

# HB0226S03 compared with HB0226S01

~~{Omitted text}~~ shows text that was in HB0226S01 but was omitted in HB0226S03  
inserted text shows text that was not in HB0226S01 but was inserted into HB0226S03

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1

## Criminal Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Candice B. Pierucci**

Senate Sponsor: Daniel McCay

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### 3 LONG TITLE

#### 4 General Description:

5 This bill addresses criminal offenses and repercussions from those offenses.

#### 6 Highlighted Provisions:

7 This bill:

- 8     ▶ ~~{provides that the attorney general or the director of the Division of Corporations and Commercial Code may bring a judicial action to dissolve}~~ requires a domestic nonprofit corporation~~{;~~  
~~or to revoke the authority of}~~ and a foreign nonprofit corporation to ~~{conduct affairs in the state;}~~  
disclose and pay a civil fine if the nonprofit corporation is convicted of certain criminal offenses;
- 12     ▶ requires a county sheriff to notify and coordinate with the relevant federal immigration authority  
when preparing to release from the county jail an individual who:
- 14         • is ~~{charged with a}~~ being released after serving the individual's jail sentence for certain  
class A ~~{misdemeanor}~~ misdemeanors or a felony; and
- 15         • is, or may be, unlawfully present in the United States;
- 16     ▶ requires the Department of Corrections to notify and coordinate with the relevant federal  
immigration authority when preparing to release an inmate who:

HB0226S01

## HB0226S01 compared with HB0226S03

- 18           • is {~~convicted~~} being released after serving a term of imprisonment for a felony; and
- 19           • is, or may be, unlawfully present in the United States;
- 20           ▸ amends the sentence of imprisonment for a class A misdemeanor to one year for certain offenses;
- 21           ▸ amends certain pretrial release provisions to add a rebuttable presumption that an individual is a flight risk if the individual is not, or may no longer be, lawfully present in the United States; and
- 24           ▸ makes technical and conforming changes.

### 25 Money Appropriated in this Bill:

26           None

### 27 Other Special Clauses:

28           None

### 30 AMENDS:

31           ~~{16-6a-1414, as last amended by Laws of Utah 2024, Chapter 331, as last amended by Laws of Utah 2024, Chapter 331}~~

32           ~~{16-6a-1515, as last amended by Laws of Utah 2008, Chapter 364, as last amended by Laws of Utah 2008, Chapter 364}~~

33           ~~{16-6a-1516, as last amended by Laws of Utah 2009, Chapter 386, as last amended by Laws of Utah 2009, Chapter 386}~~

31           **17-22-9.5**, as enacted by Laws of Utah 2008, Chapter 26, as enacted by Laws of Utah 2008, Chapter 26

32           **64-13-10.6**, as last amended by Laws of Utah 2023, Chapters 58, 414, as last amended by Laws of Utah 2023, Chapters 58, 414

33           **76-3-204**, as last amended by Laws of Utah 2019, Chapter 222, as last amended by Laws of Utah 2019, Chapter 222

34           **76-3-208**, as last amended by Laws of Utah 2021, Chapter 260, as last amended by Laws of Utah 2021, Chapter 260

35           **77-20-201**, as last amended by Laws of Utah 2024, Chapter 197, as last amended by Laws of Utah 2024, Chapter 197

36           **77-20-202**, as last amended by Laws of Utah 2024, Chapter 181, as last amended by Laws of Utah 2024, Chapter 181

37           **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16, as last amended by Laws of Utah 2024, Chapter 16

## HB0226S01 compared with HB0226S03

38 ENACTS:

39 **16-6a-120 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

40 **64-13-10.7 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

41

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

43 Section 1. Section 1 is enacted to read:

44 **16-6a-120. Disclosure requirement and civil fine for a nonprofit corporation's conviction for certain offenses.**

46 (1) A domestic nonprofit corporation or a foreign nonprofit corporation, in order to continue to operate in the state, shall:

48 (a) disclose to the division a conviction for an offense described in Subsection (2) within 90 days of the conviction; and

50 (b) pay a \$10,000 civil fine to the division within 90 days of the conviction.

51 (2) A conviction referred to in Subsection (1) is a conviction of the domestic nonprofit corporation or the foreign nonprofit corporation under federal or state law for illegally committing, or attempting, soliciting, or conspiring to commit, an offense under:

54 (a) 8 U.S.C. Chapter 12, Subchapter II, Part VIII; or

55 (b) Section 76-5-308.3, Human smuggling.

45 ~~{Section 1. Section 16-6a-1414 is amended to read: }~~

46 **16-6a-1414. Grounds and procedure for judicial dissolution.**

47 (1) The attorney general or the division director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

50 (a) the nonprofit corporation obtained the nonprofit corporation's articles of incorporation through fraud;~~[-or]~~

52 (b) the nonprofit corporation has continued to exceed or abuse the authority conferred upon the nonprofit corporation by law~~[-]~~ ; or

54 (c) the nonprofit corporation has been convicted under federal or state law for illegally committing, or attempting, soliciting, or conspiring to commit, an offense under:

56 (i) 8 U.S.C. Chapter 12, Subchapter II, Part VIII; or

57 (ii) Section 76-5-308.3, Human smuggling.

## HB0226S01 compared with HB0226S03

- 58 (2) A member or director of a nonprofit corporation may bring an action in a court with jurisdiction  
under Title 78A, Judiciary and Judicial Administration, to dissolve the nonprofit corporation if it is  
established that:
- 61 (a)
- 62 (i) the directors are deadlocked in the management of the corporate affairs;
  - 63 (ii) the members, if any, are unable to break the deadlock; and
  - 64 (iii) irreparable injury to the nonprofit corporation is threatened or being suffered;
- 66 (b) the directors or those in control of the nonprofit corporation have acted, are acting, or will act in a  
manner that is illegal, oppressive, or fraudulent;
- 66 (c) the members are deadlocked in voting power and have failed, for a period that includes at least  
two consecutive annual meeting dates, to elect successors to directors whose terms have expired or  
would have expired upon the election of their successors; or
- 70 (d) the corporate assets are being misapplied or wasted.
- 71 (3) A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial  
Administration, to dissolve a nonprofit corporation if it is established that:
- 73 (a)
- 74 (i) the creditor's claim has been reduced to judgment;
  - 75 (ii) the execution on the judgment has been returned unsatisfied; and
  - 76 (iii) the nonprofit corporation is insolvent; or
- 76 (b)
- 77 (i) the nonprofit corporation is insolvent; and
  - 78 (ii) the nonprofit corporation has admitted in writing that the creditor's claim is due and owing.
- 79 (4)
- 80 (a) As used in this Subsection (4):
- 81 (i) "Misconduct claim" means:
- 82 (A) a claim for wrongful death, fraud, breach of public trust, or an intentional tort; or
  - 83 (B) a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation  
that is a felony offense or an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses,  
Title 76, Chapter 5b, Sexual Exploitation Act, Section 76-7-102, Section 76-9-702, or Section  
76-9-702.1.
- 87 (ii) "Nonprofit corporation" does not include a bona fide church or religious organization.

## HB0226S01 compared with HB0226S03

- 89 (b) If a person brings a misconduct claim in an action against a nonprofit corporation, the person may also bring an action to dissolve the nonprofit corporation.
- 91 (c) If a person brings a dissolution action under Subsection (4)(b), the court may only dissolve the nonprofit corporation if the court finds the nonprofit corporation is liable for the misconduct claim.
- 94 (d) Upon a motion by the plaintiff in a dissolution action described in Subsection (4)(b), the court may:
- 96 (i) issue an injunction preventing the nonprofit corporation from selling or disposing of any assets held by the nonprofit corporation; and
- 98 (ii) require the nonprofit corporation to deposit funds, or post a bond, with the court for the amount of damages pleaded in the complaint.
- 100 (e) The court may void a transaction that is made by the nonprofit corporation within 12 months before the day on which the action was filed with the court if the court finds that the transaction is voidable under Section 25-6-202.
- 103 (5) If an action is brought under this section, it is not necessary to make directors or members parties to the action to dissolve the nonprofit corporation unless relief is sought against the members individually.
- 106 (6) In an action under this section, the court may:
- 107 (a) issue injunctions;
- 108 (b) appoint a receiver or a custodian pendente lite with all powers and duties the court directs; or
- 110 (c) take other action required to preserve the nonprofit corporation's assets wherever located and carry on the business of the nonprofit corporation until a full hearing can be held.
- 113 (7) If a nonprofit corporation has been dissolved by voluntary or another action taken under this part:
- 115 (a) the nonprofit corporation may bring a proceeding to wind up and liquidate its business and affairs under judicial supervision in accordance with Section 16-6a-1405; and
- 118 (b) the attorney general, a director, a member, a creditor, or a plaintiff under Subsection (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit corporation under judicial supervision in accordance with Section 16-6a-1405, upon establishing the grounds set forth in Subsections (1) through (4).

122 ~~{Section 2. Section 16-6a-1515 is amended to read: }~~

123 **16-6a-1515. Grounds for revocation.**

- 124 (1) The division may commence a proceeding under Section 16-6a-1516 to revoke the authority of a foreign nonprofit corporation to conduct affairs in this state if:

## HB0226S01 compared with HB0226S03

- 126 [(1)] (a) the foreign nonprofit corporation does not deliver its annual report to the division when it is  
due;
- 128 [(2)] (b) the foreign nonprofit corporation does not pay when they are due any taxes, fees, or penalties  
imposed by this chapter or other applicable laws of this state;
- 130 [(3)] (c) the foreign nonprofit corporation is without a registered agent in this state;
- 131 [(4)] (d) the foreign nonprofit corporation does not inform the division by an appropriate filing, within  
30 days of the change or resignation, that:
- 133 [(a)] (i) its registered agent has changed; or
- 134 [(b)] (ii) its registered agent has resigned;
- 135 [(5)] (e) an incorporator, director, officer, or agent of the foreign nonprofit corporation signs a  
document knowing it is false in any material respect with intent that the document be delivered to  
the division for filing; or
- 138 [(6)] (f) the division receives a duly authenticated certificate from the division or other official  
having custody of corporate records in the state or country under whose law the foreign nonprofit  
corporation is incorporated stating that the foreign nonprofit corporation has dissolved or  
disappeared as the result of a merger.
- 142 (2) The attorney general or the division director may bring an action in a court with jurisdiction under  
Title 78A, Judiciary and Judicial Administration, to revoke the authority of a foreign nonprofit  
corporation to conduct affairs in this state if it is established that the nonprofit corporation has been  
convicted under federal or state law for illegally committing, or attempting, soliciting, or conspiring  
to commit, an offense under:
- 148 (a) 8 U.S.C. Chapter 12, Subchapter II, Part VIII; or
- 149 (b) Section 76-5-308.3, Human smuggling.
- 150 {Section 3. Section 16-6a-1516 is amended to read: }
- 151 **16-6a-1516. Procedure for and effect of revocation.**
- 152 (1) If the division determines that one or more grounds exist under [~~Section 16-6a-1515~~] Subsection  
16-6a-1515(1) for revoking the authority of a foreign nonprofit corporation to conduct affairs in this  
state, the division shall mail to the foreign nonprofit corporation with written notice of the division's  
determination stating the grounds.
- 156 (2)

## HB0226S01 compared with HB0226S03

- (a) If the foreign nonprofit corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the division that each ground determined by the division does not exist, within 60 days after mailing of the notice under Subsection (1), the division shall revoke the foreign nonprofit corporation's authority to conduct affairs in this state.
- 161 (b) If a foreign nonprofit corporation's authority to conduct affairs in this state is revoked under Subsection (2)(a), the division shall:
- 163 (i) mail a written notice of the revocation to the foreign nonprofit corporation stating the effective date of the revocation; and
- 165 (ii) mail a copy of the notice to:
- 166 (A) the last registered agent of the foreign nonprofit corporation; or
- 167 (B) if there is no registered agent of record, at least one officer of the corporation.
- 168 (3) The authority of a foreign nonprofit corporation to conduct affairs in this state ceases on the date shown on the division's certificate revoking the foreign nonprofit corporation's certificate of authority.
- 171 (4) Revocation of a foreign nonprofit corporation's authority to conduct affairs in this state does not terminate the authority of the registered agent of the foreign nonprofit corporation.
- 174 (5) A notice mailed under this section shall be:
- 175 (a) mailed first class, postage prepaid; and
- 176 (b) addressed to the most current mailing address appearing on the records of the division for:
- 178 (i) the registered agent of the nonprofit corporation, if the notice is required to be mailed to the registered agent; or
- 180 (ii) the officer of the nonprofit corporation that is mailed the notice if the notice is required to be mailed to an officer of the nonprofit corporation.

56 Section 2. Section **17-22-9.5** is amended to read:

57 **17-22-9.5. Citizenship determination of incarcerated persons -- Notification to and coordination with federal authorities when releasing certain individuals.**

- 185 (1) The sheriff shall make a reasonable effort to determine the citizenship status of [~~a person~~] an individual charged with a felony or driving under the influence under Section 41-6a-502 when the [~~person~~] individual is confined to the county jail for a period of time.
- 188 (2) If the confined [~~person~~] individual is a foreign national, the sheriff shall make a reasonable effort to verify that[~~the person~~]:

## HB0226S01 compared with HB0226S03

- 190 (a) the individual has been lawfully admitted into the United States; and
- 191 (b) the ~~[person's]~~ individual's lawful status has not expired.
- 192 (3)
- (a) If the sheriff cannot verify the confined ~~[person's]~~ individual's lawful status from documents in the ~~[person's]~~ individual's possession, the sheriff shall attempt to verify that status within 48 hours of the ~~[person's]~~ individual's confinement at the jail through contacting:
- 196 (i) the Law Enforcement Support Center of the United States Department of Homeland Security; or
- 198 (ii) an office or agency designated for citizenship status verification by the United States Department of Homeland Security.
- 200 (b) The sheriff shall notify the United States Department of Homeland Security of ~~[a person]~~ an individual whose lawful citizenship status cannot be verified under Subsection (2) or (3)(a).
- 203 (4) ~~[It]~~ In accordance with Title 77, Chapter 20, Bail, it is a rebuttable presumption for the purpose of determining ~~[the grant or issuance of a bond that a person]~~ whether to grant pretrial release that an individual who is verified under this section as a foreign national not lawfully admitted into the United States is at risk of flight.
- 207 (5)
- (a) As soon as practicable before the day of release, the sheriff shall notify the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, when the sheriff is preparing to release an individual from the county jail who:
- 85 (i) is being released after serving the individual's jail sentence for:
- 211 {~~(i)~~} (A) ~~{is charged with}~~ a class A misdemeanor ~~{or a felony; and}~~ described under Subsection 76-3-204(1)(b); or
- 87 (B) a felony; and
- 212 (ii)
- (A) is unlawfully present in the United States; or
- 213 (B) is lawfully present in the United States but has been charged with, or arrested for, a criminal offense that could affect the individual's lawful presence status.
- 215 (b) The sheriff shall coordinate with federal authorities to transfer the custody of a released individual into federal custody as may be required under Subsection (5)(a).



## HB0226S01 compared with HB0226S03

(c) The requirements described in Subsection (5)(a) do not prohibit a sheriff from notifying or working with the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, at any time with regard to an individual who is at the county jail or otherwise in the sheriff's custody.

98 Section 3. Section **64-13-10.6** is amended to read:

99 **64-13-10.6. Transition and reentry of an inmate at termination of incarceration.**

219 (1) The department shall evaluate the case action plan and update the case action plan as necessary to prepare for the offender's transition from incarceration to release, including:

221 (a) establishing the supervision level and program needs, based on the offender's criminal risk factors;

223 (b) identifying barriers to the offender's ability to obtain housing, food, clothing, and transportation;

225 (c) identifying community-based treatment resources that are reasonably accessible to the offender;

227 (d) establishing the initial supervision procedures and strategy for the offender's parole officer[-]; and

229 (e) ensuring that the offender has access to the web portal described in Section 35A-2-204 a minimum of 30 days before the offender's anticipated release date.

231 (2) The department shall notify the Board of Pardons and Parole not fewer than 30 days prior to an offender's release of:

233 (a) the offender's case action plan; and

234 (b) any specific conditions of parole necessary to better facilitate transition to the community.

236 (3)

(a) At least six months before the projected date of an inmate's release from incarceration, if practicable, the department shall follow the procedures described in Section 64-13-10.4.

239 (b) If the department is notified of the inmate's release and the remaining term of incarceration is for less than six months, the department shall follow the procedures described in Section 64-13-10.4 as soon as practicable after the department receives notification of the inmate's release date.

243 (4) If the inmate's term of incarceration is for longer than six months, the department shall follow procedures described in Section 64-13-10.4:

245 (a) approximately six months before the date of the inmate's anticipated release, if the inmate's term of incarceration is for longer than six months; or

247 (b) as soon as possible, upon notification of the inmate's release, if the release is in shorter than six months.

249 (5)

## HB0226S01 compared with HB0226S03

- (a) If an inmate accepts assistance in obtaining a current state-issued identification card or driver license, as described in Subsection 64-13-10.4(4), the department shall coordinate with the Driver License Division to:
- 252 (i)
- (A) obtain a duplicate of the inmate's state-issued driver license, as described in Section 53-3-215; or
- 254 (B) renew the inmate's state-issued driver license, if the inmate meets the criteria listed in Section 53-3-214; or
- 256 (ii)
- (A) extend the inmate's state-issued regular identification card, as described in Section 53-3-807; or
- 258 (B) issue the inmate a temporary regular identification card as described in Subsection 53-3-805(10), unless the inmate will live outside this state immediately upon release.
- 261 (b)
- (i) Subject to Subsection (5)(b)(ii), the department shall ensure that within the last seven days of the inmate's incarceration, the inmate meets with the Driver License Division to be issued a duplicate driver license, a renewed driver license, an extended regular identification card, or a temporary regular identification card, as described in Subsection (5)(a).
- 266 (ii) If an inmate is released from a facility other than a state correctional facility, the department shall coordinate with that correctional facility and the Driver License Division in assisting the inmate in meeting with the Driver License Division.
- 269 (c) Before the inmate meets with the Driver License Division, as described in Subsection (5)(b)(i), the department shall ensure that the inmate is provided all required documentation and information the department possesses for the inmate to obtain a document listed in Subsection (5)(a), including:
- 273 (i) all personal identification documentation; and
- 274 (ii) a voucher for payment toward any one of the documents listed in Subsection (5)(a), up to the cost of a temporary regular identification card described in Subsection 53-3-805(10).
- 277 (6)
- (a) Subsections (4) and (5) do not apply to an inmate that is not:
- 278 [~~(a)~~] (i) a citizen of the United States; or
- 279 [~~(b)~~] (ii) a lawful resident of the United States and has legal authorization to work in the United States.
- 281

## HB0226S01 compared with HB0226S03

(b) An inmate described in Subsection (6)(a) may be subject to the department's notification requirements under Section 64-13-10.7.

164 Section 4. Section 4 is enacted to read:

165 **64-13-10.7. Release of inmates who are not lawfully present in the United States --**  
**Notification to and coordination with federal authorities.**

286 (1) As soon as practicable before the day of release, but at least five business days before the day of release, the department shall notify the United States Department of Homeland Security, or other relevant federal agency in charge of handling immigration violations or deportations, when the department is preparing to release an inmate who:

290 (a) {~~has been convicted of~~} **is being released after serving a term of imprisonment for** a felony; and

291 (b)

(i) is unlawfully present in the United States; or

292 (ii) is lawfully present in the United States, but due to the inmate's criminal conduct or offense, may no longer be considered lawfully present in the United States under federal law.

295 (2) The department shall coordinate with federal authorities to transfer the custody of a released inmate into federal custody as may be required under Subsection (1).

178 Section 5. Section **76-3-204** is amended to read:

179 **76-3-204. Misdemeanor conviction -- Term of imprisonment.**

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

301 (1)

(a) ~~In~~ **Expect as provided in Subsection (1)(b), in** the case of a class A misdemeanor, for a term not exceeding ~~{364 days{}}~~ **one year**.

184 (b) **In the case of a class A misdemeanor under Title 76, Chapter 5, Offenses Against the Individual, or a driving under the influence offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving, for a term not exceeding one year.**

302 (2) In the case of a class B misdemeanor, for a term not exceeding six months.

303 (3) In the case of a class C misdemeanor, for a term not exceeding 90 days.

189 Section 6. Section **76-3-208** is amended to read:

190 **76-3-208. Imprisonment -- Custodial authorities.**

306 (1) Persons sentenced to imprisonment shall be committed to the following custodial authorities:

## HB0226S01 compared with HB0226S03

- 308 (a) felony commitments shall be to the Utah State Prison;
- 309 (b)
- (i) [~~notwithstanding Section 76-3-204,~~] class A misdemeanor commitments shall be to the jail, or other facility designated by the town, city, or county where the defendant was convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at the commencement of the class A misdemeanor conviction, in which case, the class A misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to exceed one year { with a credit for one day } , unless the offense is an offense described in Subsection 76-3-204(1)(b), in which case there is no credit for one day; and
- 316 (ii) the court may not order the imprisonment of a defendant to the Utah State Prison for a fixed term or other term that is inconsistent with this section and Section 77-18-111; and
- 319 (c) all other misdemeanor commitments shall be to the jail or other facility designated by the town, city or county where the defendant was convicted.
- 321 (2) A custodial authority may place a prisoner in a facility other than the one to which the prisoner was committed when:
- 323 (a) the custodial authority does not have space to accommodate the prisoner; or
- 324 (b) the security of the institution or prisoner requires the prisoner to be placed in a facility other than the one to which the prisoner was committed.
- 212 Section 7. Section **77-20-201** is amended to read:
- 213 **77-20-201. Right to bail -- Capital felony.**
- 328 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with:
- 330 (a) a capital felony when there is substantial evidence to support the charge;
- 331 (b) a felony committed while on parole or on probation for a felony conviction, or while free on bail awaiting trial on a previous felony charge, when there is substantial evidence to support the current felony charge;
- 334 (c) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that:
- 336 (i) the individual would constitute a substantial danger to any other individual or to the community after considering available conditions of release that the court may impose if the individual is released on bail; or

## HB0226S01 compared with HB0226S03

- 339 (ii) the individual is likely to flee the jurisdiction of the court if the individual is released on bail;
- 341 (d) a felony when there is substantial evidence to support the charge and the court finds, by clear and  
convincing evidence, that the individual violated a material condition of release while previously on  
bail;
- 344 (e) a domestic violence offense if:
- 345 (i) there is substantial evidence to support the charge; and
- 346 (ii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial  
danger to an alleged victim of domestic violence after considering available conditions of release  
that the court may impose if the individual is released on bail;
- 350 (f) the offense of driving under the influence or driving with a measurable controlled substance in the  
body if:
- 352 (i) the offense results in death or serious bodily injury to an individual;
- 353 (ii) there is substantial evidence to support the charge; and
- 354 (iii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial  
danger to the community after considering available conditions of release that the court may impose  
if the individual is released on bail;
- 358 (g) a felony violation of Section 76-9-101 if:
- 359 (i) there is substantial evidence to support the charge; and
- 360 (ii) the court finds, by clear and convincing evidence, that the individual is not likely to appear for a  
subsequent court appearance; or
- 362 (h) except as provided in Subsection (4), the offense of driving under the influence or driving with a  
measurable controlled substance in the body:
- 364 (i) if committed while on parole or on probation for a driving under the influence or driving with a  
measurable controlled substance in the body conviction; or
- 366 (ii) while the individual is out of custody awaiting trial on a previous driving under the influence or  
driving with a measurable controlled substance in the body charge, when the court finds there is  
substantial evidence to support the current charge.
- 370 (2) Notwithstanding any other provision of this section, there is a rebuttable presumption that an  
individual is a substantial danger to the community under Subsection (1)(f)(iii):

372

## HB0226S01 compared with HB0226S03

- (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for, or charged with, the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or
- 376 (b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for, or charged with, the offense of driving with a measurable controlled substance in the body and the offense resulted in death or serious bodily injury to an individual.
- 380 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:
- 382 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or
- 383 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting attorney has not filed a notice to seek the death penalty.
- 385 (4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an individual would not constitute a substantial danger to any other person or the community if:
- 387 (a) the court orders the person to participate in an inpatient drug and alcohol treatment program; or
- 389 (b) the court orders the person to participate in home confinement through the use of electronic monitoring as described in Section 41-6a-506.
- 391 (5) For purposes of a determination under Subsection (1)(c)(ii), there is a rebuttable presumption that an individual is at risk of fleeing the jurisdiction if the individual:
- 393 (a) is not lawfully present in the United States; or
- 394 (b)
- (i) is lawfully present in the United States; and
- 395 (ii) has been charged with, or arrested for, a criminal offense that could affect the individual's lawful presence status.

283 Section 8. Section **77-20-202** is amended to read:

284 **77-20-202. Collection of pretrial information.**

- 399 (1) When an individual is arrested without a warrant for an offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial services program, shall submit the following information to the court with the probable cause statement:
- 402 (a) identification information for the individual, including:
- 403 (i) the individual's legal name and any known aliases;
- 404 (ii) the individual's date of birth;

## HB0226S01 compared with HB0226S03

- 405 (iii) the individual's state identification number;
- 406 (iv) the individual's mobile phone number;[~~and~~]
- 407 (v) the individual's email address; and
- 408 (vi) the individual's immigration status, if the individual is not a United States citizen or national;
- 410 (b) the individual's residential address;
- 411 (c) any pending criminal charge or warrant for the individual, including the offense tracking number of  
the current offense for which the individual is booked;
- 413 (d) the individual's probation or parole supervision status;
- 414 (e) whether the individual was on pretrial release for another criminal offense prior to the booking of  
the individual for the current criminal offense if the employee knows that the individual was on  
pretrial release for a prior criminal offense;
- 417 (f) the individual's financial circumstances to the best of the individual's knowledge at the time of  
booking, including:
- 419 (i) the individual's current employer;
- 420 (ii) the individual's monthly income, including any alimony or child support that contributes to the  
individual's monthly income;
- 422 (iii) the individual's monthly expenses, including any alimony or child support obligation that the  
individual is responsible for paying;
- 424 (iv) the individual's ownership of, or any interest in, personal or real property, including any savings or  
checking accounts or cash;
- 426 (v) the number, ages, and relationships of any dependents;
- 427 (vi) any financial support or benefit that the individual receives from a state or federal government; and
- 429 (vii) any other information about the individual's financial circumstances that may be relevant;
- 431 (g) any ties the individual has to the community, including:
- 432 (i) the length of time that the individual has been at the individual's residential address;
- 434 (ii) any enrollment in a local college, university, or trade school; and
- 435 (iii) the name and contact information for any family member or friend that the individual believes  
would be willing to provide supervision of the individual;
- 437 (h) the results of a lethality assessment completed in accordance with Section 77-36-2.1, if any; and
- 439 (i) whether the individual is under the influence of alcohol or a controlled substance to a degree that  
would endanger the individual or another individual if the individual is released.

## HB0226S01 compared with HB0226S03

- 442 (2) Upon request, the jail facility, or the pretrial services program, shall provide the information  
described in Subsection (1) to the individual, the individual's attorney, or the prosecuting attorney.
- 445 (3) Any information collected from an individual under Subsection (1) is inadmissible in any court  
proceeding other than:
- 447 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the offense, or  
offenses, for which the individual was arrested or charged with; or
- 449 (b) another criminal proceeding regarding prosecution for providing a false statement under Subsection  
(1).
- 451 (4) Nothing in this section prohibits a court and a county from entering into an agreement regarding  
information to be submitted to the court with a probable cause statement.
- 339 Section 9. Section **77-20-203** is amended to read:
- 340 **77-20-203. County sheriff authority to release an individual from jail on own recognizance.**
- 456 (1) As used in this section:
- 457 (a)
- (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection  
77-36-1.1(4).
- 459 (ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section  
76-6-106.
- 461 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 462 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 463 (2) Except as provided in Subsection (3), a county jail official may release an individual from a jail  
facility on the individual's own recognizance if:
- 465 (a) the individual was arrested without a warrant;
- 466 (b) the individual was not arrested for:
- 467 (i) a violent felony;
- 468 (ii) a qualifying offense;
- 469 (iii) the offense of driving under the influence or driving with a measurable controlled substance in the  
body if the offense results in death or serious bodily injury to an individual; or
- 472 (iv) an offense described in Subsection 76-9-101(4);
- 473 (c) law enforcement has not submitted a probable cause statement to a court or magistrate;
- 475



## HB0226S01 compared with HB0226S03

- (d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest;  
and
- 477 (e) the individual qualifies for release under the written policy described in Subsection (4) for the  
county.
- 479 (3) A county jail official may not release an individual from a jail facility if the individual is subject to  
a 72-hour hold placed on the individual by the Department of Corrections as described in Section  
64-13-29.
- 482 (4)
- (a) A county sheriff shall create and approve a written policy for the county that governs the release of  
an individual on the individual's own recognizance.
- 484 (b) The written policy shall describe the criteria an individual shall meet to be released on the  
individual's own recognizance.
- 486 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 487 (i) criminal history;
- 488 (ii) prior instances of failing to appear for a mandatory court appearance;
- 489 (iii) current employment;
- 490 (iv) residency, including immigration status;
- 491 (v) ties to the community;
- 492 (vi) an offense for which the individual was arrested;
- 493 (vii) any potential criminal charges that have not yet been filed;
- 494 (viii) the individual's health condition;
- 495 (ix) any potential risks to a victim, a witness, or the public; and
- 496 (x) any other similar factor a sheriff determines is relevant.
- 497 (5)
- (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24  
hours from booking if:
- 499 (i) the individual is on supervised probation or parole and that information is reasonably available;  
and
- 501 (ii) the individual was arrested for:
- 502 (A) a violent felony; or
- 503 (B) a qualifying domestic violence offense.

## HB0226S01 compared with HB0226S03

- 504 (b) The jail facility shall:
- 505 (i) notify the entity supervising the individual's probation or parole that the individual is being detained;  
and
- 507 (ii) release the individual:
- 508 (A) to the Department of Corrections if the Department of Corrections supervises the individual and  
requests the individual's release; or
- 510 (B) if a court or magistrate orders release.
- 511 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with  
this chapter for a new criminal offense.
- 513 (6) This section does not prohibit a court and a county from entering into an agreement regarding  
release.

401 Section 10. **Effective date.**

This bill takes effect on May 7, 2025.

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