive the transferred individual a day per capita rate that does not
 185 exceed the higher of:

186 (A) the current average cost of housing an individual in the transferring county
 187 jail; or

188 (B) the daily incarceration rates described in Section 64-13e-103.1.

189 [(5)] (6) Regardless of whether a jail facility has reached the jail facility's maximum
 190 operating capacity under Subsection (2), a sheriff may release an individual from a jail
 191 facility in accordance with Section 77-20-203 or 77-20-204.

192 [(6)] (7) The sheriff of a county of the first class is encouraged to open and operate all
 193 sections of a jail facility within the county that is not being used to full capacity.

194 Section 3. Section **17-22-5.6** is amended to read:

195 **17-22-5.6 . Probation supervision -- Violation of probation -- Detention --**

196 **Hearing.**

197 (1) As used in this section:

198 (a) "Probationer" means an individual on probation under the supervision of the county

199 sheriff.

200 (b)(i) "Qualifying domestic violence offense" means the same as that term is defined
201 in Subsection 77-36-1.1(4).

202 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
203 described in Section 76-6-106.

204 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

205 (2) A county sheriff who permits an individual to be granted probation shall adopt
206 probation standards and practices that are established by the Utah Sheriffs' Association.

207 (3) A county sheriff shall ensure that the court is notified of violations of the terms and
208 conditions of a probationer's probation when the county sheriff determines that:

209 (a) incarceration is recommended as a sanction;

210 (b) a graduated and evidence-based response is not an appropriate response to the
211 offender's violation and recommends revocation of probation; or

212 (c) there is probable cause that the conduct that led to a violation of probation is:

213 (i) a violent felony; or

214 (ii) a qualifying domestic violence offense.

215 [(3)] (4) A county sheriff may take custody of, and detain, a probationer for a maximum of
216 72 hours, excluding weekends and holidays, if there is probable cause to believe that the
217 probationer has committed a violation of probation.

218 [(4)] (5) A county sheriff may not detain a probationer or parolee for longer than 72 hours
219 without obtaining a warrant issued by the court.

220 [(5)] (6) If the county sheriff detains a probationer under Subsection [(3)] (4), the county
221 sheriff shall ensure the proper court is notified.

222 [(6)] (7) A written order from the county sheriff is sufficient authorization for a peace
223 officer to incarcerate a probationer if the county sheriff has determined that there is
224 probable cause to believe that the probationer has violated the conditions of probation.

225 [(7)] (8) If a probationer commits a violation outside of the jurisdiction of the county sheriff
226 supervising the probationer, the arresting law enforcement agency is not required to hold
227 or transport the probationer to the county sheriff.

228 [(8)] (9) This section does not require the county sheriff to release a probationer who is
229 being held for something other than a probation violation, including a warrant issued for
230 new criminal conduct or a new conviction where the individual is sentenced to
231 incarceration.

232 Section 4. Section **17-22-27** is amended to read:

233 **17-22-27 . Sheriff -- Assignment of court bailiffs -- Contract and costs.**

234 (1) The sheriff shall assign law enforcement officers or special function officers, as defined
 235 under Sections 53-13-103 and 53-13-105, to serve as court bailiffs and security officers
 236 in the courts of record and county justice courts as required by the rules of the Judicial
 237 Council.

238 (2)(a) The state court administrator shall [-]enter into a contract with the county sheriff
 239 for bailiffs and building security officers for the district and juvenile courts within
 240 the county.~~[-The contract may not exceed amounts appropriated by the Legislature~~
 241 ~~for that purpose.]~~ The county shall assume costs related to security administration,
 242 supervision, travel, equipment, and training of bailiffs.

243 (b) The contract shall specify the agreed services, costs of services, and terms of
 244 payment.

245 (c) If the court is located in the same facility as a state or local law enforcement agency
 246 and the county sheriff's office is not in close proximity to the court, the state court
 247 administrator in consultation with the sheriff may enter into a contract with the state
 248 or local law enforcement agency for bailiff and security services subject to meeting
 249 all other requirements of this section. If the services are provided by another agency,
 250 the county sheriff shall have no responsibility for the services under this section.

251 (3)(a) At the request of the court, the sheriff may appoint as a law clerk bailiff graduates
 252 of a law school accredited by the American Bar Association to provide security and
 253 legal research assistance. Any law clerk who is also a bailiff shall meet the
 254 requirements of Subsection (1) of this section.

255 (b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two
 256 years, who shall be exempt from the deputy sheriff merit service commission.

257 Section 5. Section **64-13e-102** is amended to read:

258 **64-13e-102 . Definitions.**

259 As used in this chapter:

260 (1) "Alternative treatment program" means:

261 (a) an evidence-based cognitive behavioral therapy program; or

262 (b) a certificate-based program provided by:

263 (i) an institution of higher education described in Subsection 53B-1-102(1)(b); or

264 (ii) a degree-granting institution acting in the degree-granting institution's technical
 265 education role described in Section 53B-2a-201.

266 (2) "Board" means the Board of Pardons and Parole.

- 267 (3) "Commission" means the State Commission on Criminal and Juvenile Justice, created in
268 Section 63M-7-201.
- 269 (4)(a) "Condition of probation day" means a day spent by a state probationary inmate in
270 a county correctional facility as a condition of probation.
- 271 (b) "Condition of probation day" includes a day spent by a state probationary inmate in a
272 county correctional facility:
- 273 (i) after the date of sentencing;
- 274 (ii) before the date of sentencing, if a court orders that the state probationary inmate
275 shall receive credit for time served in a county correctional facility before the date
276 of sentencing;
- 277 (iii) as a condition of an original order of probation; and
- 278 (iv) as a condition of a new order of probation after a prior revocation of probation.
- 279 (c) "Condition of probation day" does not include a day spent by a state probationary
280 inmate in a county correctional facility:
- 281 (i) as a probation sanction day;
- 282 (ii) after the state probationary inmate has spent 365 consecutive days in a county
283 correctional facility for a single order of probation;
- 284 (iii) as a condition of a plea in abeyance agreement if a conviction has not been
285 entered;
- 286 (iv) on a hold instituted by the federal Immigration and Customs Enforcement
287 Agency of the United States Department of Homeland Security; or
- 288 (v) after the termination of probation if the state probationary inmate is:
- 289 (A) sentenced to prison; or
- 290 (B) eligible for release.
- 291 (5) "Department" means the Department of Corrections, created in Section 64-13-2.
- 292 (6) "Division" means the Division of Finance, created in Section 63A-3-101.
- 293 (7)(a) "Eligible bed day" means a day spent by a state probationary inmate or a state
294 parole inmate in a county correctional facility that is eligible for reimbursement
295 under Section 64-13e-104.
- 296 (b) "Eligible bed day" includes:
- 297 (i) a condition of probation day;
- 298 (ii) a parole hold day;
- 299 (iii) a parole sanction day; and
- 300 (iv) a probation sanction day.

- 301 (8)(a) "Parole hold day" means a day spent in a county correctional facility by a state
302 parole inmate under Subsection 64-13-29(3) based on a suspected violation of the
303 state parole inmate's terms of parole.
- 304 (b) "Parole hold day" does not include a day spent in a county correctional facility by a
305 state parole inmate:
- 306 (i) after the state parole inmate has spent 72 hours, excluding weekends and holidays,
307 for a single suspected violation of the state parole inmate's terms of parole; or
308 (ii) as a parole sanction day.
- 309 (9)(a) "Parole sanction day" means a day spent in a county correctional facility by a state
310 parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state
311 parole inmate's terms of parole.
- 312 (b) "Parole sanction day" includes not more than three consecutive days and not more
313 than a total of five days within a period of 30 days for each sanction.
- 314 (c) "Parole sanction day" does not include a parole hold day.
- 315 (10)(a) "Probation sanction day" means a day spent in a county correctional facility by a
316 state probationary inmate as a sanction under Subsection 64-13-6(2) based on a
317 violation of the state probationary inmate's terms of probation.
- 318 (b) "Probation sanction day" includes not more than three consecutive days and not more
319 than a total of five days within a period of 30 days for each sanction.
- 320 (c) "Probation sanction day" does not include:
- 321 (i) a condition of probation day; or
322 (ii) a day spent in a county correctional facility by a state probationary inmate under
323 Subsection 64-13-29(3) based on a suspected violation of the state probationary
324 inmate's terms of probation.
- 325 (11) "State daily incarceration rate" means the average daily incarceration rate $\hat{H} \rightarrow [F] \leftarrow \hat{H}$, **calculated**
326 **by the department based on the previous three fiscal years, $\hat{H} \rightarrow [F] \leftarrow \hat{H}$** that reflects the
following
327 expenses incurred by the department for housing an inmate:
- 328 (a) executive overhead;
329 (b) administrative overhead;
330 (c) transportation overhead;
331 (d) division overhead; and
332 (e) motor pool expenses.
- 333 (12) "State inmate" means an individual, other than a state probationary inmate or state

334 parole inmate, who is committed to the custody of the department.

335 (13) "State parole inmate" means an individual who is:

336 (a) on parole, as defined in Section 77-27-1; and

337 (b) housed in a county correctional facility for a reason related to the individual's parole.

338 (14) "State probationary inmate" means a felony probationer sentenced to time in a county
339 correctional facility under Subsection 77-18-105(6).

340 (15) "Treatment program" means:

341 (a) an alcohol treatment program;

342 (b) a substance abuse treatment program;

343 (c) a sex offender treatment program; or

344 (d) an alternative treatment program.

345 Section 6. Section **64-13e-103.1** is amended to read:

346 **64-13e-103.1 . Calculating the state incarceration rate.**

347 ~~Ĥ→ [(1)(a) **Before July 1, 2026, the department shall calculate the state daily incarceration rate**~~
~~**based on the previous four fiscal years.**]~~

348 ~~[(b) **Beginning July 1, 2026, the department shall calculate the state daily incarceration**~~
349 ~~**rate based on the previous five fiscal years.**]~~

349a ~~(1) ←Ĥ~~

350 ~~(2)~~ Before September 15 of each year, the department shall:

351 (a) calculate the state daily incarceration rate; and

352 (b) inform each county and the commission of the state daily incarceration rate.

353 ~~[(2)] (3)~~ The state daily incarceration rate may not be less than the rate presented to the

354 Executive Appropriations Committee ~~Ĥ→ [of the Legislature]~~ ←Ĥ for purposes of setting

354a the

355 appropriation for the department's budget.

356 Section 7. Section **77-18-102** is amended to read:

357 **77-18-102 . Definitions.**

358 As used in this chapter:

359 (1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.

360 (2) "Board" means the Board of Pardons and Parole.

361 (3) "Civil accounts receivable" means the same as that term is defined in Section
362 77-32b-102.

363 (4) "Civil judgment of restitution" means the same as that term is defined in Section
364 77-32b-102.

- 365 (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 366 (6) "Criminal accounts receivable" means the same as that term is defined in Section
367 77-32b-102.
- 368 (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 369 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 370 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 371 (10) "Habitual offender" means an individual who ~~has been convicted in~~:
- 372 (a)(i) has been convicted in at least ~~[six]~~ five previous cases for one or more felony
373 offenses in each case; and
- 374 ~~[(b)]~~ (ii) ~~[each case described in Subsection (10)(a) within five years before]~~ the
375 conviction for each case referred to in Subsection (10)(a)(i) occurred within the
376 five-year period immediately preceding the day on which the defendant is
377 convicted of the new felony offense before the court[-] ;
- 378 (b)(i) has been charged with one or more felony offenses in at least nine separate
379 cases; and
- 380 (ii) a felony charge in each case referred to in Subsection (10)(b)(i) was issued within
381 the five-year period immediately preceding the day on which the defendant is
382 convicted of the new felony offense before the court;
- 383 (c)(i) has been convicted in at least nine previous cases for one or more misdemeanor
384 offenses in each case; and
- 385 (ii) the conviction for each case referred to in Subsection (10)(c)(i) occurred within
386 the three-year period immediately preceding the day on which the defendant is
387 convicted of a new misdemeanor or felony offense before the court; or
- 388 (d)(i) has been charged with one or more misdemeanor offenses in at least 19
389 separate cases; and
- 390 (ii) a misdemeanor charge in each case referred to in Subsection (10)(d)(i) was issued
391 within the three-year period immediately preceding the day on which the
392 defendant is convicted of the new misdemeanor or felony offense before the court.
- 393 (11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- 394 (12) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 395 (13) "Screening" means a tool or questionnaire that is designed to determine whether an
396 individual needs further assessment or any additional resource or referral for treatment.
- 397 (14) "Substance use disorder treatment" means treatment obtained through a substance use
398 disorder program that is licensed by the Office of Licensing within the Department of

399 Health and Human Services.

400 Section 8. Section **77-18-103** is amended to read:

401 **77-18-103 . Presentence investigation report -- Classification of presentence**
402 **investigation report -- Evidence or other information at sentencing.**

403 (1) Before the imposition of a sentence, the court may:

- 404 (a) upon agreement of the defendant, continue the date for the imposition of the sentence
405 for a reasonable period of time for the purpose of obtaining a presentence
406 investigation report from the department or a law enforcement agency, or information
407 from any other source about the defendant; and
408 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the
409 department or a law enforcement agency prepare a presentence investigation report
410 for the defendant.

411 (2)(a) Notwithstanding Subsection (1), if a defendant is convicted of [~~a felony~~] an
412 offense and the defendant is a habitual offender, the prosecuting attorney shall notify
413 the court that the defendant is a habitual offender.

414 (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for
415 the conviction without ordering and obtaining a presentence investigation report,
416 unless the court finds good cause to proceed with sentencing without the presentence
417 investigation report.

418 (3) If a presentence investigation report is required under Subsection (2) or the standards
419 established by the department described in Section 77-18-109, the presentence
420 investigation report under Subsection (1) shall include:

- 421 (a) any impact statement provided by a victim as described in Subsection 77-38b-203
422 (3)(c);
423 (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
424 (c) recommendations for treatment for the defendant; and
425 (d) the number of days since the commission of the offense that the defendant has spent
426 in the custody of the jail and the number of days, if any, the defendant was released
427 to a supervised release program or an alternative incarceration program under Section
428 17-22-5.5.

429 (4) The department or law enforcement agency shall provide the presentence investigation
430 report to the defendant's attorney, or the defendant if the defendant is not represented by
431 counsel, the prosecuting attorney, and the court for review within three working days
432 before the day on which the defendant is sentenced.

- 433 (5)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that
434 is not resolved by the parties and the department or law enforcement agency
435 before sentencing:
- 436 (A) the alleged inaccuracy shall be brought to the attention of the court at
437 sentencing; and
- 438 (B) the court may grant an additional 10 working days after the day on which the
439 alleged inaccuracy is brought to the court's attention to allow the parties and
440 the department to resolve the alleged inaccuracy in the presentence
441 investigation report.
- 442 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the
443 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds
444 that there is an inaccuracy in the presentence investigation report, the court shall:
- 445 (A) enter a written finding as to the relevance and accuracy of the challenged
446 portion of the presentence investigation report; and
- 447 (B) provide the written finding to the department or the law enforcement agency.
- 448 (b) The department shall attach the written finding to the presentence investigation
449 report as an addendum.
- 450 (c) If a party fails to challenge the accuracy of the presentence investigation report at the
451 time of sentencing, the matter shall be considered waived.
- 452 (6) The contents of the presentence investigation report are protected and not available
453 except by court order for purposes of sentencing as provided by rule of the Judicial
454 Council or for use by the department or law enforcement agency.
- 455 (7)(a) A presentence investigation report is classified as protected in accordance with
456 Title 63G, Chapter 2, Government Records Access and Management Act.
- 457 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee
458 may not order the disclosure of a presentence investigation report.
- 459 (8) Except for disclosure at the time of sentencing in accordance with this section, the
460 department or law enforcement agency may disclose a presentence investigation only
461 when:
- 462 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
463 (b) requested by a law enforcement agency or other agency approved by the department
464 for purposes of supervision, confinement, and treatment of a defendant;
465 (c) requested by the board;
466 (d) requested by the subject of the presentence investigation report or the subject's

- 467 authorized representative;
- 468 (e) requested by the victim of the offense discussed in the presentence investigation
469 report, or the victim's authorized representative, if the disclosure is only information
470 relating to:
- 471 (i) statements or materials provided by the victim;
- 472 (ii) the circumstances of the offense, including statements by the defendant; or
- 473 (iii) the impact of the offense on the victim or the victim's household; or
- 474 (f) requested by a sex offender treatment provider:
- 475 (i) who is certified to provide treatment under the certification program established in
476 Subsection 64-13-25(2);
- 477 (ii) who is providing, at the time of the request, sex offender treatment to the offender
478 who is the subject of the presentence investigation report; and
- 479 (iii) who provides written assurance to the department that the report:
- 480 (A) is necessary for the treatment of the defendant;
- 481 (B) will be used solely for the treatment of the defendant; and
- 482 (C) will not be disclosed to an individual or entity other than the defendant.
- 483 (9)(a) At the time of sentence, the court shall receive any testimony, evidence, or
484 information that the defendant or the prosecuting attorney desires to present
485 concerning the appropriate sentence.
- 486 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in
487 open court on record and in the presence of the defendant.
- 488 (10) The court may not rely solely on an algorithm or a risk assessment tool score in
489 determining the appropriate sentence for a defendant.
- 490 Section 9. Section **77-20-102** is amended to read:
- 491 **77-20-102 . Definitions.**
- 492 As used in this chapter:
- 493 (1) "Bail" means pretrial release.
- 494 (2) "Bail bond" means the same as that term is defined in Section 31A-35-102.
- 495 (3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- 496 (4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.
- 497 (5) "County jail official" means a county sheriff or the county sheriff's designee.
- 498 (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer,
499 from liability for a bail bond.
- 500 (7) "Financial condition" means any monetary condition that is imposed to secure an

- 501 individual's pretrial release.
- 502 (8) "Forfeiture" means:
- 503 (a) to divest an individual or surety from a right to the repayment of monetary bail; or
- 504 (b) to enforce a pledge of assets or real or personal property from an individual or surety
- 505 used to secure an individual's pretrial release.
- 506 (9) "Magistrate" means the same as that term is defined in Section 77-1-3.
- 507 (10)(a) "Material change in circumstances" includes:
- 508 (i) an unreasonable delay in prosecution that is not attributable to the defendant;
- 509 (ii) a material change in the risk that an individual poses to a victim, a witness, or the
- 510 public if released due to the passage of time or any other relevant factor;
- 511 (iii) a material change in the conditions of release or the services that are reasonably
- 512 available to the defendant if released;
- 513 (iv) a willful or repeated failure by the defendant to appear at required court
- 514 appearances; or
- 515 (v) any other material change related to the defendant's risk of flight or danger to any
- 516 other individual or to the community if released.
- 517 (b) "Material change in circumstances" does not include any fact or consideration that is
- 518 known at the time that the pretrial status order is issued.
- 519 (11) "Monetary bail" means a financial condition.
- 520 (12) "Own recognizance" means the release of an individual without any condition of
- 521 release other than the individual's promise to:
- 522 (a) appear for all required court proceedings; and
- 523 (b) not commit any criminal offense.
- 524 (13) "Pretrial detention hearing" means a hearing described in Section 77-20-206.
- 525 (14) "Pretrial release" means the release of an individual from law enforcement custody
- 526 during the time the individual awaits trial or other resolution of criminal charges.
- 527 (15) "Pretrial risk assessment" means an objective, research-based, validated assessment
- 528 tool that measures an individual's risk of flight and risk of anticipated criminal conduct
- 529 while on pretrial release.
- 530 (16) "Pretrial services program" means a program that is established to:
- 531 (a) gather information on individuals booked into a jail facility;
- 532 (b) conduct pretrial risk assessments; and
- 533 (c) supervise individuals granted pretrial release.
- 534 (17) "Pretrial status order" means an order issued by a magistrate or judge that:

- 535 (a) releases the individual on the individual's own recognizance while the individual
 536 awaits trial or other resolution of criminal charges;
- 537 (b) sets the terms and conditions of the individual's pretrial release while the individual
 538 awaits trial or other resolution of criminal charges; or
- 539 (c) denies pretrial release and orders that the individual be detained while the individual
 540 awaits trial or other resolution of criminal charges.

541 (18) "Principal" means the same as that term is defined in Section 31A-35-102.

542 (19) "Surety" means a surety insurer or a bail bond agency.

543 (20) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

544 (21) "Temporary pretrial status order" means an order issued by a magistrate that:

- 545 (a) releases the individual on the individual's own recognizance until a pretrial status
 546 order is issued;
- 547 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status
 548 order is issued; or
- 549 (c) denies pretrial release and orders that the individual be detained until a pretrial status
 550 order is issued.

551 [~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if the
 552 individual fails to appear for any required court appearance.~~]

553 Section 10. Section **77-20-203** is amended to read:

554 **77-20-203 . County sheriff authority to release an individual from jail on own
 555 recognizance.**

556 (1) As used in this section:

557 (a)(i) "Qualifying domestic violence offense" means the same as that term is defined
 558 in Subsection 77-36-1.1(4).

559 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
 560 described in Section 76-6-106.

561 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

562 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

563 (2) Except as provided in Subsection (3), a county jail official may release an individual
 564 from a jail facility on the individual's own recognizance if:

565 (a) the individual was arrested without a warrant;

566 (b) the individual was not~~[-arrested for]:~~

567 (i) arrested for a violent [felony] offense as defined in Section 76-3-201.10;

568 (ii) arrested for a qualifying offense;

- 569 (iii) arrested for the offense of driving under the influence or driving with a
570 measurable controlled substance in the body if the offense results in death or
571 serious bodily injury to an individual;[-or]
- 572 (iv) arrested for an offense described in Subsection 76-9-101(4);
573 (v) arrested for possession of any composition or mixture, including pills, that
574 contains 100 grams or more of fentanyl or a fentanyl-related substance;
575 (vi) arrested for another crime within the immediately preceding 30-day period; or
576 (vii) convicted in at least nine previous cases of one or more misdemeanor offenses
577 in each case within the immediately preceding one-year period;
- 578 (c) law enforcement has not submitted a probable cause statement to a court or
579 magistrate;
- 580 (d) the individual agrees in writing to appear for any future criminal proceedings related
581 to the arrest; and
- 582 (e) the individual qualifies for release under the written policy described in Subsection
583 (4) for the county.
- 584 (3) A county jail official may not release an individual from a jail facility if the individual is
585 subject to a 72-hour hold placed on the individual by the Department of Corrections as
586 described in Section 64-13-29.
- 587 (4)(a) A county sheriff shall create and approve a written policy for the county that
588 governs the release of an individual on the individual's own recognizance.
- 589 (b) The written policy shall describe the criteria an individual shall meet to be released
590 on the individual's own recognizance.
- 591 (c) A county sheriff may include in the written policy the criteria for release relating to:
592 (i) criminal history;
593 (ii) prior instances of failing to appear for a mandatory court appearance;
594 (iii) current employment;
595 (iv) residency;
596 (v) ties to the community;
597 (vi) an offense for which the individual was arrested;
598 (vii) any potential criminal charges that have not yet been filed;
599 (viii) the individual's health condition;
600 (ix) any potential risks to a victim, a witness, or the public; and
601 (x) any other similar factor a sheriff determines is relevant.
- 602 (5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual

- 603 for up to 24 hours from booking if:
- 604 (i) the individual is on supervised probation or parole and that information is
- 605 reasonably available; and
- 606 (ii) the individual was arrested for:
- 607 (A) a violent felony; or
- 608 (B) a qualifying domestic violence offense.
- 609 (b) The jail facility shall:
- 610 (i) notify the entity supervising the individual's probation or parole that the individual
- 611 is being detained; and
- 612 (ii) release the individual:
- 613 (A) to the Department of Corrections if the Department of Corrections supervises
- 614 the individual and requests the individual's release; or
- 615 (B) if a court or magistrate orders release.
- 616 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
- 617 accordance with this chapter for a new criminal offense.
- 618 (6) This section does not prohibit a court and a county from entering into an agreement
- 619 regarding release.

620 Section 11. Section **77-20-204** is amended to read:

621 **77-20-204 . County jail authority to release an individual from jail on monetary**

622 **bail.**

- 623 (1) As used in this section, "eligible felony offense" means a third degree felony violation
- 624 under:
- 625 (a) Section 23A-4-501 or 23A-4-502;
- 626 (b) Section 23A-5-311;
- 627 (c) Section 23A-5-313;
- 628 (d) Title 76, Chapter 6, Part 4, Theft;
- 629 (e) Title 76, Chapter 6, Part 5, Fraud;
- 630 (f) Title 76, Chapter 6, Part 6, Retail Theft;
- 631 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;
- 632 (h) Title 76, Chapter 6, Part 8, Library Theft;
- 633 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;
- 634 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;
- 635 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 636 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

- 637 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;
- 638 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;
- 639 (o) Title 76, Chapter 6a, Pyramid Scheme Act;
- 640 (p) Title 76, Chapter 7, Offenses Against the Family;
- 641 (q) Title 76, Chapter 7a, Abortion Prohibition;
- 642 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- 643 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
- 644 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 645 (u) Title 76, Chapter 9, Part 5, Libel; or
- 646 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.
- 647 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial
- 648 condition for an individual if:
- 649 (a)(i) the individual is ineligible to be released on the individual's own recognizance
- 650 under Section 77-20-203;
- 651 (ii) the individual is arrested for, or charged with:
- 652 (A) a misdemeanor offense under state law, excluding a misdemeanor offense:
- 653 (I) for domestic violence as defined in Section 77-36-1; or
- 654 (II) for driving under the influence under Title 41, Chapter 6, Part 5, Driving
- 655 Under the Influence and Reckless Driving, or Section 76-5-102.1; or
- 656 (B) a violation of a city or county ordinance that is classified as a class B or C
- 657 misdemeanor offense;
- 658 (iii) the individual agrees in writing to appear for any future criminal proceedings
- 659 related to the arrest; and
- 660 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 661 (b)(i) the individual is arrested for, or charged with, an eligible felony offense;
- 662 (ii) the individual is not on pretrial release for a separate criminal offense;
- 663 (iii) the individual is not on probation or parole;
- 664 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 665 (v) the individual agrees in writing to appear for any future criminal proceedings
- 666 related to the arrest; and
- 667 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 668 (3) A county jail official may not fix a financial condition at a monetary amount that
- 669 exceeds:
- 670 (a) \$5,000 for an eligible felony offense;

- 671 (b) \$1,950 for a class A misdemeanor offense;
672 (c) \$680 for a class B misdemeanor offense;
673 (d) \$340 for a class C misdemeanor offense;
674 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
675 misdemeanor; or
676 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
677 misdemeanor.
- 678 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
679 financial condition for release:
- 680 (a) the county jail official shall fix the financial condition at a single monetary amount;
681 and
682 (b) the single monetary amount may not exceed the monetary amount under Subsection
683 (3) for the highest level of offense for which the individual is arrested.
- 684 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual
685 posts a financial condition fixed by a county jail official in accordance with this section.
- 686 (6) If a county jail official fixes a financial condition for an individual, law enforcement
687 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
688 Criminal Procedure after the county jail official fixes the financial condition.
- 689 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
690 Rules of Criminal Procedure:
- 691 (a) a county jail official may not fix or modify a financial condition for an individual;
692 and
693 (b) if a county jail official fixed a financial condition for the individual before the
694 magistrate's review, the individual may no longer be released on the financial
695 condition.
- 696 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
697 individual by the Department of Corrections as described in Section 64-13-29.
- 698 (9) This section does not prohibit a court and a county from entering into an agreement
699 regarding release.

700 Section 12. Section **77-20-205** is amended to read:

701 **77-20-205 . Pretrial release by a magistrate or judge.**

- 702 (1)(a) At the time that a magistrate issues a warrant of arrest, or finds there is probable
703 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal
704 Procedure, the magistrate shall issue a temporary pretrial status order that:

- 705 (i) releases the individual on the individual's own recognizance during the time the
 706 individual awaits trial or other resolution of criminal charges;
- 707 (ii) designates a condition, or a combination of conditions, to be imposed upon the
 708 individual's release during the time the individual awaits trial or other resolution
 709 of criminal charges; or
- 710 (iii) orders the individual be detained during the time the individual awaits trial or
 711 other resolution of criminal charges, subject to the requirements of Subsections
 712 (1)(c) and (1)(d).
- 713 (b) At the time that a magistrate issues a summons, the magistrate may issue a temporary
 714 pretrial status order that:
- 715 (i) releases the individual on the individual's own recognizance during the time the
 716 individual awaits trial or other resolution of criminal charges; or
- 717 (ii) designates a condition, or a combination of conditions, to be imposed upon the
 718 individual's release during the time the individual awaits trial or other resolution
 719 of criminal charges.
- 720 (c)(i) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary
 721 pretrial status order of detention under Subsection [~~(1) that detains an individual~~]
 722 (1)(a)(iii) if the individual is arrested for a felony offense and the magistrate finds:
- 723 [~~(i)~~] (A) there is substantial evidence to support the individual's arrest for the
 724 felony offense;
- 725 [~~(ii)~~] (B) the individual committed the felony offense while:
- 726 [~~(A)~~] (I) the individual was on parole or probation for a conviction of a felony
 727 offense; or
- 728 [~~(B)~~] (II) the individual was released and awaiting trial on a previous charge for
 729 a felony offense; and
- 730 [~~(iii)~~] (C) based on information reasonably available to the magistrate, the
 731 individual [~~has at least nine cases where the individual has been charged or~~
 732 ~~convicted, or entered a plea of guilty, within five years from the day on which~~
 733 ~~the individual was arrested for the felony offense described in Subsection~~
 734 ~~(1)(e)(i).~~]:
- 735 (I) is a habitual offender as defined in Section 77-18-102; or
- 736 (II) will be a habitual offender as defined in Section 77-18-102 if the individual
 737 is convicted of the felony offense.
- 738 [~~(d)~~] (ii) [~~Subsection~~] This Subsection (1)(c) does not limit or prohibit a magistrate's

739 authority to detain an individual who does not meet the requirements described in
740 this Subsection (1)(c).

741 (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
742 pretrial status order at an individual's first appearance before the court.

743 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
744 individual's first appearance before the court:

745 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion
746 for pretrial detention as described in Section 77-20-206;

747 (ii) if a party requests a delay; or

748 (iii) if there is good cause to delay the issuance.

749 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection
750 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
751 the issuance of a pretrial status order.

752 (3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order
753 shall:

754 (i) release the individual on the individual's own recognizance during the time the
755 individual awaits trial or other resolution of criminal charges;

756 (ii) designate a condition, or a combination of conditions, to be imposed upon the
757 individual's release during the time the individual awaits trial or other resolution
758 of criminal charges; or

759 (iii) order the individual to be detained during the time that individual awaits trial or
760 other resolution of criminal charges.

761 (b) In making a determination about pretrial release in a pretrial status order, the
762 magistrate or judge may not give any deference to a magistrate's decision in a
763 temporary pretrial status order.

764 (4) In making a determination about pretrial release, a magistrate or judge shall impose:

765 (a) only conditions of release that are reasonably available; and

766 (b) conditions of release that reasonably ensure:

767 (i) the individual's appearance in court when required;

768 (ii) the safety of any witnesses or victims of the offense allegedly committed by the
769 individual;

770 (iii) the safety and welfare of the public; and

771 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice
772 process.

- 773 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a
774 condition, or combination of conditions, for pretrial release that requires an individual to:
- 775 (a) not commit a federal, state, or local offense during the period of pretrial release;
 - 776 (b) avoid contact with a victim of the alleged offense;
 - 777 (c) avoid contact with a witness who:
 - 778 (i) may testify concerning the alleged offense; and
 - 779 (ii) is named in the pretrial status order;
 - 780 (d) not consume alcohol or any narcotic drug or other controlled substance unless
 - 781 prescribed by a licensed medical practitioner;
 - 782 (e) submit to drug or alcohol testing;
 - 783 (f) complete a substance abuse evaluation and comply with any recommended treatment
 - 784 or release program;
 - 785 (g) submit to electronic monitoring or location device tracking;
 - 786 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
 - 787 psychiatric treatment;
 - 788 (i) maintain employment or actively seek employment if unemployed;
 - 789 (j) maintain or commence an education program;
 - 790 (k) comply with limitations on where the individual is allowed to be located or the times
 - 791 that the individual shall be, or may not be, at a specified location;
 - 792 (l) comply with specified restrictions on personal associations, place of residence, or
 - 793 travel;
 - 794 (m) report to a law enforcement agency, pretrial services program, or other designated
 - 795 agency at a specified frequency or on specified dates;
 - 796 (n) comply with a specified curfew;
 - 797 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
 - 798 (p) if the individual is charged with an offense against a child, limit or prohibit access to
 - 799 any location or occupation where children are located, including any residence where
 - 800 children are on the premises, activities where children are involved, locations where
 - 801 children congregate, or where a reasonable person would know that children
 - 802 congregate;
 - 803 (q) comply with requirements for house arrest;
 - 804 (r) return to custody for a specified period of time following release for employment,
 - 805 schooling, or other limited purposes;
 - 806 (s) remain in custody of one or more designated individuals who agree to:

- 807 (i) supervise and report on the behavior and activities of the individual; and
808 (ii) encourage compliance with all court orders and attendance at all required court
809 proceedings;
- 810 (t) comply with a financial condition; or
811 (u) comply with any other condition that is reasonably available and necessary to ensure
812 compliance with Subsection (4).
- 813 (6)(a) If a county or municipality has established a pretrial services program, the
814 magistrate or judge shall consider the services that the county or municipality has
815 identified as available in determining what conditions of release to impose.
- 816 (b) The magistrate or judge may not order conditions of release that would require the
817 county or municipality to provide services that are not currently available from the
818 county or municipality.
- 819 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of
820 release not identified by the county or municipality so long as the condition does not
821 require assistance or resources from the county or municipality.
- 822 (7)(a) If the magistrate or judge determines that a financial condition[~~-, other than an~~
823 ~~unsecured bond,~~] is necessary to impose as a condition of release, the magistrate or
824 judge shall consider the individual's ability to pay when determining the amount of
825 the financial condition.
- 826 (b) If the magistrate or judge determines that a financial condition is necessary to impose
827 as a condition of release, and a county jail official fixed a financial condition for the
828 individual under Section 77-20-204, the magistrate or judge may not give any
829 deference to:
- 830 (i) the county jail official's action to fix a financial condition; or
831 (ii) the amount of the financial condition that the individual was required to pay for
832 pretrial release.
- 833 (c) If a magistrate or judge orders a financial condition as a condition of release, the
834 judge or magistrate shall set the financial condition at a single amount per case.
- 835 (8) In making a determination about pretrial release, the magistrate or judge may:
- 836 (a) rely upon information contained in:
- 837 (i) the indictment or information;
838 (ii) any sworn or probable cause statement or other information provided by law
839 enforcement;
840 (iii) a pretrial risk assessment;

- 841 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 842 (v) witness statements or testimony;
- 843 (vi) the results of a lethality assessment completed in accordance with Section
- 844 77-36-2.1; or
- 845 (vii) any other reliable record or source, including proffered evidence; and
- 846 (b) consider:
- 847 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 848 arrested for, or charged with, including:
- 849 (A) whether the offense is a violent offense; and
- 850 (B) the vulnerability of a witness or alleged victim;
- 851 (ii) the nature and circumstances of the individual, including the individual's:
- 852 (A) character;
- 853 (B) physical and mental health;
- 854 (C) family and community ties;
- 855 (D) employment status or history;
- 856 (E) financial resources;
- 857 (F) past criminal conduct;
- 858 (G) history of drug or alcohol abuse; and
- 859 (H) history of timely appearances at required court proceedings;
- 860 (iii) the potential danger to another individual, or individuals, posed by the release of
- 861 the individual;
- 862 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 863 court proceeding at the time the individual allegedly committed the offense or
- 864 offenses;
- 865 (v) the availability of:
- 866 (A) other individuals who agree to assist the individual in attending court when
- 867 required; or
- 868 (B) supervision of the individual in the individual's community;
- 869 (vi) the eligibility and willingness of the individual to participate in various treatment
- 870 programs, including drug treatment; or
- 871 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
- 872 law if released.
- 873 (9) The magistrate or judge may not base a determination about pretrial release solely:
- 874 (a) on the seriousness or type of offense that the individual is arrested for or charged

- 875 with, unless the individual is arrested for or charged with a capital felony; or
 876 (b) on an algorithm or a risk assessment tool score.
- 877 (10) An individual arrested for violation of a jail release agreement, or a jail release court
 878 order, issued in accordance with Section 78B-7-802:
- 879 (a) may not be released before the individual's first appearance before a magistrate or
 880 judge; and
- 881 (b) may be denied pretrial release by the magistrate or judge.
- 882 Section 13. Section **77-20-402** is amended to read:
- 883 **77-20-402 . Payment of monetary bail to court -- Specific payment methods --**
 884 **Refund of monetary bail.**
- 885 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail
 886 imposed by a judge or magistrate by any of the following methods:
- 887 (a) in cash;
- 888 (b) by a bail bond with a surety; or
- 889 [~~(e) by an unsecured bond, at the discretion of the judge or magistrate; or~~]
 890 [~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.
- 891 (2) A judge or magistrate may limit a defendant to a specific method of posting monetary
 892 bail described in Subsection (1):
- 893 (a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and
 894 the case involves a violent offense;
- 895 (b) in order to allow the defendant to voluntarily remit the fine in accordance with
 896 Section 77-7-21 and the offense with which the defendant is charged is listed in the
 897 shared master offense table as one for which an appearance is not mandatory;
- 898 (c) if the defendant has failed to respond to a citation or summons and the offense with
 899 which the defendant is charged is listed in the shared master offense table as one for
 900 which an appearance is not mandatory;
- 901 (d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts
 902 receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is
 903 limited to the amount owed; or
- 904 (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in
 905 any case involving the defendant.
- 906 (3) Monetary bail may not be accepted without receiving in writing at the time the bail is
 907 posted the current mailing address, telephone number, and email address of the surety.
- 908 (4) Monetary bail posted by debit or credit card, less the fee charged by the financial

909 institution, shall be tendered to the courts.

910 (5)(a) Monetary bail refunded by the court may be refunded by credit to the debit or
911 credit card or in cash.

912 (b) The amount refunded shall be the full amount received by the court under Subsection
913 (4), which may be less than the full amount of the monetary bail set by the judge or
914 magistrate.

915 (c) Before refunding monetary bail that is posted by the defendant in cash, by credit
916 card, or by debit card, the court may apply the amount posted toward a criminal
917 accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant
918 in the priority set forth in Section 77-38b-304.

919 Section 14. **Effective Date.**

920 This bill takes effect on May 7, 2025.