

HB0312S05 compared with HB0312

{Omitted text} shows text that was in HB0312 but was omitted in HB0312S05

inserted text shows text that was not in HB0312 but was inserted into HB0312S05

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1

Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Brady Brammer

2

3 LONG TITLE

4 General Description:

5 This bill modifies statutory provisions related to criminal justice.

6 Highlighted Provisions:

7 This bill:

- 8 ▶ ~~{permits city prosecutors to file certain charges after a county or district attorney has declined to do so;}~~
- 8 ▶ modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- 10 ▶ modifies provisions related to contracting with federal and county entities to house individuals, and establishes reporting requirements ~~{for standards and practices for adult probation programs}~~ ;
- 12 ▶ requires a county sheriff who permits probation to establish probation standards and procedures adopted by the Utah Sheriffs' Association;
- 11 ▶ prohibits the use of state funds for a syringe exchange program;
- 15 ▶ adds "detention removal officer" to the definition of federal officers who have statewide law enforcement authority;

HB0312

HB0312 compared with HB0312S05

- 12 ▶ {~~moves provisions governing sex offender assessments from the Utah Code of Criminal Procedure to the code chapter governing~~} prohibits the Department of Corrections {~~-- State Prison~~} from housing inmates in a private correctional facility, unless the purpose is federal immigration detention or civil detention;
- 19 ▶ modifies definitions related to the state daily incarceration rate;
- 20 ▶ modifies provisions related to the definition and calculation of the state daily incarceration rate;
- 14 ▶ modifies permitted uses for funds in the Adult Probation and Parole Employment Incentive Program;
- 16 ▶ adds strangulation or choking as a criminal offense included with the crime of commission of domestic violence in the presence of a child;
- 18 ▶ {~~creates a criminal offense for the intentional concealment of identity in a public gathering;~~}
- 19 ▶ modifies the definition of habitual offender and makes conforming changes;
- 20 ▶ {~~removes references to unsecured bonds;~~}
- 27 ▶ requires a county sheriff to report statistics on releases due to overcrowding and pretrial release;
- 29 ▶ modifies provisions related to a county sheriff's release of individuals on their own recognizance;
- 21 ▶ 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;
- 24 ▶ {~~adds procedures and restrictions relating~~} modifies provisions related to a magistrate's orders for pretrial release or detention;
- 26 ▶ {~~repeals the requirement to use the services of a court reporter in a death sentence commutation hearing;~~}
- 28 ▶ {~~modifies the duties of the Utah Indigent Defense Commission and the Office of Indigent Defense Services;~~}
- 30 ▶ {~~extends the date of the verification of indigency pilot program;~~}
- 31 ▶ modifies {~~duties and reporting requirements~~} provisions related to {~~the verification of indigency pilot program~~} interlocal agreements regarding release of incarcerated or supervised individuals;
- 33 ▶

HB0312 compared with HB0312S05

~~{ permits a court to require that certain minors convicted of aggravated murder be housed in a prison or jail, rather than in a juvenile secure care facility; and }~~

35 ~~▸ { permits a prosecutor to request that a judge review whether certain minors convicted of aggravated murder should be transferred from a juvenile secure care facility to a prison or jail. }~~

37 ▸ repeals the Subcommittee on County Correctional Facility Contracting and Reimbursement;

39 ▸ repeals outdated provisions; and

40 ▸ makes technical and conforming changes.

41 Money Appropriated in this Bill:

42 None

43 Other Special Clauses:

44 This bill provides a special effective date.

46 AMENDS:

44 ~~{10-3-928, as last amended by Laws of Utah 2018, Chapter 24, as last amended by Laws of Utah 2018, Chapter 24}~~

47 17-22-5.5 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 419 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 419

48 17-22-5.6 (Effective 09/01/25), as enacted by Laws of Utah 2024, Chapter 16 (Effective 09/01/25), as enacted by Laws of Utah 2024, Chapter 16

49 26B-7-117 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 250 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 250

50 53-13-106 (Effective 09/01/25), as last amended by Laws of Utah 2020, Chapter 153 (Effective 09/01/25), as last amended by Laws of Utah 2020, Chapter 153

51 64-13d-103 (Effective 09/01/25), as enacted by Laws of Utah 1999, Chapter 288 (Effective 09/01/25), as enacted by Laws of Utah 1999, Chapter 288

52 64-13e-102 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 467 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 467

53 64-13e-103 (Effective 07/01/25), as last amended by Laws of Utah 2023, Chapter 246 (Effective 07/01/25), as last amended by Laws of Utah 2023, Chapter 246

54 64-13e-103.1 (Effective 07/01/25), as last amended by Laws of Utah 2024, Chapter 467 (Effective 07/01/25), as last amended by Laws of Utah 2024, Chapter 467

HB0312 compared with HB0312S05

- 55 **64-13e-103.3 (Effective 09/01/25), as enacted by Laws of Utah 2023, Chapter 246 (Effective**
09/01/25), as enacted by Laws of Utah 2023, Chapter 246
-
- 56 **64-13g-102 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 208 (Effective**
09/01/25), as last amended by Laws of Utah 2024, Chapter 208
- 57 **76-5-114 (Effective 09/01/25), as renumbered and amended by Laws of Utah 2022, Chapter**
181 (Effective 09/01/25), as renumbered and amended by Laws of Utah 2022, Chapter 181
- 59 **77-18-102 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapters 245,**
434 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapters 245, 434
- 61 **77-18-103 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapters 187, 245 and**
434 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapters 187, 245 and 434
- 51 ~~{77-20-102, as last amended by Laws of Utah 2023, Chapter 408, as last amended by Laws~~
~~of Utah 2023, Chapter 408}~~
- 63 **77-20-103 (Effective 09/01/25), as renumbered and amended by Laws of Utah 2021, Second**
Special Session, Chapter 4 (Effective 09/01/25), as renumbered and amended by Laws of
Utah 2021, Second Special Session, Chapter 4
-
- 65 **77-20-203 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 16 (Effective**
09/01/25), as last amended by Laws of Utah 2024, Chapter 16
-
- 66 **77-20-204 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 16 (Effective**
09/01/25), as last amended by Laws of Utah 2024, Chapter 16
- 67 **77-20-205 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapters 187,**
434 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapters 187, 434
- 54 ~~{77-20-206, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4, as enacted~~
~~by Laws of Utah 2021, Second Special Session, Chapter 4}~~
- 55 ~~{77-20-402, as renumbered and amended by Laws of Utah 2021, Second Special Session,~~
~~Chapter 4, as renumbered and amended by Laws of Utah 2021, Second Special Session,~~
~~Chapter 4}~~
- 57 ~~{77-27-8, as last amended by Laws of Utah 2010, Chapter 110, as last amended by Laws of~~
~~Utah 2010, Chapter 110}~~
- 58 ~~{78B-22-301, as last amended by Laws of Utah 2020, Chapters 371, 392, as last amended by~~
~~Laws of Utah 2020, Chapters 371, 392}~~
- 59

HB0312 compared with HB0312S05

~~{78B-22-404, as last amended by Laws of Utah 2024, Chapter 193, as last amended by Laws of Utah 2024, Chapter 193}~~

60 ~~{78B-22-452, as last amended by Laws of Utah 2024, Chapter 193, as last amended by Laws of Utah 2024, Chapter 193}~~

61 ~~{78B-22-1001, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4}~~

62 ~~{80-6-507, as last amended by Laws of Utah 2022, Chapter 135, as last amended by Laws of Utah 2022, Chapter 135}~~

69 REPEALS:

70 **~~64-13e-105 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 467 (Effective 09/01/25), as last amended by Laws of Utah 2024, Chapter 467~~**

68 ~~{77-27-21.9, as enacted by Laws of Utah 2008, Chapter 309, as enacted by Laws of Utah 2008, Chapter 309}~~

71 **~~77-27-21.9 (Effective 09/01/25), as enacted by Laws of Utah 2008, Chapter 309 (Effective 09/01/25), as enacted by Laws of Utah 2008, Chapter 309~~**

ENACTS:

64 ~~{17-22-5.7, Utah Code Annotated 1953, Utah Code Annotated 1953}~~

65 ~~{64-13-51, Utah Code Annotated 1953, Utah Code Annotated 1953}~~

66 ~~{76-9-110, Utah Code Annotated 1953, Utah Code Annotated 1953}~~

72

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

71 ~~{Section 1. Section 10-3-928 is amended to read: }~~

72 **10-3-928. Attorney duties -- Deputy public prosecutor.**

In cities with a city attorney, the city attorney:

- 74 (1) may prosecute violations of city ordinances;
- 75 (2) may prosecute, under state law, infractions and misdemeanors occurring within the boundaries of the municipality;
- 77 (3) may review investigation results de novo and file criminal charges, if warranted, under state law, for a felony of the third degree that occurs within the boundaries of the municipality if:

80 (a)

- (i) the county attorney or district attorney has declined the case; or

HB0312 compared with HB0312S05

- 81 (ii) the county attorney or district attorney has advised the city attorney of the county or district
attorney's intent to not file charges for a certain class of offense or enhancement, and the felony of
the third degree is within that class of offense or enhancement; and
- 85 (b) no charges that arise from the same set of facts or circumstances of the actions resulting in those
potential charges are being pursued by another prosecuting attorney.
- 87 (4) has the same powers in respect to violations as are exercised by a county attorney or district
attorney, except that a city attorney's authority to grant immunity shall be limited to:
- 90 (a) granting transactional immunity for violations of city ordinances; and
- 91 (b) granting transactional immunity under state law for infractions and misdemeanors occurring within
the boundaries of the municipality;
- 93 [(4)] (5) shall represent the interests of the state or the municipality in the appeal of any matter
prosecuted in any trial court by the city attorney;
- 95 [(5)] (6) may cooperate with the Office of the Attorney General during investigations; and
- 96 [(6)] (7) may designate a city attorney from another municipality or a public prosecutor to prosecute a
matter, in the court having jurisdiction over the matter, if the city attorney has a conflict of interest
regarding the matter being prosecuted.

74 Section 1. Section 17-22-5.5 is amended to read:

75 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail**
facilities -- Limitations on contracting -- Transfer or release of prisoners -- Records regarding
release.

- 78 (1)
- (a) Except as provided in Subsection [(4)] (5), a county sheriff shall determine:
- 79 (i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility
under the sheriff's control;
- 81 (ii) the nature of each program conducted at a jail facility under the sheriff's control; and
- 83 (iii) the internal operation of a jail facility under the sheriff's control.
- 84 (b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning
ordinance or conditional use permit of the county or municipality.
- 86 (2) Except as provided in Subsection [(4)] (5), each county sheriff shall:
- 87 (a) with the approval of the county legislative body, establish a maximum operating capacity for each
jail facility under the sheriff's control, based on facility design and staffing; and

HB0312 compared with HB0312S05

- 90 (b) upon a jail facility reaching the jail facility's maximum operating capacity:
- 91 (i) transfer prisoners to another appropriate facility:
- 92 (A) under the sheriff's control; or
- 93 (B) available to the sheriff by contract;
- 94 (ii) subject to the requirements of Subsection (4), release prisoners:
- 95 (A) to a supervised release program, according to release criteria established by the sheriff; or
- 97 (B) to another alternative incarceration program developed by the sheriff; or
- 98 (iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all
entities using the county jail.
- 100 (3)
- (a) The sheriff shall keep records of the release status and the type of release program or alternative
incarceration program for any prisoner released under Subsection (2)(b)(ii).
- 103 (b) The sheriff shall make these records available upon request to the Department of Corrections, the
Judiciary, and the Commission on Criminal and Juvenile Justice.
- 105 (4) A sheriff may not release an individual due to overcrowding who, based on information that is
reasonably available to the sheriff:
- 107 (a) is arrested or convicted of a violent criminal offense as defined in Section 76-3-203.10;
- 109 (b) is arrested or convicted of a drug offense that is a felony;
- 110 (c) is arrested or convicted of possession of any composition or mixture, including pills, that contains
100 grams or more of fentanyl or a fentanyl-related substance;
- 112 (d) is arrested or convicted of an 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;
- 115 (e) has been previously booked into the same jail within the immediately preceding 12-month period; or
- 117 (f) has an outstanding warrant for failing to appear in a case:
- 118 (i) involving any charge described in Subsections (4)(a) through (4)(d); or
- 119 (ii) where the individual classifies as a habitual offender as defined in Section 77-18-102.
- 121 [~~4~~] (5)
- (a) This section may not be construed to authorize a sheriff to modify provisions of a contract with the
Department of Corrections to house in a county jail an individual sentenced to the Department of
Corrections.

HB0312 compared with HB0312S05

- 124 (b) A county contracting with another county to house an individual due to capacity issues:
126 (i) shall contract with a county that:
127 (A) has available capacity in its county jail; and
128 (B) agrees to contract to house the individual;
129 (ii) shall, subject to the agreement of the parties to the contract, pay to the county contracting to receive
the transferred individual a day per capita rate that does not exceed the higher of:
132 (A) the current average cost of housing an individual in the transferring county jail; or
134 (B) the daily incarceration rates described in Section 64-13e-103.1; and
135 (iii) if the county is a county of the first class, and if the county or a sheriff in the county has released an
individual due to overcrowding within the previous fiscal year, the county:
138 (A) may not enter into a new contract with a federal agency for the purpose of housing individuals;
140 (B) may not house federal detainees in a number that exceeds the number of beds that the county has
contracted for with a federal agency in the current fiscal year; and
143 (C) shall publish daily totals on the public data dashboard showing:
144 (I) the total number of federal detainees held;
145 (II) the total number of beds under contract with a federal agency; and
146 (III) the total number of beds that are currently under contract with another county for the purpose of
housing individuals.
148 [~~5~~] (6) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity
under Subsection (2), a sheriff may release an individual from a jail facility in accordance with
Section 77-20-203 or 77-20-204.
151 [~~6~~] (7) The sheriff of a county of the first class is encouraged to open and operate all sections of a jail
facility within the county that is not being used to full capacity.

153 Section 2. Section 17-22-5.6 is amended to read:

154 17-22-5.6. **(Effective 09/01/25)Probation supervision -- Violation of probation -- Detention --
Hearing.**

102 (1) As used in this section:

103 (a) "Probationer" means an individual on probation under the supervision of the county sheriff.

105 (b)

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

HB0312 compared with HB0312S05

- 107 (ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section
76-6-106.
- 109 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 110 (2) A county sheriff who permits an individual to be granted probation shall adopt probation standards
and practices ~~{ as required }~~ that are established by ~~{ Section 17-22-5.7 }~~ the Utah Sheriffs'
Association.
- 112 (3) A county sheriff shall ensure that the court is notified of violations of the terms and conditions of a
probationer's probation when the county sheriff determines that:
- 114 (a) incarceration is recommended as a sanction;
- 115 (b) a graduated and evidence-based response is not an appropriate response to the offender's violation
and recommends revocation of probation; or
- 117 (c) there is probable cause that the conduct that led to a violation of probation is:
- 118 (i) a violent felony; or
- 119 (ii) a qualifying domestic violence offense.
- 120 ~~[(3)]~~ (4) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours,
excluding weekends and holidays, if there is probable cause to believe that the probationer has
committed a violation of probation.
- 123 ~~[(4)]~~ (5) A county sheriff may not detain a probationer or parolee for longer than 72 hours without
obtaining a warrant issued by the court.
- 125 ~~[(5)]~~ (6) If the county sheriff detains a probationer under Subsection ~~[(3)]~~ (4), the county sheriff shall
ensure the proper court is notified.
- 127 ~~[(6)]~~ (7) A written order from the county sheriff is sufficient authorization for a peace officer to
incarcerate a probationer if the county sheriff has determined that there is probable cause to believe
that the probationer has violated the conditions of probation.
- 130 ~~[(7)]~~ (8) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising
the probationer, the arresting law enforcement agency is not required to hold or transport the
probationer to the county sheriff.
- 133 ~~[(8)]~~ (9) This section does not require the county sheriff to release a probationer who is being held for
something other than a probation violation, including a warrant issued for new criminal conduct or a
new conviction where the individual is sentenced to incarceration.
- 137 Section 3. Section 3 is enacted to read:

HB0312 compared with HB0312S05

138 **17-22-5.7. Probation standards and practices.**

- 139 (1) As used in this section, "probationer" means an individual on probation under the supervision of the
141 county sheriff.
- 143 (2) A county sheriff shall adopt written standards and procedures for probation that are consistent with
144 the requirements of this section.
- 143 (3) General probation program standards and procedures shall include:
- 144 (a) a written mission statement and a list of goals that provide guidance for general supervision and
146 programmatic efforts;
- 146 (b) a code of conduct or ethics policy that employees are required to be familiar with and follow, which
148 shall include a prohibition on unlawful discrimination against an individual based on race, national
149 origin, color, gender, sexual orientation, religion, age, disability, or another status that is protected
150 under state or federal law;
- 150 (c) a job description and required standards for each job type, or each category of employee, that has
151 duties in relation to a probation unit within the county or state, which may include:
- 153 (i) any certification or education that is required for the job type or category of employee;
- 155 (ii) screening processes for new or existing employees; and
- 156 (iii) other standards as determined by the county sheriff;
- 157 (d) standards for training employees who have duties in relation to a probation unit, including
158 requirements for:
- 159 (i) initial or onboarding training; and
- 160 (ii) ongoing training that requires or permits employees to stay current on changes or developments in
161 the field of probation;
- 162 (e) a requirement that the county sheriff collect and document information related to the type and
163 circumstances related to each probationer, which shall include, for each instance of probation:
- 165 (i) the classification of each offense involved, including the type and level of each misdemeanor or
166 felony;
- 167 (ii) the circumstances of the probation, including pre-trial or post-conviction probation; and
- 169 (iii) the general category of each offense, including domestic violence, drug-related offenses, property-
170 related crimes, or other classifications;
- 171 (f) a requirement that the county sheriff shall provide access to the information contained in Subsection
172 (3)(e) to:

HB0312 compared with HB0312S05

- 173 (i) the court system for the purpose of assisting a court in determining the best sentencing options for an
offender; and
- 175 (ii) the public, including a written description of what portion of the information is publicly available
under state and federal law, and, if applicable, what portion is private or protected under state or
federal law;
- 178 (g) a description of the types of supervision that are provided or required in the probation program,
including electronic monitoring, alcohol use monitoring, office visits, home visits, and other
services;
- 181 (h) a requirement that the county sheriff shall provide notice of the types of supervision that have been
imposed on a probationer to the courts, treatment providers, and other probation partners for the
purpose of facilitating an appropriate and coordinated supervision process; and
- 185 (i) a requirement that the county sheriff shall, through a records management system, document and
maintain a case management plan for each probationer, including progress reports, violation reports,
and other probation-related records or events.
- 188 (4) Standards and procedures for offender assessment and intake shall include:
- 189 (a) a description of the intake and assessment procedures required by the county sheriff and employees;
- 191 (b) a requirement that each assessment for an individual being considered for supervision:
- 193 (i) includes identification of criminogenic factors and risk levels for that individual; and
- 195 (ii) be validated and based on criminogenic factors including antisocial beliefs, antisocial associations,
antisocial personality disorder or anger management issues, history of criminal convictions, family
relationship issues, level of education, employment history, leisure and recreational activities, and
substance or alcohol abuse issues;
- 200 (c) a requirement that the county sheriff shall use the result of an assessment to assist in planning and
conducting the supervision of the individual;
- 202 (d) a requirement that each individual who is subject to an assessment is:
- 203 (i) notified that an assessment will be performed;
- 204 (ii) provided with a description of the intake and assessment procedures for the purpose of ensuring that
an individual understands the process and is afforded an opportunity to positively engage with the
assessment process; and
- 207 (iii) provided an opportunity to engage with the conductor of the assessment in a cooperative manner;
and

HB0312 compared with HB0312S05

- 209 (e) a description of the procedures to be followed if an individual refuses to participate in an
assessment, including procedures for documentation of the refusal, and notification to the courts and
applicable treatment providers or agencies.
- 212 (5) Standards and procedures for case planning, offender programming, and treatment shall include a
requirement that:
- 214 (a) case planning for a probationer shall be established based on:
- 215 (i) individual factors identified in intake assessments, treatment provider assessments, and other
specifically-designated processes;
- 217 (ii) criminogenic and other risk factors identified in relation to the probationer; and
- 218 (iii) other factors specifically designated in the standards and procedures;
- 219 (b) case plans shall be clearly outlined and explained to each probationer for the purpose of allowing the
probationer to cooperatively engage in the probationer's own treatment;
- 222 (c) case plans shall document and clearly identify long-term and short-term goals associated with
treatment;
- 224 (d) treatment providers, education classes, behavior modification classes, and any other resource
utilized in treatment shall be provided by properly certified providers;
- 226 (e) treatment options or requirements shall be tailored to the specific needs of each probationer; and
- 228 (f) a probationer may not be required to complete treatment options or requirements that have no
relation to the probationer's specific needs.
- 230 (6) Standards and procedures for supervision shall include:
- 231 (a) a requirement that supervision be based on the individual risk factor of each probationer, with low,
medium, and high risk probationers being subject to different standards and procedures;
- 234 (b) a description of the standards and procedures to be used in treating low, medium, and high risk
probationers, respectively, including:
- 236 (i) a statement as to why procedures should vary for different risk levels, including a goal to match
procedures and treatments to the individual needs and risk level of each probationer and other goals
identified by the county sheriff;
- 239 (ii) procedures for separating and providing different treatments and requirements for probationers with
differing risk levels; and
- 241 (iii) a description of the different procedures and treatments that apply to each risk level, which may
include differing electronic monitoring options, frequency and type of house checks, frequency

HB0312 compared with HB0312S05

of probationary check-ins, housing or incarceration separation procedures, and other differing standards and procedures;

- 245 (c) a requirement that a probationer be re-assessed at intervals during the probationary period to identify any change in the risk level of the probationer;
- 247 (d) a requirement that standards and procedures applying to a probationer be adjusted consistent with any changes in the probationer's risk assessment;
- 249 (e) a requirement that case management and programmatic content shall change as needed to reflect changes in the needs of each probationer;
- 251 (f) a requirement that any action taken by the county sheriff, an employee, a treatment provider, or other probation partner be in compliance with state and federal laws and consistent with best practices; and
- 254 (g) a requirement that any decision imposing sanctions against a probationer shall take into account current and past behavior of the probationer, individual needs of the probationer, progress or goals achieved or not achieved by the probationer, and any other factor specifically identified in the standards and procedures.

191 Section 3. Section **26B-7-117** is amended to read:

192 **26B-7-117. (Effective 09/01/25)Syringe exchange and education {--~~Prohibition on use of state funds~~ } .**

260 (1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

263 (a) a government entity, including:

264 (i) the department;

265 (ii) a local health department; or

266 (iii) a local substance abuse authority, as defined in Section 26B-5-101;

267 (b) a nongovernment entity, including:

268 (i) a nonprofit organization; or

269 (ii) a for-profit organization; or

270 (c) any other entity that complies with Subsections (2) and (3).

271 (2) An entity operating a syringe exchange program in the state shall:

272

HB0312 compared with HB0312S05

- (a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;
- 274 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
- 275 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and
- 277 (ii) options for obtaining:
- 278 (A) services for the treatment of a substance use disorder;
- 279 (B) testing for a blood-borne disease; and
- 280 (C) an opiate antagonist; and
- 281 (c) report annually to the department the following information about the program's activities:
- 283 (i) the number of individuals who have exchanged syringes;
- 284 (ii) the number of used syringes exchanged for new syringes; and
- 285 (iii) the number of new syringes provided in exchange for used syringes.
- 286 (3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).
- 289 (4) The use of state funds to operate a syringe exchange program is prohibited. Nothing in this section should be construed to prohibit the use or distribution of municipal, county, or federal funds in operating or financing a syringe exchange program under this section.

225 Section 4. Section 53-13-106 is amended to read:

226 **53-13-106. Federal officers -- State law enforcement authority.**

228 (1)

- (a) "Federal agency" means:
- 229 (i) the United States Bureau of Land Management;
- 230 (ii) the United States Forest Service;
- 231 (iii) the National Park Service;
- 232 (iv) the United States Fish and Wildlife Service;
- 233 (v) the United States Bureau of Reclamation;
- 234 (vi) the United States Environmental Protection Agency;
- 235 (vii) the United States Army Corps of Engineers; and
- 236 (viii) the Department of Veterans Affairs.

HB0312 compared with HB0312S05

- 237 (b) "Federal employee" means an employee of a federal agency.
- 238 (c) "Federal officer" includes:
- 239 (i) a special agent of the Federal Bureau of Investigation;
- 240 (ii) a special agent of the United States Secret Service;
- 241 (iii) a special agent of the United States Department of Homeland Security, excluding a customs
inspector~~[-or detention removal officer]~~;
- 243 (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;
- 244 (v) a special agent of the Drug Enforcement Administration;
- 245 (vi) a United States marshal, deputy marshal, and special deputy United States marshal;
- 247 (vii) a U.S. postal inspector of the United States Postal Inspection Service; and
- 248 (viii) a police officer of the Department of Veterans Affairs.
- 249 (d)
- (i) Federal officers listed in Subsection (1)(c) have statewide law enforcement authority relating to
felony offenses under the laws of this state. [-]This Subsection (1)(d)(i) takes precedence over
Subsection (2).
- 252 (ii) Federal agencies and federal employees may exercise law enforcement authority related to
misdemeanor and felony offenses under Utah law only as established by an agreement as provided
in Subsection (1)(d)(iii) and as provided in Section 53-13-106.9 or pursuant to Section 53-13-106.7.
This Subsection (1)(d)(ii) takes precedence over Subsection (2).
- 257 (iii) Consistent with Section 53-13-106.9, county sheriffs may enter into agreements with federal
agencies that allow concurrent authority to enforce federal laws and state and local laws, provided
that:
- 260 (A) the agreement is limited to a term of not more than two years; and
- 261 (B) the officers granted authority under the agreement have completed a 20-hour training course that
is focused on Utah criminal law and procedure and that is approved by the director of the Peace
Officer Standards and Training Division.
- 264 (e) The council may designate other federal peace officers, as necessary, if the officers:
- 265 (i) are persons employed full-time by the United States government as federally recognized law
enforcement officers primarily responsible for the investigation and enforcement of the federal laws;
- 268 (ii) have successfully completed formal law enforcement training offered by an agency of the federal
government consisting of not less than 400 hours; and

HB0312 compared with HB0312S05

- 270 (iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.
- 272 (2) Except as otherwise provided under Title 63L, Chapter 1, Federal Jurisdiction, and Title 77, Chapter
9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only
if:
- 275 (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with
the federal agency to be given authority; and
- 277 (b) except as provided in Subsection (3), each federal officer employed by the federal agency meets the
waiver requirements set forth in Section 53-6-206.
- 279 (3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law
enforcement authority without meeting the waiver requirement.
- 281 (4) At any time, consistent with any contract with a federal agency, a state or local law enforcement
authority may withdraw state law enforcement authority from any individual federal officer by
sending written notice to the federal agency and to the division.
- 285 (5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing
state or local agency, and may be further limited by the state or local agency to enforcing specific
statutes, codes, or ordinances.

292 Section 5. Section 5 is enacted to read:

293 **64-13-51. Sex offender assessment.**

294 (1) As used in this section:

295 (a) "Dynamic factors" means a person's individual characteristics, issues, resources, or circumstances
that:

297 (i) can change or be influenced; and

298 (ii) affect the risk of recidivism or the risk of violating conditions of probation or parole.

300 (b) "Multi-domain assessment" means an evaluation process or tool which reports in quantitative and
qualitative terms an offender's condition, stability, needs, resources, and dynamic factors affecting
the offender's transition into the community and compliance with conditions of probation or parole,
such as the following:

304 (i) alcohol and other drug use;

305 (ii) mental health status;

306 (iii) physical health;

307 (iv) criminal behavior;

HB0312 compared with HB0312S05

- 308 (v) education;
309 (vi) emotional health and barriers;
310 (vii) employment;
311 (viii) family dynamics;
312 (ix) housing;
313 (x) physical health and nutrition;
314 (xi) spirituality;
315 (xii) social support systems; and
316 (xiii) special population needs, including:
317 (A) co-existing disorders;
318 (B) domestic violence;
319 (C) drug of choice;
320 (D) gender, ethnic, and cultural considerations;
321 (E) other health issues;
322 (F) sexual abuse;
323 (G) sexual orientation;
324 (H) transportation; and
325 (I) treatment involvement.
326 (c) "Qualitative terms" means written summaries used to describe meaning, enrich, or explain
significant quantitative indicators or benchmarks within the areas defined in Subsection (1)(b).
329 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe conditions within
the areas defined in Subsection (1)(b).
331 (2) The department shall issue a request for proposals to provide a periodic multi-domain assessment
tool, as defined in Subsection (1)(b) and implement the tool for a three-year trial period in the
management of sex offenders being supervised in the community in the department's Region 3.
335 (3) The request for proposals shall include a requirement that the multi-domain assessment tool be
designed to be administered:
337 (a) every 16 weeks during the first year a sex offender is supervised in the community; and
339 (b) every 12 to 26 weeks during the second and subsequent years a sex offender is supervised in the
community, as determined appropriate by the department's supervisory personnel and the sex
offender's treatment team.

HB0312 compared with HB0312S05

- 342 (4) The department shall promptly make results of the multi-domain assessment available to:
344 (a) the sex offender's treatment team; and
345 (b) the corrections personnel responsible for supervising the offender.
346 (5) The department shall provide to the Law Enforcement and Criminal Justice Interim Committee
at the conclusion of the trial period a written report of the results of the use of the multi-domain
assessments, including:
349 (a) the impact on recidivism;
350 (b) other indicators of the effect of the use of the assessments;
351 (c) the number of assessments administered annually;
352 (d) the number of individuals who were assessed during the year; and
353 (e) any recommended legislative or policy changes.

288 Section 5. Section 64-13d-103 is amended to read:

289 **64-13d-103. Private contracts -- Limitations on purpose -- Requirements before entering into**
contract -- Required terms.

- 291 (1)
(a) The department may contract with a contractor to finance, acquire, construct, lease, or provide full
or partial correctional services.
293 (b) A contractor may only house an inmate for federal immigration detention or civil detention. The
department may not contract with a contractor to house an inmate for any other purpose.
296 (2) Before entering into a contract, the department shall:
297 (a) hold a public hearing within the county or municipality where the facility is to be sited for the
purpose of obtaining public comment;
299 (b) give consideration to the input received at the public hearing when making decisions regarding the
awarding of a contract and the contract process; and
301 (c) have received written notification from the legislative body of the municipality or county where the
proposed facility is to be sited, stating that the legislative body has agreed to the establishment of the
facility within its boundaries.
304 (3) Before entering into a contract, the department shall require that the contractor proposing to provide
the services demonstrate that it has:
306 (a) management personnel with the qualifications and experience necessary to carry out the terms of the
contract;

HB0312 compared with HB0312S05

- 308 (b) sufficient financial resources to:
- 309 (i) complete and operate the facility;
- 310 (ii) provide indemnification for liability arising from the operation of the facility; and
- 311 (iii) provide reimbursement as required under Section 64-13d-105;
- 312 (c) the ability and resources to meet applicable court orders, correctional standards as defined by the
- department, and constitutional requirements; and
- 314 (d) liability insurance adequate to protect the state, the political subdivision where the facility is located,
- and the officers and employees of the facility from all claims and losses incurred as a result of action
- or inaction by the contractor or its employees.
- 317 (4) A contract awarded for the operation of a facility shall be consistent with commonly accepted
- correctional practices as defined by the department and shall include:
- 319 (a) adequate internal and perimeter security to protect the public, employees, and inmates, based on the
- security level of the inmate population;
- 321 (b) work, training, educational, and treatment programs for inmates;
- 322 (c) a minimum correctional officer to inmate ratio;
- 323 (d) imposition of inmate discipline in accordance with applicable state law and department policy; and
- 325 (e) adequate food, clothing, housing, and medical care for inmates.

326 Section 6. Section 64-13e-102 is amended to read:

327 **64-13e-102. Definitions.**

As used in this chapter:

- 329 (1) "Alternative treatment program" means:
- 330 (a) an evidence-based cognitive behavioral therapy program; or
- 331 (b) a certificate-based program provided by:
- 332 (i) an institution of higher education described in Subsection 53B-1-102(1)(b); or
- 333 (ii) a degree-granting institution acting in the degree-granting institution's technical education role
- described in Section 53B-2a-201.
- 335 (2) "Average state daily incarceration cost" means the average cost incurred by the department per
- bed day over the previous three fiscal years, that reflects the following expenses incurred by the
- department for housing an inmate:
- 338 (a) executive overhead;
- 339 (b) administrative overhead;

HB0312 compared with HB0312S05

- 340 (c) transportation overhead;
- 341 (d) division overhead; and
- 342 (e) motor pool expenses.
- 343 [(2)] (3) "Board" means the Board of Pardons and Parole.
- 344 [(3)] (4) "Commission" means the State Commission on Criminal and Juvenile Justice, created in
Section 63M-7-201.
- 346 [(4)] (5)
- (a) "Condition of probation day" means a day spent by a state probationary inmate in a county
correctional facility as a condition of probation.
- 348 (b) "Condition of probation day" includes a day spent by a state probationary inmate in a county
correctional facility:
- 350 (i) after the date of sentencing;
- 351 (ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit
for time served in a county correctional facility before the date of sentencing;
- 354 (iii) as a condition of an original order of probation; and
- 355 (iv) as a condition of a new order of probation after a prior revocation of probation.
- 356 (c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county
correctional facility:
- 358 (i) as a probation sanction day;
- 359 (ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility
for a single order of probation;
- 361 (iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;
- 363 (iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United
States Department of Homeland Security; or
- 365 (v) after the termination of probation if the state probationary inmate is:
- 366 (A) sentenced to prison; or
- 367 (B) eligible for release.
- 368 [(5)] (6) "Department" means the Department of Corrections, created in Section 64-13-2.
- 369 [(6)] (7) "Division" means the Division of Finance, created in Section 63A-3-101.
- 370 [(7)] (8)

HB0312 compared with HB0312S05

- (a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.
- 373 (b) "Eligible bed day" includes:
- 374 (i) a condition of probation day;
- 375 (ii) a parole hold day;
- 376 (iii) a parole sanction day; and
- 377 (iv) a probation sanction day.
- 378 [~~8~~] (9)
- (a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.
- 381 (b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:
- 383 (i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or
- 385 (ii) as a parole sanction day.
- 386 [~~9~~] (10)
- (a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.
- 389 (b) "Parole sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.
- 391 (c) "Parole sanction day" does not include a parole hold day.
- 392 [~~10~~] (11)
- (a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.
- 395 (b) "Probation sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.
- 397 (c) "Probation sanction day" does not include:
- 398 (i) a condition of probation day; or
- 399 (ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-13-29(3) based on a suspected violation of the state probationary inmate's terms of probation.

HB0312 compared with HB0312S05

- 402 (12) "Rate surplus" means the dollar amount by which the average state daily incarceration cost for a
403 given year exceeds 105% of the prior year's state daily incarceration rate.
- 404 ~~[(11)]~~ (13) "State daily incarceration rate" means [the average daily incarceration rate, calculated by the
405 department based on the previous three fiscal years, that reflects the following expenses incurred by
406 the department for housing an inmate:] the daily per bed dollar basis upon which the department will
407 calculate payments to other parties for housing state inmates and state probationary inmates.
- 409 ~~[(a) executive overhead;]~~
- 410 ~~[(b) administrative overhead;]~~
- 411 ~~[(c) transportation overhead;]~~
- 412 ~~[(d) division overhead; and]~~
- 413 ~~[(e) motor pool expenses.]~~
- 414 ~~[(12)]~~ (14) "State inmate" means an individual, other than a state probationary inmate or state parole
415 inmate, who is committed to the custody of the department.
- 416 ~~[(13)]~~ (15) "State parole inmate" means an individual who is:
- 417 (a) on parole, as defined in Section 77-27-1; and
- 418 (b) housed in a county correctional facility for a reason related to the individual's parole.
- 419 ~~[(14)]~~ (16) "State probationary inmate" means a felony probationer sentenced to time in a county
420 correctional facility under Subsection 77-18-105(6).
- 421 ~~[(15)]~~ (17) "Treatment program" means:
- 422 (a) an alcohol treatment program;
- 423 (b) a substance abuse treatment program;
- 424 (c) a sex offender treatment program; or
- 425 (d) an alternative treatment program.
- 426 **Section 7. Section 64-13e-103 is amended to read:**
- 427 **64-13e-103. County correctional facility contracting program for state inmates -- Payments**
428 **-- Reporting -- Contracts.**
- 429 (1) Subject to Subsection ~~[(6)]~~ (7), the department may only contract with a county to house state
430 inmates in a county correctional facility.
- 431 ~~[(2) The department shall give preference for placement of state inmates, over private entities, to county~~
432 ~~correctional facility bed spaces for which the department has contracted under Subsection (1).]~~
- 434 ~~[(3)]~~ (2)

HB0312 compared with HB0312S05

- (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:
- 436 (i) except as provided in Subsection [~~(3)(a)(ii)~~] (2)(a)(ii), 84% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection [~~(3)(e)~~] (2)(c);
- 441 (ii) 75% of the state daily incarceration rate for a county correctional facility bed space in a county that, pursuant to the contract, is dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection [~~(3)(e)~~] (2)(c); and
- 445 (iii) 70% of the state daily incarceration rate for a county correctional facility bed space in a county other than the bed spaces described in Subsections [~~(3)(a)(i)-(ii)~~] (2)(a)(i) and (ii).
- 448 (b) The department shall:
- 449 (i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection [~~(3)(a)(i)~~] (2)(a)(i) or (ii); and
- 454 (ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection [~~(3)(b)(i)~~] (2)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection [~~(3)(a)(i)~~] (2)(a)(i) or (ii).
- 459 (c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection [~~(3)(a)(i)~~] (2)(a)(i) or (ii), unless:
- 462 (i) the program meets the standards established under Subsection [~~(3)(b)(i)~~] (2)(b)(i); and
- 464 (ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.
- 466 (d)
- (i) The department shall annually:
- 467 (A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;
- 469

HB0312 compared with HB0312S05

- (B) evaluate, review, and audit the results of each treatment program on state inmate recidivism and other relevant metrics; and
- 471 (C) on or before November 30, report the results of the information described in Subsection [~~(3)~~(~~d~~)
(~~i~~)(~~B~~)] (2)(d)(i)(B) to the Executive Offices and Criminal Justice Appropriations Subcommittee.
- 474 (ii) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, to implement the provisions of Subsection [~~(3)~~(~~d~~)(~~i~~)] (2)(d)(i).
- 477 [~~(4)~~] (3)
- (a) Compensation to a county for state inmates incarcerated under this section shall be made by the
department.
- 479 (b) Funds from the County Correctional Facility Contracting Reserve Program may be used only once
existing annual appropriated funds for the fiscal year have been exhausted.
- 482 [~~(5)~~] (4) Counties that contract with the department under Subsection (1) shall, on or before June 30 of
each year, submit a report to the department that includes:
- 484 (a) the number of state inmates the county housed under this section;
- 485 (b) the total number of state inmate days of incarceration that were provided by the county; and
- 487 (c) the information required under Subsection [~~(3)~~(~~d~~)(~~i~~)(~~A~~)] (2)(d)(i)(A).
- 488 [~~(6)~~] (5) Except as provided under Subsection [~~(7)~~] (6), the department may not enter into a contract
with a county as described under Subsection (1), unless:
- 490 (a) beginning July 1, 2023, the county correctional facility within the county is in compliance with the
reporting requirements described in Subsection 17-22-32(2); and
- 492 (b) the Legislature has previously passed a joint resolution that includes the following information
regarding the proposed contract:
- 494 (i) the approximate number of beds to be contracted;
- 495 (ii) the approximate amount of the county's long-term debt; and
- 496 (iii) the repayment time of the debt for the facility where the inmates are to be housed.
- 497 [~~(7)~~] (6) The department may enter into a contract with a county government to house inmates without
complying with the approval process described in Subsection [~~(6)~~] (5) only if the county facility was
under construction, or already in existence, on March 16, 2001.
- 501 [~~(8)~~] (7) Any resolution passed by the Legislature under Subsection [~~(6)~~] (5) does not bind or obligate
the Legislature or the department regarding the proposed contract.

503 Section 8. Section 64-13e-103.1 is amended to read:

HB0312 compared with HB0312S05

- 504 **64-13e-103.1. Calculating the average state daily incarceration cost and the state**
505 **incarceration rate.**
- 506 ~~[(1) Before September 15 of each year, the department shall:]~~
- 507 ~~[(a) calculate the state daily incarceration rate; and]~~
- 508 ~~[(b) inform each county and the commission of the state daily incarceration rate.]~~
- 509 ~~[(2) The state daily incarceration rate may not be less than the rate presented to the Executive~~
510 ~~Appropriations Committee of the Legislature for purposes of setting the appropriation for the~~
511 ~~department's budget.]~~
- 512 (1) Before September 15 of each year, the department shall:
- 513 (a) calculate the average state daily incarceration cost; and:
- 514 (i) if the average state daily incarceration cost equals more than 105% of the previous year's state daily
515 incarceration rate:
- 516 (A) set the state daily incarceration rate at 105% of the prior year's state daily incarceration rate; and
- 517 (B) record that year's rate surplus; or
- 518 (ii) if the average state daily incarceration cost is less than 105% of the previous year's state daily
519 incarceration rate:
- 520 (A) set the state daily incarceration rate at the state daily incarceration cost; or
- 521 (B) if in any one or more of the prior three years there existed a rate surplus, and that rate surplus has
522 not been used to augment the state daily incarceration cost in another year, add the rate surplus
523 or surpluses to the state daily incarceration cost and set the state daily incarceration rate to that
524 combined amount, up to 105% of the previous year's state daily incarceration rate; and
- 525 (b) inform each county and the commission of the state daily incarceration rate.
- 526 (2) Except as provided in Subsections (3) and (4), the state daily incarceration rate may not be less than
527 the rate presented to the Executive Appropriations Committee of the Legislature for purposes of
528 setting the appropriation for the department's budget.
- 529 (3) Notwithstanding any other provision in this section, in a fiscal year where General Fund revenue
530 growth is not sufficient to fund the state daily incarceration rate presented to the Executive
531 Appropriations Committee, the state daily incarceration rate shall be reset by the Executive
532 Appropriations Committee in an appropriations act.
- 533 (4) For the fiscal year beginning July 1, 2025, only, the state daily incarceration rate is \$120.75.
- 534
- 535 Section 9. Section 64-13e-103.3 is amended to read:
- 536
- 537

HB0312 compared with HB0312S05

538 **64-13e-103.3. Estimating the annual number of county correctional facility bed spaces**
539 **required for state inmates.**

540 (1)

(a) Before September 15 of each year, the department shall estimate the total number of annual county correctional facility bed spaces that are required for state inmates in the upcoming fiscal year, including the annual number of bed spaces that shall be dedicated to:

544 (i) a treatment program for state inmates under Subsection [~~64-13e-103(3)(a)(i)~~] 64-13e-103(2)(a)
545 (i); and

546 (ii) an alternative treatment program for state inmates under Subsection [~~64-13e-103(3)(a)~~
547 ~~(ii)~~] 64-13e-103(2)(a)(ii).

548 (b) The department's estimates described in Subsection (1)(a) shall be based upon:

549 (i) a review of the annual numbers of county correctional facility bed spaces used for state inmates
550 during the preceding years; and

551 (ii) any other information relevant to the department.

552 (2) The department shall inform each county of the estimates described in Subsection (1)(a).

553 Section 10. Section **64-13g-102** is amended to read:

554 **64-13g-102. (Effective 09/01/25)Adult Probation and Parole Employment Incentive**
555 **Program.**

356 (1) There is created the Adult Probation and Parole Employment Incentive Program.

357 (2) The department and the office shall implement the program in accordance with the requirements of
358 this chapter.

359 (3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the
360 office, for the preceding fiscal year, for each region and statewide:

361 (a) the parole employment rate and the average length of employment of individuals on parole;

363 (b) the probation employment rate and average length of employment of individuals on felony
362 probation;

365 (c) the recidivism percentage, using applicable recidivism metrics described in Subsections
364 63M-7-102(1) and (3);

367 (d) the number and percentage of individuals who successfully complete parole or felony probation;

369 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism
368 percentage when compared to the fiscal year immediately preceding the fiscal year to which the

HB0312 compared with HB0312S05

- recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;
- 374 (f) the number of individuals who successfully complete parole and, during the entire six months before
the day on which the individuals' parole ends, held eligible employment; and
- 377 (g) the number of individuals who successfully complete felony probation and, during the entire six
months before the day on which the individuals' parole ended, held eligible employment.
- 380 (4) In addition to the information described in Subsection (3), the department shall report, for each
region, the number and types of parole or probation programs that were created, replaced, or
discontinued during the preceding fiscal year.
- 383 (5) After receiving the information described in Subsections (3) and (4), the office, in consultation with
the department, shall, for each region:
- 385 (a) add the region's baseline parole employment rate and the region's baseline probation employment
rate;
- 387 (b) add the region's parole employment rate and the region's probation employment rate;
- 388 (c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and
- 390 (d)
- (i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment
incentive payment of zero to the region; or
- 392 (ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater
than zero, assign an employment incentive payment to the region by:
- 395 (A) multiplying the rate difference by the average daily population for that region; and
- 397 (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by \$2,500.
- 399 (6) In addition to the employment incentive payment described in Subsection (5), after receiving the
information described in Subsections (3) and (4), the office, in consultation with the department,
shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for
the region by \$2,500 to determine the end-of-supervision employment incentive payment for the
region.
- 404 (7) The employment incentive payment, or end-of-supervision employment supervision payment, for a
region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents
an increase in the recidivism percentage when compared to the fiscal year immediately preceding

HB0312 compared with HB0312S05

the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

409 (8) Upon determining an employment incentive payment for a region in accordance with Subsections
412 (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the
incentive payment as follows:

412 (a) 15% of the payment may be used by the department for expenses related to administering the
program; and

414 (b) 85% of the payment shall be used by the region to improve and expand supervision and
rehabilitative services to individuals on parole or adult probation, including by:

416 (i) implementing and expanding evidence-based practices for risk and needs assessments for
individuals;

418 (ii) implementing and expanding intermediate sanctions, including mandatory community service,
home detention, day reporting, restorative justice programs, and furlough programs;

421 (iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug
and alcohol treatment, mental health treatment, anger management, cognitive behavior programs,
and job training and other employment services;

425 (iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for
rehabilitative and vocational programing;

427 (v) purchasing and adopting new technologies or equipment that are relevant to, and enhance,
supervision, rehabilitation, or vocational training;

429 (vi) funding workforce development coordinators, bus passes, soft skills instructors, job search
technology in community correctional centers, or sector-specific workforce development programs;

or

432 [~~(vi)~~] (vii) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program
fidelity.

434 (9)

(a) The report described in Subsections (3) and (4) is a public record.

435 (b) The department shall maintain a complete and accurate accounting of the payment and use of funds
under this section.

437

HB0312 compared with HB0312S05

- (c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

640 Section 11. Section **76-5-114** is amended to read:

641 **76-5-114. (Effective 09/01/25)Commission of domestic violence in the presence of a child.**

442 (1)

(a) As used in this section:

443 (i) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

444 (ii) "Criminal homicide offense" means an offense listed in Subsection 76-5-201(2).

445 (iii) "Domestic violence" means the same as that term is defined in Section 77-36-1.

446 (iv) "In the presence of a child" means:

447 (A) in the physical presence of a child; or

448 (B) having knowledge that a child is present and may see or hear an act of domestic violence.

450 (b) Terms defined in Section 76-1-101.5 apply to this section.

451 (2) An actor commits domestic violence in the presence of a child if the actor:

452 (a) commits or attempts to commit a criminal homicide offense against a cohabitant in the presence of a child;

454 (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child;[~~or~~]

457 (c) intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence by applying pressure to the neck or throat of an individual or obstructing the nose, mouth, or airway of an individual, in the presence of a child; or

461 [~~(e)~~] (d) under circumstances not amounting to a violation of Subsection (2)(a)[~~or~~]{~~(b)~~], (2)(b), or (2)(c), [~~or~~ (e)], or (2)(c), commits an act of domestic violence in the presence of a child.

463 (3)

(a) A violation of Subsection (2)(a)[~~or~~]{~~(b)~~], (2)(b), or (2)(c) is a third degree felony.

464 (b) A violation of Subsection [~~(2)(e)~~] (2)(d) is a class B misdemeanor.

465 (4)

(a) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence in which the victim is the cohabitant.

HB0312 compared with HB0312S05

- 467 (b) Either or both charges may be filed by the prosecutor.
468 (5) An actor who commits a violation of this section when more than one child is present is guilty of one offense of domestic violence in the presence of a child regarding each child present when the violation occurred.

471 Section 8. Section 8 is enacted to read:

472 **76-9-110. Intentional concealment of identity in a public gathering.**

473 (1)

(a) As used in this section, "public place" means a place to which the public or a substantial group of the public has access, including:

475 (i) streets or highways; and

476 (ii) the common areas of schools, hospitals, apartment houses, office buildings, public buildings, public facilities, transport facilities, and shops.

478 (b) Terms defined in Section 76-1-101.5 apply to this section.

479 (2) An actor commits intentional concealment of identity in a public gathering if the actor, with intent to conceal the actor's identity:

481 (a) wears a mask, or other facial obscurant or disguise; and

482 (b) does so while congregating in a public place where other individuals are also masked, facially obscured, or disguised.

484 (3) A violation of Subsection (2) is a class B misdemeanor.

485 (4) This section does not apply to a Halloween activity or celebration, a masquerade party, or a similar activity or celebration.

672 Section 12. Section 77-18-102 is amended to read:

673 **77-18-102. (Effective 09/01/25)Definitions.**

As used in this chapter:

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

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

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

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

496 (5) "Convicted" means the same as that term is defined in Section 76-3-201.

497 (6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

499 (7) "Default" means the same as that term is defined in Section 77-32b-102.

HB0312 compared with HB0312S05

- 500 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 501 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 502 (10) "Habitual offender" means an individual who ~~has been convicted in~~:
- 503 (a)
- (i) has been convicted in at least ~~six~~ five previous cases for one or more felony offenses in each case;
and
- 505 ~~[(b) (ii) [each case described in Subsection (10)(a)]~~ the conviction for each previous case occurred
~~within five years before]~~ the conviction for each case referred to in Subsection (10)(a)(i) occurred
within the five-year period immediately preceding the day on which the defendant is convicted of
the new felony offense before the court~~[-]~~ ;
- 508 (b)
- (i) ~~{ at least nine previous cases for }~~ has been charged with one or more ~~{ misdemeanor }~~ felony
offenses in ~~{ each case }~~ at least nine separate cases; and
- 510 (ii) ~~{ the conviction for }~~ a felony charge in each ~~{ previous }~~ case ~~{ occurred within two years before }~~
referred to in Subsection (10)(b)(i) was issued within the five-year period immediately preceding the
day on which the defendant is convicted of ~~{ a }~~ the new ~~{ misdemeanor or }~~ felony offense before
the court; ~~{ or }~~
- 513 (c)
- (i) has been convicted in at least ~~{ 19 previous arrests }~~ nine previous cases for one or more
misdemeanor offenses in each ~~{ arrest }~~ case; and
- 515 (ii) ~~{ each arrest }~~ the conviction for each case referred to in Subsection (10)(c)(i) occurred within the
~~{ two years before }~~ three-year period immediately preceding the day on which the defendant is
convicted ~~{ on }~~ of a new misdemeanor or felony offense before the court~~{-}~~ ; or
- 704 (d)
- (i) has been charged with one or more misdemeanor offenses in at least 19 separate cases; and
- 706 (ii) a misdemeanor charge in each case referred to in Subsection (10)(d)(i) was issued within the
three-year period immediately preceding the day on which the defendant is convicted of the new
misdemeanor or felony offense before the court.
- 517 (11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- 518 (12) "Restitution" means the same as that term is defined in Section 77-38b-102.
- 519

HB0312 compared with HB0312S05

(13) "Screening" means a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

521 (14) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

716 Section 13. Section **77-18-103** is amended to read:

717 **77-18-103. (Effective 09/01/25)Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.**

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

528 (a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

532 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

535 (2)

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

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

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

545 (a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

547 (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

548 (c) recommendations for treatment for the defendant; and

549 (d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

HB0312 compared with HB0312S05

- 553 (4) The department or law enforcement agency shall provide the presentence investigation report to the
defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting
attorney, and the court for review within three working days before the day on which the defendant
is sentenced.
- 557 (5)
(a)
- (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the
parties and the department or law enforcement agency before sentencing:
- 560 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and
562 (B) the court may grant an additional 10 working days after the day on which the alleged
inaccuracy is brought to the court's attention to allow the parties and the department to
resolve the alleged inaccuracy in the presentence investigation report.
- 566 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the alleged
inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an
inaccuracy in the presentence investigation report, the court shall:
- 569 (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence
investigation report; and
571 (B) provide the written finding to the department or the law enforcement agency.
- 572 (b) The department shall attach the written finding to the presentence investigation report as an
addendum.
- 574 (c) If a party fails to challenge the accuracy of the presentence investigation report at the time of
sentencing, the matter shall be considered waived.
- 576 (6) The contents of the presentence investigation report are protected and not available except by
court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the
department or law enforcement agency.
- 579 (7)
(a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2,
Government Records Access and Management Act.
- 581 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order
the disclosure of a presentence investigation report.

583

HB0312 compared with HB0312S05

- (8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:
- 586 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 587 (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;
- 589 (c) requested by the board;
- 590 (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
- 592 (e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:
- 595 (i) statements or materials provided by the victim;
- 596 (ii) the circumstances of the offense, including statements by the defendant; or
- 597 (iii) the impact of the offense on the victim or the victim's household; or
- 598 (f) requested by a sex offender treatment provider:
- 599 (i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);
- 601 (ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and
- 603 (iii) who provides written assurance to the department that the report:
- 604 (A) is necessary for the treatment of the defendant;
- 605 (B) will be used solely for the treatment of the defendant; and
- 606 (C) will not be disclosed to an individual or entity other than the defendant.
- 607 (9)
- (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.
- 610 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.
- 612 (10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

614 ~~{Section 11. Section 77-20-102 is amended to read: }~~

615 **77-20-102. Definitions.**

HB0312 compared with HB0312S05

As used in this chapter:

- 617 (1) "Bail" means pretrial release.
- 618 (2) "Bail bond" means the same as that term is defined in Section 31A-35-102.
- 619 (3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- 620 (4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.
- 621 (5) "County jail official" means a county sheriff or the county sheriff's designee.
- 622 (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability
for a bail bond.
- 624 (7) "Financial condition" means any monetary condition that is imposed to secure an individual's
pretrial release.
- 626 (8) "Forfeiture" means:
- 627 (a) to divest an individual or surety from a right to the repayment of monetary bail; or
- 628 (b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure
an individual's pretrial release.
- 630 (9) "Magistrate" means the same as that term is defined in Section 77-1-3.
- 631 (10)
- (a) "Material change in circumstances" includes:
- 632 (i) an unreasonable delay in prosecution that is not attributable to the defendant;
- 633 (ii) a material change in the risk that an individual poses to a victim, a witness, or the public if
released due to the passage of time or any other relevant factor;
- 635 (iii) a material change in the conditions of release or the services that are reasonably available to the
defendant if released;
- 637 (iv) a willful or repeated failure by the defendant to appear at required court appearances; or
- 639 (v) any other material change related to the defendant's risk of flight or danger to any other
individual or to the community if released.
- 641 (b) "Material change in circumstances" does not include any fact or consideration that is known at the
time that the pretrial status order is issued.
- 643 (11) "Monetary bail" means a financial condition.
- 644 (12) "Own recognizance" means the release of an individual without any condition of release other than
the individual's promise to:
- 646 (a) appear for all required court proceedings; and

HB0312 compared with HB0312S05

- 647 (b) not commit any criminal offense.
- 648 (13) "Pretrial detention hearing" means a hearing described in Section 77-20-206.
- 649 (14) "Pretrial release" means the release of an individual from law enforcement custody during the time
the individual awaits trial or other resolution of criminal charges.
- 651 (15) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that
measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial
release.
- 654 (16) "Pretrial services program" means a program that is established to:
- 655 (a) gather information on individuals booked into a jail facility;
- 656 (b) conduct pretrial risk assessments; and
- 657 (c) supervise individuals granted pretrial release.
- 658 (17) "Pretrial status order" means an order issued by a magistrate or judge that:
- 659 (a) releases the individual on the individual's own recognizance while the individual awaits trial or other
resolution of criminal charges;
- 661 (b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or
other resolution of criminal charges; or
- 663 (c) denies pretrial release and orders that the individual be detained while the individual awaits trial or
other resolution of criminal charges.
- 665 (18) "Principal" means the same as that term is defined in Section 31A-35-102.
- 666 (19) "Surety" means a surety insurer or a bail bond agency.
- 667 (20) "Surety insurer" means the same as that term is defined in Section 31A-35-102.
- 668 (21) "Temporary pretrial status order" means an order issued by a magistrate that:
- 669 (a) releases the individual on the individual's own recognizance until a pretrial status order is issued;
- 671 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued;
or
- 673 (c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.
- 675 [~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails
to appear for any required court appearance.~~]

806 Section 14. Section 77-20-103 is amended to read:

807 **77-20-103. Release data requirements.**

808

HB0312 compared with HB0312S05

- (1) The Administrative Office of the Courts shall submit the following data on cases involving individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:
- 812 (a) for the preceding calendar year:
- 813 (i) the number of individuals charged with a criminal offense who failed to appear at a required court proceeding while on pretrial release under each of the following categories of release:
- 816 (A) the individual's own recognizance;
- 817 (B) a financial condition; and
- 818 (C) a release condition other than a financial condition;
- 819 (ii) the number of offenses that carry a potential penalty of incarceration an individual committed while on pretrial release under each of the following categories of release:
- 822 (A) the individual's own recognizance;
- 823 (B) a financial condition; and
- 824 (C) a release condition other than a financial condition; and
- 825 (iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of release under each of the following categories of release:
- 828 (A) an individual's own recognizance;
- 829 (B) a financial condition; and
- 830 (C) a release condition other than a financial condition; and
- 831 (b) at the end of the preceding calendar year:
- 832 (i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody on pretrial release under each of the following categories of release:
- 835 (A) the individual's own recognizance;
- 836 (B) a financial condition; and
- 837 (C) a release condition other than a financial condition;
- 838 (ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and
- 840 (iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

HB0312 compared with HB0312S05

- 842 (A) a first degree felony;
- 843 (B) a second degree felony;
- 844 (C) a third degree felony;
- 845 (D) a class A misdemeanor;
- 846 (E) a class B misdemeanor; and
- 847 (F) a class C misdemeanor.
- 848 (2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:
- 850 (a) the number of individuals released upon payment of monetary bail before appearing before a court;
- 852 (b) the number of individuals released on the individual's own recognizance before appearing before a court;[-and]
- 854 (c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail[-] ;
- 856 (d) the number of individuals released as a result of overcrowding; and
- 857 (e) the number of individuals released on pretrial release.
- 858 (3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.
- 861 Section 15. Section 77-20-203 is amended to read:
- 862 **77-20-203. County sheriff authority to release an individual from jail on own recognizance.**
- 864 (1) As used in this section:
- 865 (a)
- 867 (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).
- 867 (ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.
- 869 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 870 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 871 (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:
- 873 (a) the individual was arrested without a warrant;

HB0312 compared with HB0312S05

- 874 (b) the individual was not~~[-arrested for]~~:
- 875 (i) arrested for a violent [felony] offense as defined in Section 76-3-201.10;
- 876 (ii) arrested for a qualifying offense;
- 877 (iii) arrested for 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]~~
- 880 (iv) arrested for an offense described in Subsection 76-9-101(4);
- 881 (v) arrested for possession of any composition or mixture, including pills, that contains 100 grams or
more of fentanyl or a fentanyl-related substance; or
- 883 (vi) previously booked into the same jail within the immediately preceding 12-month period;
- 885 (c) law enforcement has not submitted a probable cause statement to a court or magistrate;
- 887 (d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest;
and
- 889 (e) the individual qualifies for release under the written policy described in Subsection (4) for the
county.
- 891 (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.
- 894 (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.
- 896 (b) The written policy shall describe the criteria an individual shall meet to be released on the
individual's own recognizance.
- 898 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 899 (i) criminal history;
- 900 (ii) prior instances of failing to appear for a mandatory court appearance;
- 901 (iii) current employment;
- 902 (iv) residency;
- 903 (v) ties to the community;
- 904 (vi) an offense for which the individual was arrested;
- 905 (vii) any potential criminal charges that have not yet been filed;
- 906 (viii) the individual's health condition;

HB0312 compared with HB0312S05

- 907 (ix) any potential risks to a victim, a witness, or the public; and
908 (x) any other similar factor a sheriff determines is relevant.
909 (5)
(a)
(i) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for no less than eight hours and up to 24 hours from booking if[:] the individual is on supervised probation or parole and that information is reasonably available.
913 [~~(i) the individual is on supervised probation or parole and that information is reasonably available; and]~~
915 [~~(ii) the individual was arrested for:]~~
916 [~~(A) a violent felony; or]~~
917 [~~(B) a qualifying domestic violence offense]~~
918 (ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than eight hours if:
920 (A) the entity supervising the individual on probation or parole informs the jail that the supervising entity does not intend to place a hold on the individual; and
922 (B) a court or magistrate has ordered a release.
923 (b) [~~The] Before any release, a jail facility shall:~~
924 (i) notify the entity supervising the individual's probation or parole that the individual is being detained and provide that entity an opportunity to place a hold on the individual; and
927 (ii) only release the individual:
928 (A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or
930 (B) if a court or magistrate orders release.
931 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.
933 (6) This section does not prohibit a court and a county from entering into an agreement regarding release, except that any such agreement shall apply only to an individual who meets the criteria in an agreement as those criteria existed as of January 1, 2025.
936 Section 16. Section **77-20-204** is amended to read:
937 **77-20-204. (Effective 09/01/25)County jail authority to release an individual from jail on monetary bail.**

HB0312 compared with HB0312S05

- 680 (1) As used in this section, "eligible felony offense" means a third degree felony violation under:
- 682 (a) Section 23A-4-501 or 23A-4-502;
- 683 (b) Section 23A-5-311;
- 684 (c) Section 23A-5-313;
- 685 (d) Title 76, Chapter 6, Part 4, Theft;
- 686 (e) Title 76, Chapter 6, Part 5, Fraud;
- 687 (f) Title 76, Chapter 6, Part 6, Retail Theft;
- 688 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;
- 689 (h) Title 76, Chapter 6, Part 8, Library Theft;
- 690 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;
- 691 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;
- 692 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 693 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;
- 694 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;
- 695 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;
- 696 (o) Title 76, Chapter 6a, Pyramid Scheme Act;
- 697 (p) Title 76, Chapter 7, Offenses Against the Family;
- 698 (q) Title 76, Chapter 7a, Abortion Prohibition;
- 699 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- 700 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
- 701 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 702 (u) Title 76, Chapter 9, Part 5, Libel; or
- 703 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.
- 704 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:
- 706 (a)
- (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;
- 708 (ii) the individual is arrested for, or charged with:
- 709 (A) a misdemeanor offense under state law, excluding a misdemeanor offense:
- 710 (I) for domestic violence as defined in Section 77-36-1; or

HB0312 compared with HB0312S05

- 711 (II) for driving under the influence under Title 41, Chapter 6, Part 5, Driving Under the Influence and
712 Reckless Driving, or Section 76-5-102.1; or
- 713 (B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;
- 715 (iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest;
and
- 717 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 718 (b)
- 719 (i) the individual is arrested for, or charged with, an eligible felony offense;
- 719 (ii) the individual is not on pretrial release for a separate criminal offense;
- 720 (iii) the individual is not on probation or parole;
- 721 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 722 (v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest;
and
- 724 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 725 (3) A county jail official may not fix a financial condition at a monetary amount that exceeds:
- 727 (a) \$5,000 for an eligible felony offense;
- 728 (b) \$1,950 for a class A misdemeanor offense;
- 729 (c) \$680 for a class B misdemeanor offense;
- 730 (d) \$340 for a class C misdemeanor offense;
- 731 (e) \$150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or
- 733 (f) \$80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.
- 735 (4) If an individual is arrested for more than one offense, and the county jail official fixes a financial
condition for release:
- 737 (a) the county jail official shall fix the financial condition at a single monetary amount; and
- 739 (b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the
highest level of offense for which the individual is arrested.
- 741 (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a
financial condition fixed by a county jail official in accordance with this section.
- 743 (6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a
probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after
the county jail official fixes the financial condition.

HB0312 compared with HB0312S05

- 746 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of
Criminal Procedure:
- 748 (a) a county jail official may not fix or modify a financial condition for an individual; and
- 750 (b) if a county jail official fixed a financial condition for the individual before the magistrate's review,
the individual may no longer be released on the financial condition.
- 753 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the
Department of Corrections as described in Section 64-13-29.
- 755 (9) This section does not prohibit a court and a county from entering into an agreement regarding
release, except that any such agreement shall apply only to an individual who meets the criteria in an
agreement as those criteria existed as of January 1, 2025.

1017 Section 17. Section **77-20-205** is amended to read:

1018 **77-20-205. (Effective 09/01/25)Pretrial release by a magistrate or judge.**

- 759 (1)
- (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the
individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a
temporary pretrial status order that:
- 762 (i) releases the individual on the individual's own recognizance during the time the individual
awaits trial or other resolution of criminal charges;
- 764 (ii) designates a condition, or a combination of conditions, to be imposed upon the individual's
release during the time the individual awaits trial or other resolution of criminal charges; or
- 767 (iii) orders the individual be detained during the time the individual awaits trial or other resolution
of criminal charges, subject to the requirements of Subsections (1)(c) {~~and (1)(d)~~}.
- 770 (b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status
order that:
- 772 (i) releases the individual on the individual's own recognizance during the time the individual awaits
trial or other resolution of criminal charges; or
- 774 (ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release
during the time the individual awaits trial or other resolution of criminal charges.
- 777 (c)

HB0312 compared with HB0312S05

(i) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order of detention under Subsection ~~[(1) that detains an individual]~~ (1)(a)(iii) if the individual is arrested for a felony offense and the magistrate finds:

780 [(i)] (A) there is substantial evidence to support the individual's arrest for the felony offense;

782 [(ii)] (B) the individual committed the felony offense while:

783 [(A)] (I) the individual was on parole or probation for a conviction of a felony offense; or

785 [(B)] (II) the individual was released and awaiting trial on a previous charge for a felony offense; and

787 [(iii)] (C) based on information reasonably available to the magistrate, the individual ~~[has at least nine cases where the individual has been charged or convicted, or entered a plea of guilty, within five years from the day on which the individual was arrested for the felony offense described in Subsection (1)(e)(i)]~~ is a habitual offender as defined in Section 77-18-102 ~~{, {}}~~ is a habitual offender as defined in Section 77-18-102.

792 [(d)] (ii) ~~[Subsection { } This Subsection]~~ (1)(e) This Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in this Subsection (1)(c).

795 ~~{(d) When issuing a temporary pretrial status order of detention under Subsection (1)(a)(iii), a magistrate shall: }~~

797 ~~{(i) include in the order a written conclusion that: }~~

798 ~~{(A) the order is required under Subsection (1)(e); or }~~

799 ~~{(B) there is a substantial likelihood that the individual will reoffend if released; and }~~

800 ~~{(ii) if the magistrate utilizes a pretrial risk assessment tool as part of the magistrate's decision-making process, the magistrate shall: }~~

802 ~~{(A) before deciding whether the individual should be released, consider the individual's statistical likelihood of reoffending based on the individual's score on the tool; and }~~

805 ~~{(B) include the individual's score from the tool in the written conclusion. }~~

806 (2)

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

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

810

HB0312 compared with HB0312S05

- (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;
- 812 (ii) if a party requests a delay; or
- 813 (iii) if there is good cause to delay the issuance.
- 814 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.
- 817 (3)
- (a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:
- 819 (i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;
- 821 (ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or
- 824 (iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.
- 826 (b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.
- 829 (4) In making a determination about pretrial release, a magistrate or judge shall impose:
- 830 (a) only conditions of release that are reasonably available; and
- 831 (b) conditions of release that reasonably ensure:
- 832 (i) the individual's appearance in court when required;
- 833 (ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;
- 835 (iii) the safety and welfare of the public; and
- 836 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.
- 838 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:
- 840 (a) not commit a federal, state, or local offense during the period of pretrial release;
- 841 (b) avoid contact with a victim of the alleged offense;
- 842 (c) avoid contact with a witness who:
- 843 (i) may testify concerning the alleged offense; and
- 844 (ii) is named in the pretrial status order;

HB0312 compared with HB0312S05

- 845 (d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a
licensed medical practitioner;
- 847 (e) submit to drug or alcohol testing;
- 848 (f) complete a substance abuse evaluation and comply with any recommended treatment or release
program;
- 850 (g) submit to electronic monitoring or location device tracking;
- 851 (h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;
- 853 (i) maintain employment or actively seek employment if unemployed;
- 854 (j) maintain or commence an education program;
- 855 (k) comply with limitations on where the individual is allowed to be located or the times that the
individual shall be, or may not be, at a specified location;
- 857 (l) comply with specified restrictions on personal associations, place of residence, or travel;
- 859 (m) report to a law enforcement agency, pretrial services program, or other designated agency at a
specified frequency or on specified dates;
- 861 (n) comply with a specified curfew;
- 862 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 863 (p) if the individual is charged with an offense against a child, limit or prohibit access to any location or
occupation where children are located, including any residence where children are on the premises,
activities where children are involved, locations where children congregate, or where a reasonable
person would know that children congregate;
- 868 (q) comply with requirements for house arrest;
- 869 (r) return to custody for a specified period of time following release for employment, schooling, or
other limited purposes;
- 871 (s) remain in custody of one or more designated individuals who agree to:
- 872 (i) supervise and report on the behavior and activities of the individual; and
- 873 (ii) encourage compliance with all court orders and attendance at all required court proceedings;
- 875 (t) comply with a financial condition; or
- 876 (u) comply with any other condition that is reasonably available and necessary to ensure compliance
with Subsection (4).
- 878 (6)

HB0312 compared with HB0312S05

- (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.
- 881 (b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.
- 884 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.
- 887 (7)
- (a) If the magistrate or judge determines that a financial condition {**f, other than an unsecured bond,**} is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.
- 891 (b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:
- 895 (i) the county jail official's action to fix a financial condition; or
- 896 (ii) the amount of the financial condition that the individual was required to pay for pretrial release.
- 898 (c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.
- 900 (8) In making a determination about pretrial release, the magistrate or judge may:
- 901 (a) rely upon information contained in:
- 902 (i) the indictment or information;
- 903 (ii) any sworn or probable cause statement or other information provided by law enforcement;
- 905 (iii) a pretrial risk assessment;
- 906 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 907 (v) witness statements or testimony;
- 908 (vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or
- 910 (vii) any other reliable record or source, including proffered evidence; and
- 911 (b) consider:
- 912 (i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

HB0312 compared with HB0312S05

- 914 (A) whether the offense is a violent offense; and
915 (B) the vulnerability of a witness or alleged victim;
916 (ii) the nature and circumstances of the individual, including the individual's:
917 (A) character;
918 (B) physical and mental health;
919 (C) family and community ties;
920 (D) employment status or history;
921 (E) financial resources;
922 (F) past criminal conduct;
923 (G) history of drug or alcohol abuse; and
924 (H) history of timely appearances at required court proceedings;
925 (iii) the potential danger to another individual, or individuals, posed by the release of the individual;
927 (iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding
at the time the individual allegedly committed the offense or offenses;
930 (v) the availability of:
931 (A) other individuals who agree to assist the individual in attending court when required; or
933 (B) supervision of the individual in the individual's community;
934 (vi) the eligibility and willingness of the individual to participate in various treatment programs,
including drug treatment; or
936 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
938 (9) The magistrate or judge may not base a determination about pretrial release solely:
939 (a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the
individual is arrested for or charged with a capital felony; or
941 (b) on an algorithm or a risk assessment tool score.
942 (10) An individual arrested for violation of a jail release agreement, or a jail release court order, issued
in accordance with Section 78B-7-802:
944 (a) may not be released before the individual's first appearance before a magistrate or judge; and
946 (b) may be denied pretrial release by the magistrate or judge.

1196 Section 18. **Repealer.**

This Bill Repeals:

1197 This bill repeals:

HB0312 compared with HB0312S05

1198 Section 64-13e-105, Subcommittee on County Correctional Facility Contracting and
1199 Reimbursement -- Purpose -- Responsibilities -- Membership.

1200 Section 77-27-21.9, Sex offender assessment.

1253 Section 77-27-21.9, Sex offender assessment.

947 ~~{Section 14. Section 77-20-206 is amended to read: }~~

948 **77-20-206. Motion for pretrial detention -- Pretrial detention hearing.**

949 (1)

(a) If the criminal charges filed against an individual include one or more offenses eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8, the prosecuting attorney may make a motion for pretrial detention.

952 (b) The motion for pretrial detention may include proposed factual findings for the court to adopt.

954 ~~[(b)]~~ (c) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge shall set a pretrial detention hearing in accordance with Subsection (2).

956 (2) If a pretrial status order is not issued at an individual's first appearance and the individual remains detained, a pretrial detention hearing shall be held at the next available court hearing that is:

959 (a) no sooner than seven days from the day on which the defendant was arrested; and

960 (b) no later than fourteen days from the day on which the defendant was arrested.

961 (3)

(a) An individual, who is the subject of a pretrial detention hearing, has the right to be represented by counsel at the pretrial detention hearing.

963 (b) If a judge finds the individual is indigent under Section 78B-22-202, the judge shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

965 (4) At the pretrial detention hearing:

966 (a) if requested by the prosecuting attorney or the individual, the court shall make a finding that evidence presented at the hearing is subject to the Utah Rules of Evidence;

969 (b) the judge shall give both parties the opportunity to make arguments and to present relevant evidence or information;

971 ~~[(b)]~~ (c) the prosecuting attorney and the defendant have a right to subpoena witnesses to testify; and

973 ~~[(e)]~~ (d) the judge shall issue a pretrial status order in accordance with Subsection (5) and Section 77-20-205.

975

HB0312 compared with HB0312S05

(5) After hearing evidence on a motion for pretrial detention, and based on the totality of the circumstances, a judge may order detention if:

- 977 (a) the individual is accused of committing an offense that qualifies for detention of the individual
under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8;[-and]
- 980 (b) the prosecuting attorney demonstrates substantial evidence to support the charge, and meets all
additional evidentiary burdens required under Subsection 77-20-201(1) or [~~Utah Constitution,
Article I, Section 8.~~] Utah Constitution, Article I, Section 8; and
- 983 (c) the order meets the requirements of Subsection (8).
- 984 (6) An alleged victim has the right to be heard at a pretrial detention hearing on a motion for pretrial
detention.
- 986 (7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the pretrial
detention hearing, a defendant may issue a subpoena, at the conclusion of the pretrial detention
hearing, compelling the alleged victim to testify at a subsequent hearing only if the judge finds that
the testimony sought by the subpoena:
- 990 (a) is material to the substantial evidence or clear and convincing evidence determinations described in
Section 77-20-201 in light of all information presented to the court; and
- 993 (b) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.
- 995 (8)
- (a) An order of detention shall include written findings of fact and conclusions of law.
- 996 (b) A signed order of detention containing written findings of fact and conclusions of law must be
entered within 24 hours of the pretrial detention hearing. If the signed order is not entered within 24
hours of the hearing, the individual shall be released.
- 999 (c) If the court bases its findings in the order of detention, in whole or in part, on the individual's score
in a pretrial risk assessment tool, the order shall identify the statistical likelihood of reoffense or
non-appearance based on the individual's score from the tool.

1003 ~~{Section 15. Section 77-20-402 is amended to read: }~~

1004 **77-20-402. Payment of monetary bail to court -- Specific payment methods -- Refund of
monetary bail.**

- 1006 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail imposed by a
judge or magistrate by any of the following methods:
- 1008 (a) in cash;

HB0312 compared with HB0312S05

- 1009 (b) by a bail bond with a surety; or
1010 [~~(e) by an unsecured bond, at the discretion of the judge or magistrate; or~~]
1011 [~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.
- 1012 (2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1):
- 1014 (a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and the case involves a violent offense;
- 1016 (b) in order to allow the defendant to voluntarily remit the fine in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;
- 1019 (c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;
- 1022 (d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to the amount owed; or
- 1025 (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in any case involving the defendant.
- 1027 (3) Monetary bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address, telephone number, and email address of the surety.
- 1029 (4) Monetary bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.
- 1031 (5)
- 1033 (a) Monetary bail refunded by the court may be refunded by credit to the debit or credit card or in cash.
- 1036 (b) The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the monetary bail set by the judge or magistrate.
- 1040 (c) Before refunding monetary bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward a criminal accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant in the priority set forth in Section 77-38b-304.
- 1041 ~~{Section 16. Section 77-27-8 is amended to read: }~~
77-27-8. Record of hearing.
- 1042

HB0312 compared with HB0312S05

(1) A verbatim record of proceedings before the Board of Pardons and Parole shall be maintained by a suitable electronic recording device, except when the board dispenses with a record in a particular hearing or a portion of the proceedings.

1045 [(2) When the hearing involves the commutation of a death sentence, a certified shorthand reporter, in addition to electronic means, shall record all proceedings except when the board dispenses with a record for the purpose of deliberations in executive session. The compensation of the reporter shall be determined by the board. The reporter shall immediately file with the board the original record and when requested shall with reasonable diligence furnish a transcription or copy of the record upon payment of reasonable fees as determined by the board.]

1052 [(3)] (2) When an inmate or offender affirms by affidavit that he is unable to pay for a copy of the record, the board may furnish a copy of the record, at the expense of the state, to the inmate or offender.

1055 {Section 17. Section 78B-22-301 is amended to read: }

1056 **78B-22-301. Standards for indigent defense systems -- Written report.**

1057 (1) An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the core principles adopted by the commission under Section 78B-22-404.

1060 (2)

(a) On or before March 30 of each year, all indigent defense systems shall submit a written report to the commission that[-] :

1062 (i) describes each indigent defense system's compliance with the commission's core principles[-] ;
and

1064 (ii) if the indigent defense system operates in a county that is participating in the verification of indigency pilot program created in Section 78B-22-1002, provides information and feedback on the indigent defense system's activities in relation to the pilot program.

1068 (b) If an indigent defense system fails to submit a timely report under Subsection (2)(a), the indigent defense system is disqualified from receiving a grant from the commission for the following calendar year.

1071 {Section 18. Section 78B-22-404 is amended to read: }

1072 **78B-22-404. Powers and duties of the commission.**

1073 (1) The commission shall:

1074

HB0312 compared with HB0312S05

- (a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:
- 1078 (i) an indigent defense system shall ensure that in providing indigent defense services:
- 1079 (A) an indigent individual receives conflict-free indigent defense services; and
- 1080 (B) there is a separate contract for each type of indigent defense service; and
- 1081 (ii) an indigent defense system shall ensure an indigent defense service provider has:
- 1082 (A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;
- 1085 (B) adequate access to indigent defense resources;
- 1086 (C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;
- 1089 (D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;
- 1092 (E) adequate compensation without financial disincentives;
- 1093 (F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;
- 1095 (G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and
- 1098 (H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;
- 1101 (b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;
- 1104 (c) emphasize the importance of ensuring constitutionally effective indigent defense services;
- 1106 (d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;
- 1108 (e) oversee individuals and entities involved in providing indigent defense services; ~~and~~
- 1109 (f) establish, and periodically review and revise, recommended criteria and standards for determining and verifying indigency; and

1111

HB0312 compared with HB0312S05

[(f)] (g) manage county participation in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701.

1113 (2) The commission may:

1114 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;

1116 (b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

1118 (c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Fund created in Section 78B-22-455; and

1120 (d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

1122 ~~{Section 19. Section 78B-22-452 is amended to read: }~~

1123 **78B-22-452. Duties of the office.**

1124 (1) The office shall:

1125 (a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

1127 (b) assist the commission in performing the commission's statutory duties described in this chapter;

1129 (c) identify and collect data that is necessary for the commission to:

1130 (i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

1133 (ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

1135 (d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

1138 (e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

1140 (f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

1142 (g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

1144

HB0312 compared with HB0312S05

- (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501;
- 1146 (ii) is charged with having committed a crime within that state prison; and
- 1147 (iii) has been appointed counsel in accordance with Section 78B-22-203;
- 1148 (h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;
- 1150 (i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;
- 1153 (j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;
- 1155 (k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
- 1157 (l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
- 1160 (m) annually report to the governor, ~~[Legislature,]~~Judiciary Interim Committee, and Judicial Council, regarding:
- 1162 (i) the operations of the commission;
- 1163 (ii) the operations of the indigent defense systems in the state;~~[-and]~~
- 1164 (iii) the current activities and results of the verification of indigency pilot program created in Section 78B-22-1001; and
- 1166 ~~[(iii)]~~ (iv) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;
- 1168 (n) submit recommendations to the commission for improving indigent defense services in the state;
- 1170 (o) publish an annual report on the commission's website; and
- 1171 (p) perform all other duties assigned by the commission related to indigent defense services.
- 1173 (2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.
- 1175 (3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.
- 1178 ~~{Section 20. Section 78B-22-1001 is amended to read: }~~
- 1179 **78B-22-1001. Verification of indigency -- Pilot program.**
- 1180

HB0312 compared with HB0312S05

- (1) Beginning on July 1, 2022, and ending on June 30, ~~[2025]~~ 2028, an indigent defense system in Cache County, Davis County, Duchesne County, and San Juan County shall conduct a pilot program to verify the indigency of individuals who were provided indigent defense services by the indigent defense system, except as provided in Subsection ~~[(5)]~~ (6).
- 1185 (2) Under the pilot program described in Subsection (1), the indigent defense system shall review and verify financial information in a statistically significant sample of cases for each calendar year where, except as provided in Subsection (5):
- 1188 (a) an individual was found to be indigent by a court; and
- 1189 (b) the indigent defense system provided indigent defense services to the individual.
- 1190 (3) To verify financial information under Subsection (2), the indigent defense system may require an individual to provide financial documentation or proof demonstrating that the individual qualifies as indigent under Section 78B-22-202.
- 1193 (4) An indigent defense system described in Subsection (1) shall report to ~~[the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee,]~~ the commission concerning the results of the pilot program described in this section, on or before ~~[November 1]~~ March 30 of each year of the three-year pilot program.
- 1197 (5) The commission shall regularly coordinate with the office regarding the ongoing activities and results of the pilot program.
- 1199 ~~[(5)]~~ (6) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.
- 1201 ~~{Section 21. Section 80-6-507 is amended to read: }~~
- 1202 **80-6-507. Commitment of a minor by a district court -- Housing in secure care facility or correctional facility.**
- 1204 (1)
- (a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:
- 1206 (i) the district court shall order the minor committed to prison; and
- 1207 (ii)
- (A) the minor shall be provisionally housed in a secure care facility ~~[-]~~ until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole~~[-]~~ ; or
- 1210

HB0312 compared with HB0312S05

- (B) if the minor is convicted of aggravated murder under Section 76-5-202, the minor was 17 years old when the aggravated murder occurred, and the minor was 18 years old or older at the time of sentencing, the district court may order the minor to be housed in a correctional facility rather than a secure care facility.
- 1215 (b) Upon a motion by a prosecuting attorney, a district court may review the status of a minor who is provisionally housed in a secure care facility as described in Subsection (1)(a)(ii)(A) and order that the minor be committed to the physical custody of the Department of Corrections and housed in a correctional facility if:
- 1219 (i) the minor meets the requirements of Subsection (1)(a)(ii)(B); and
- 1220 (ii) the court finds that the transfer is warranted.
- 1221 [(b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as described in Subsection (1)(a) on or after May 4, 2022.]
- 1223 (2)
- (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility under Subsection (1) to the physical custody of the Department of Corrections.
- 1227 (b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that housing the minor in a secure care facility [-]presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.
- 1231 (3)
- (a) When a minor is committed to prison but provisionally housed in a secure care facility [-]under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so ~~that~~the minor may be scheduled for a hearing according to board procedures.
- 1235 (b) If a minor who is provisionally housed in a secure care facility [-]under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 25 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches 25 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.
- 1240 (4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of

HB0312 compared with HB0312S05

parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

1244 (5) The authority shall:

1245 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and

1247 (b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

1249 (6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

1201 Section 19. **Effective date.**

~~{This}~~ Except as provided in Subsection (2), this bill takes effect ~~{on May 7.}~~ September 1, 2025.

1203 (2) The actions affecting the following sections take effect on July 1, 2025:

1204 (a) Section 64-13e-103 (Effective 07/01/25); and

1205 (b) Section 64-13e-103.1 (Effective 07/01/25).

2-26-25 9:22 AM