

HB0312S04 compared with HB0312S02

~~{Omitted text}~~ shows text that was in HB0312S02 but was omitted in HB0312S04
inserted text shows text that was not in HB0312S02 but was inserted into HB0312S04

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Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- ▶ ~~{modifies compliance requirements for sheriffs;}~~
- ▶ modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- ▶ requires a county sheriff who permits probation to establish probations standards and procedures ~~{established}~~ adopted by the Utah Sheriffs' Association;
- ▶ prohibits the use of state funds for a syringe exchange program;
- ▶ prohibits the Department of Corrections from housing inmates in a private correctional facility, unless the purpose is federal immigration detention or civil detention;
- ▶ adds "detention removal officer" to the definition of federal officers who have statewide law enforcement authority;
- ▶

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modifies contractual term requirements for the state court administrator in relation to {~~provision of~~} providing security;

- 15 ▶ modifies provisions related to the definition and calculation of the state daily incarceration rate;
- 21 ▶ modifies permitted uses for funds in the Adult Probation and Parole Employment Incentive

Program;

- 23 ▶ adds strangulation or choking as a criminal offense included with the crime of commission of domestic violence in the presence of a child;

- 25 ▶ requires that the Department of Corrections may only contract with a county facility to house state inmates in a county correctional facility;

- 17 ▶ modifies the definition of habitual offender and makes conforming changes;

- 18 ▶ {~~removes references to unsecured bonds;~~}

- 28 ▶ requires a county sheriff to report statistics on releases due to overcrowding and pretrial release;

- 19 ▶ 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; {~~and~~}

- 24 ▶ modifies provisions related to a magistrate's orders for pretrial release or detention{~~;~~} ;

- 36 ▶ repeals the Subcommittee on County Correctional Facility Contracting and

Reimbursement; and

- 38 ▶ makes technical and conforming changes.

39 Money Appropriated in this Bill:

40 None

42 This bill provides a special effective date.

44 AMENDS:

31 ~~{17-22-2, as last amended by Laws of Utah 2024, Chapter 21, as last amended by Laws of Utah 2024, Chapter 21}~~

45 17-22-5.5, as last amended by Laws of Utah 2024, Chapter 419, as last amended by Laws of Utah 2024, Chapter 419

46 17-22-5.6, as enacted by Laws of Utah 2024, Chapter 16, as enacted by Laws of Utah 2024, Chapter 16

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~~{17-22-27, as last amended by Laws of Utah 2011, Chapter 297, as last amended by Laws of Utah 2011, Chapter 297}~~

47 **26B-7-117, as last amended by Laws of Utah 2024, Chapter 250, as last amended by Laws of Utah 2024, Chapter 250**

48 **53-13-106, as last amended by Laws of Utah 2020, Chapter 153, as last amended by Laws of Utah 2020, Chapter 153**

49 **64-13d-103, as enacted by Laws of Utah 1999, Chapter 288, as enacted by Laws of Utah 1999, Chapter 288**

50 **64-13e-102, as last amended by Laws of Utah 2024, Chapter 467, as last amended by Laws of Utah 2024, Chapter 467**

51 **64-13e-103, as last amended by Laws of Utah 2023, Chapter 246, as last amended by Laws of Utah 2023, Chapter 246**

52 **64-13e-103.1, as last amended by Laws of Utah 2024, Chapter 467, as last amended by Laws of Utah 2024, Chapter 467**

53 **64-13e-103.3, as enacted by Laws of Utah 2023, Chapter 246, as enacted by Laws of Utah 2023, Chapter 246**

54 **64-13g-102, as last amended by Laws of Utah 2024, Chapter 208, as last amended by Laws of Utah 2024, Chapter 208**

55 **76-5-114, as renumbered and amended by Laws of Utah 2022, Chapter 181, as renumbered and amended by Laws of Utah 2022, Chapter 181**

56 **77-18-102, as last amended by Laws of Utah 2024, Chapters 245, 434, as last amended by Laws of Utah 2024, Chapters 245, 434**

57 **77-18-103, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434**

39 ~~{77-20-102, as last amended by Laws of Utah 2023, Chapter 408, as last amended by Laws of Utah 2023, Chapter 408}~~

58 **77-20-103, 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**

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61 **77-20-203** , as last amended by Laws of Utah 2024, Chapter 16 , as last amended by Laws of Utah 2024, Chapter 16

62 **77-20-204** , as last amended by Laws of Utah 2024, Chapter 16 , as last amended by Laws of Utah 2024, Chapter 16

42 ~~**77-20-205** , as last amended by Laws of Utah 2024, Chapters 187, 434 , as last amended by Laws of Utah 2024, Chapters 187, 434~~

63 **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

64 ENACTS:

65 **64-13-51 , Utah Code Annotated 1953 , Utah Code Annotated 1953**

66 REPEALS:

67 **64-13e-105 , as last amended by Laws of Utah 2024, Chapter 467 , 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**

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

70 ~~**Section 1. Section 17-22-2 is amended to read: }**~~

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

49 (1) The sheriff shall:

50 (a) preserve the peace;

51 (b) make all lawful arrests;

52 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions~~[, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration]~~;

57 (d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

60 (e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

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- 63 (f) command the aid of as many inhabitants of the sheriff's county as the sheriff considers necessary in the execution of these duties;
- 65 (g) take charge of and keep the county jail and the jail prisoners;
- 66 (h) receive and safely keep all persons committed to the sheriff's custody, file and preserve the commitments of those persons in custody, and record the name, age, place of birth, and description of each person committed;
- 69 (i) release on the record all attachments of real property when the attachment the sheriff receives has been released or discharged;
- 71 (j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;
- 75 (k) serve all process and notices as prescribed by law;
- 76 (l) if the sheriff makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if the sheriff fails to make service, certify the reason upon the process or notice, and return them without delay;
- 79 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;
- 81 (n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;
- 84 (o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;
- 88 (p) manage and direct search and rescue services in his county, including emergency medical responders and other related incident response activities;
- 90 (q) obtain saliva DNA specimens as required under Section 53-10-404;
- 91 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;
- 94 (s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102;

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- 96 (t) appoint a county security chief in accordance with Section 53-22-103 and ensure the county security
chief fulfills the county security chief's duties; and
- 98 (u) perform any other duties that are required by law.
- 99 (2)
- . (a) Violation of Subsection (1)(j) is a class C misdemeanor.
- 100 (b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.
- 101 (3)
- . (a) As used in this Subsection (3):
- 102 (i) "Police interlocal entity" means the same as that term is defined in Sections 17-30-3 and
17-30a-102.
- 104 (ii) "Police special district" means the same as that term is defined in Section 17-30-3.
- 105 (b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes
within its boundary a police special district or police interlocal entity, or both:
- 108 (i) serves as the chief executive officer of each police special district and police interlocal entity within
the county with respect to the provision of law enforcement service within the boundary of the
police special district or police interlocal entity, respectively; and
- 112 (ii) is subject to the direction of the police special district board of trustees or police interlocal entity
governing body, as the case may be, as and to the extent provided by agreement between the police
special district or police interlocal entity, respectively, and the sheriff.
- 116 (c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police
interlocal entity or police special district enters an interlocal agreement with a public agency, as
defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:
- 120 (i) does not serve as the chief executive officer of any interlocal entity created under that interlocal
agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and
- 123 (ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

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

72 **17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail
facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.**

129 (1)

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

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

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- (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;
- 167 (e) has been arrested or convicted of another crime within the 30-day period immediately preceding the date of the arrest or conviction;or
- 115 (f) has been previously booked into the same jail within the immediately preceding 12-month period;
- 169 ~~{(f)}~~ (g) has ~~{been arrested or charged with}~~ an outstanding warrant for failing to appear in a {crime that} case:
- 118 (i) involving any charge described in Subsections (4)(a) through (4)(d); or
- 170 ~~{(i)}~~ (ii) ~~{classifies}~~ where the individual classifies as a habitual offender as defined in Section 77-18-102{;or}.
- 171 ~~{(ii) {will classify the individual as a habitual offender under Section 77-18-102 if the individual is convicted of the crime; or}-}~~
- 173 ~~{(g) {has an outstanding warrant for failing, without just cause, to appear at a time and place that was ordered as a condition of pretrial release.}-}~~
- 175 [(4)] (5)
- . (a) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.
- 178 (b) A county contracting with another county to house an individual:
- 179 (i) shall contract with the nearest county that:
- 180 (A) has available capacity in its county jail; and
- 181 (B) contracts to house the individual;
- 182 (ii) may not house federal detainees; and
- 183 (iii) shall, subject to the agreement of the parties to the contract, pay to the county contracting to receive the transferred individual a day per capita rate that does not exceed the higher of:
- 186 (A) the current average cost of housing an individual in the transferring county jail; or
- 188 (B) the daily incarceration rates described in Section 64-13e-103.1.
- 189 [(5)] (6) Regardless of whether a jail facility has reached the jail facility's maximum 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.

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

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

141 **17-22-5.6. Probation supervision -- Violation of probation -- Detention -- Hearing.**

197 (1) As used in this section:

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

200 (b)

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

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

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

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

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

209 (a) incarceration is recommended as a sanction;

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

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

213 (i) a violent felony; or

214 (ii) a qualifying domestic violence offense.

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

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

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

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225 [(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.

228 [(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.

232 [(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.

233 {Section 4. ~~Section 17-22-27 is amended to read:~~ }

234 17-22-27. Sheriff -- Assignment of court bailiffs -- Contract and costs.

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

238 (2)

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

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

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

251 (3)

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

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

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

179 **26B-7-117. Syringe exchange and education.**

180 (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:

183 (a) a government entity, including:

184 (i) the department;

185 (ii) a local health department; or

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

187 (b) a nongovernment entity, including:

188 (i) a nonprofit organization; or

189 (ii) a for-profit organization; or

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

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

192 (a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile
packages;

194 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:

195 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human
immunodeficiency virus; and

197 (ii) options for obtaining:

198 (A) services for the treatment of a substance use disorder;

199 (B) testing for a blood-borne disease; and

200 (C) an opiate antagonist; and

201 (c) report annually to the department the following information about the program's activities:

203 (i) the number of individuals who have exchanged syringes;

204 (ii) the number of used syringes exchanged for new syringes; and

205 (iii) the number of new syringes provided in exchange for used syringes.

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(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).

209 (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.

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

213 **53-13-106. Federal officers -- State law enforcement authority.**

214 (1)

. (a) "Federal agency" means:

215 (i) the United States Bureau of Land Management;

216 (ii) the United States Forest Service;

217 (iii) the National Park Service;

218 (iv) the United States Fish and Wildlife Service;

219 (v) the United States Bureau of Reclamation;

220 (vi) the United States Environmental Protection Agency;

221 (vii) the United States Army Corps of Engineers; and

222 (viii) the Department of Veterans Affairs.

223 (b) "Federal employee" means an employee of a federal agency.

224 (c) "Federal officer" includes:

225 (i) a special agent of the Federal Bureau of Investigation;

226 (ii) a special agent of the United States Secret Service;

227 (iii) a special agent of the United States Department of Homeland Security, excluding a customs inspector~~[-or detention removal officer]~~;

229 (iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

230 (v) a special agent of the Drug Enforcement Administration;

231 (vi) a United States marshal, deputy marshal, and special deputy United States marshal;

233 (vii) a U.S. postal inspector of the United States Postal Inspection Service; and

234 (viii) a police officer of the Department of Veterans Affairs.

235 (d)

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- (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).
- 238 (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).
- 243 (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:
- 246 (A) the agreement is limited to a term of not more than two years; and
- 247 (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.
- 250 (e) The council may designate other federal peace officers, as necessary, if the officers:
- 251 (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;
- 254 (ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and
- 256 (iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.
- 258 (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:
- 261 (a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and
- 263 (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.
- 265 (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.

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(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.

271 (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.

274 Section 5. Section 5 is enacted to read:

275 **64-13-51. Sex offender assessment.**

276 (1) As used in this section:

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

279 (i) can change or be influenced; and

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

282 (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:

286 (i) alcohol and other drug use;

287 (ii) mental health status;

288 (iii) physical health;

289 (iv) criminal behavior;

290 (v) education;

291 (vi) emotional health and barriers;

292 (vii) employment;

293 (viii) family dynamics;

294 (ix) housing;

295 (x) physical health and nutrition;

296 (xi) spirituality;

297 (xii) social support systems;

298 (xiii) special population needs, including:

299 (A) co-existing disorders;

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- 300 (B) domestic violence;
301 (C) drug of choice;
302 (D) gender, ethnic, and cultural considerations;
303 (E) other health issues;
304 (F) sexual abuse; and
305 (G) sexual orientation;
306 (xiv) transportation; and
307 (xv) treatment involvement.
- 308 (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).
- 311 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe conditions within
the areas defined in Subsection (1)(b).
- 313 (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.
- 317 (3) The request for proposals shall include a requirement that the multi-domain assessment tool be
designed to be administered:
- 319 (a) every 16 weeks during the first year a sex offender is supervised in the community; and
321 (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.
- 324 (4) The department shall promptly make results of the multi-domain assessment available to:
326 (a) the sex offender's treatment team; and
327 (b) the corrections personnel responsible for supervising the offender.
- 328 (5) The department shall provide to the legislative 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:
- 331 (a) the impact on recidivism;
332 (b) other indicators of the effect of the use of the assessments;
333 (c) the number of assessments administered annually;
334 (d) the number of individuals who were assessed during the year; and

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335 (e) any recommended legislative or policy changes.

336 Section 6. Section 64-13d-103 is amended to read:

337 **64-13d-103. Private contracts -- Limitations on purpose -- Requirements before entering into**
contract -- Required terms.

339 (1)

(a) The department may contract with a contractor to finance, acquire, construct, lease, or provide full or partial correctional services.

341 (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.

344 (2) Before entering into a contract, the department shall:

345 (a) hold a public hearing within the county or municipality where the facility is to be sited for the purpose of obtaining public comment;

347 (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

349 (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.

352 (3) Before entering into a contract, the department shall require that the contractor proposing to provide the services demonstrate that it has:

354 (a) management personnel with the qualifications and experience necessary to carry out the terms of the contract;

356 (b) sufficient financial resources to:

357 (i) complete and operate the facility;

358 (ii) provide indemnification for liability arising from the operation of the facility; and

359 (iii) provide reimbursement as required under Section 64-13d-105;

360 (c) the ability and resources to meet applicable court orders, correctional standards as defined by the department, and constitutional requirements; and

362 (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.

365

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(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:

- 367 (a) adequate internal and perimeter security to protect the public, employees, and inmates, based on the security level of the inmate population;
- 369 (b) work, training, educational, and treatment programs for inmates;
- 370 (c) a minimum correctional officer to inmate ratio;
- 371 (d) imposition of inmate discipline in accordance with applicable state law and department policy; and
- 373 (e) adequate food, clothing, housing, and medical care for inmates.

374 Section 7. Section **64-13e-102** is amended to read:

375 **64-13e-102. Definitions.**

As used in this chapter:

260 (1) "Alternative treatment program" means:

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

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

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

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

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

267 (3) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

269 (4)

(a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.

271 (b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:

273 (i) after the date of sentencing;

274 (ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;

277 (iii) as a condition of an original order of probation; and

278 (iv) as a condition of a new order of probation after a prior revocation of probation.

279

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- (c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:
- 281 (i) as a probation sanction day;
- 282 (ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;
- 284 (iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;
- 286 (iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or
- 288 (v) after the termination of probation if the state probationary inmate is:
- 289 (A) sentenced to prison; or
- 290 (B) eligible for release.
- 291 (5) "Department" means the Department of Corrections, created in Section 64-13-2.
- 292 (6) "Division" means the Division of Finance, created in Section 63A-3-101.
- 293 (7)
- . (a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.
- 296 (b) "Eligible bed day" includes:
- 297 (i) a condition of probation day;
- 298 (ii) a parole hold day;
- 299 (iii) a parole sanction day; and
- 300 (iv) a probation sanction day.
- 301 (8)
- . (a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.
- 304 (b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:
- 306 (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
- 308 (ii) as a parole sanction day.
- 309 (9)
- .

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- (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.
- 312 (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.
- 314 (c) "Parole sanction day" does not include a parole hold day.
- 315 (10)
- . (a) "Probation sanction day" means a day spent in a county correctional facility by a 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.
- 318 (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.
- 320 (c) "Probation sanction day" does not include:
- 321 (i) a condition of probation day; or
- 322 (ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-13-29(3) based on a suspected violation of the state probationary inmate's terms of probation.
- 325 (11) "State daily incarceration rate" means the average daily incarceration rate $\hat{H} \rightarrow \{ \{ \{ \} \} \} \{ \leftarrow \hat{H} \}$, ~~calculated by the department based on the previous three fiscal years,~~ $\{ \hat{H} \rightarrow \} \{ \{ \} \{ \} \{ \leftarrow \hat{H} \} \}$ that reflects the following expenses incurred by the department for housing an inmate:
- 328 (a) executive overhead;
- 329 (b) administrative overhead;
- 330 (c) transportation overhead;
- 331 (d) division overhead; and
- 332 (e) motor pool expenses.
- 333 (12) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.
- 335 (13) "State parole inmate" means an individual who is:
- 336 (a) on parole, as defined in Section 77-27-1; and
- 337 (b) housed in a county correctional facility for a reason related to the individual's parole.
- 338 (14) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).
- 340 (15) "Treatment program" means:

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- 341 (a) an alcohol treatment program;
342 (b) a substance abuse treatment program;
343 (c) a sex offender treatment program; or
344 (d) an alternative treatment program.

462 Section 8. Section 64-13e-103 is amended to read:

463 **64-13e-103. County correctional facility contracting program for state inmates -- Payments**
-- Reporting -- Contracts.

465 (1) Subject to Subsection [(6)] (7), the department may only contract with a county to house state
inmates in a county correctional facility.

467 [~~2~~] The department shall give preference for placement of state inmates, over private entities, to county
correctional facility bed spaces for which the department has contracted under Subsection (1).]

470 [~~3~~] (2)

. (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1)
shall be:

472 (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);

477 (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

481 (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)] (2)(a)(i) and (ii).

484 (b) The department shall:

485 (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

490 (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

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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).

495 (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:

498 (i) the program meets the standards established under Subsection [~~(3)(b)(i)~~] (2)(b)(i); and

500 (ii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

502 (d)

(i) The department shall annually:

503 (A) collect information from each county described in Subsection (1) regarding the treatment programs for state inmates offered by the county;

505 (B) evaluate, review, and audit the results of each treatment program on state inmate recidivism and other relevant metrics; and

507 (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.

510 (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).

513 [~~(4)~~] (3)

(a) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

515 (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.

518 [~~(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:

520 (a) the number of state inmates the county housed under this section;

521 (b) the total number of state inmate days of incarceration that were provided by the county; and

523 (c) the information required under Subsection [~~(3)(d)(i)(A)~~] (2)(d)(i)(A).

524 [~~(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:

526 (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

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528 (b) the Legislature has previously passed a joint resolution that includes the following information
regarding the proposed contract:

530 (i) the approximate number of beds to be contracted;

531 (ii) the approximate amount of the county's long-term debt; and

532 (iii) the repayment time of the debt for the facility where the inmates are to be housed.

533 ~~[(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.

537 ~~[(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.

539 Section 9. Section **64-13e-103.1** is amended to read:

540 **64-13e-103.1. Calculating the state incarceration rate.** ~~<compare mode="add">(Compare~~
~~Error)</compare>~~

347 ~~Ĥ~~ → ~~[(1)]~~

. ~~(a) September 15 of each year, the department shall:~~

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

349a ~~{(1)}~~ ← ~~Ĥ~~

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

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

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

353 ~~[(2)]~~ (3) The state daily incarceration rate may not be less than the rate presented to the Executive
Appropriations Committee ~~Ĥ~~ → ~~[of the Legislature]~~ ← ~~Ĥ~~ for purposes of setting the appropriation
for the department's budget.

563 Section 10. Section **64-13e-103.3** is amended to read:

564 **64-13e-103.3. Estimating the annual number of county correctional facility bed spaces**
required for state inmates.

566 (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:

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

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

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

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

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

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

579 Section 11. Section 64-13g-102 is amended to read:

580 **64-13g-102. Adult Probation and Parole Employment Incentive Program.**

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

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

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

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

588 (b) the probation employment rate and average length of employment of individuals on felony
592 probation;

590 (c) the recidivism percentage, using applicable recidivism metrics described in Subsections
604 63M-7-102(1) and (3);

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

594 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism
608 percentage when compared to the fiscal year immediately preceding the fiscal year to which the
612 recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration
616 savings to the state, based on the marginal cost of incarceration;

599 (f) the number of individuals who successfully complete parole and, during the entire six months before
603 the day on which the individuals' parole ends, held eligible employment; and

602 (g) the number of individuals who successfully complete felony probation and, during the entire six
606 months before the day on which the individuals' parole ended, held eligible employment.

605

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- (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.
- 608 (5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:
- 610 (a) add the region's baseline parole employment rate and the region's baseline probation employment rate;
- 612 (b) add the region's parole employment rate and the region's probation employment rate;
- 613 (c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and
- 615 (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
- 617 (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:
- 620 (A) multiplying the rate difference by the average daily population for that region; and
- 622 (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by \$2,500.
- 624 (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.
- 629 (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 the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.
- 634 (8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:
- 637 (a) 15% of the payment may be used by the department for expenses related to administering the program; and

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- 639 (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:
- 641 (i) implementing and expanding evidence-based practices for risk and needs assessments for
individuals;
- 643 (ii) implementing and expanding intermediate sanctions, including mandatory community service,
home detention, day reporting, restorative justice programs, and furlough programs;
- 646 (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;
- 650 (iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for
rehabilitative and vocational programing;
- 652 (v) purchasing and adopting new technologies or equipment that are relevant to, and enhance,
supervision, rehabilitation, or vocational training;
- 654 (vi) funding workforce development coordinators, bus passes, soft skills instructors, job search
technology in community correctional centers, or sector-specific workforce development programs;
or
- 657 [~~vi~~] (vii) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program
fidelity.
- 659 (9)
- . (a) The report described in Subsections (3) and (4) is a public record.
- 660 (b) The department shall maintain a complete and accurate accounting of the payment and use of funds
under this section.
- 662 (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.
- 665 Section 12. Section 76-5-114 is amended to read:
- 666 **76-5-114. Commission of domestic violence in the presence of a child.**
- 667 (1)
- . (a) As used in this section:
- 668 (i) "Cohabitant" means the same as that term is defined in Section 78B-7-102.
- 669 (ii) "Criminal homicide offense" means an offense listed in Subsection 76-5-201(2).

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- 670 (iii) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 671 (iv) "In the presence of a child" means:
- 672 (A) in the physical presence of a child; or
- 673 (B) having knowledge that a child is present and may see or hear an act of domestic violence.
- 675 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 676 (2) An actor commits domestic violence in the presence of a child if the actor:
- 677 (a) commits or attempts to commit a criminal homicide offense against a cohabitant in the presence of a child;
- 679 (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~~]
- 682 (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
- 686 [~~(e)~~] (d) under circumstances not amounting to a violation of Subsection (2)(a), [~~(b)~~] (2)(b), or (2)(c), commits an act of domestic violence in the presence of a child.
- 688 (3)
- . (a) A violation of Subsection (2)(a), [~~(b)~~] (2)(b), or (2)(c) is a third degree felony.
- 689 (b) A violation of Subsection [~~(2)(e)~~] (2)(d) is a class B misdemeanor.
- 690 (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.
- 692 (b) Either or both charges may be filed by the prosecutor.
- 693 (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.
- 696 Section 13. Section **77-18-102** is amended to read:
- 697 **77-18-102. Definitions.** <compare mode="add">(Text Out Of Order)</compare>
- As used in this chapter:
- 359 (1) "Assessment" means the same as the term "risk and needs assessment" in Section 77-1-3.
- 360 (2) "Board" means the Board of Pardons and Parole.

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- 361 (3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.
- 363 (4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- 365 (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 366 (6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- 368 (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 369 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 370 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 371 (10) "Habitual offender" means an individual who ~~has been convicted in~~:
- 372 (a)
- . (i) has been convicted in at least [six] five previous cases for one or more felony offenses in each case;
and
- 374 ~~[(b)]~~ (ii) [each case described in Subsection (10)(a) 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[-] ;
- 378 (b)
- . (i) has been charged with one or more felony offenses in at least nine separate cases; and
- 380 (ii) a felony charge in each case 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 the new felony offense
before the court;{-}
- 383 (c)
- . (i) has been convicted in at least nine previous cases for one or more misdemeanor offenses in each
case; and
- 385 (ii) the conviction for each case referred to in Subsection (10)(c)(i) occurred within the three-year
period immediately preceding the day on which the defendant is convicted of a new misdemeanor or
felony offense before the court; or
- 388 (d)
- . (i) has been charged with one or more misdemeanor offenses in at least 19 separate cases; and
- 390 (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.
- 393 (11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

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394 (12) "Restitution" means the same as that term is defined in Section 77-38b-102.

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

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

740 Section 14. Section **77-18-103** is amended to read:

741 **77-18-103. Presentence investigation report -- Classification of presentence investigation
report -- Evidence or other information at sentencing.**

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

404 (a) upon agreement of the defendant, continue the date for the imposition of the sentence 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

408 (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.

411 (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.

414 (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.

418 (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:

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

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

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

425

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- (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.
- 429 (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.
- 433 (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:
- 436 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and
- 438 (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.
- 442 (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:
- 445 (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and
- 447 (B) provide the written finding to the department or the law enforcement agency.
- 448 (b) The department shall attach the written finding to the presentence investigation report as an addendum.
- 450 (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.
- 452 (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.
- 455 (7)
- . (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

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- 457 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order
the disclosure of a presentence investigation report.
- 459 (8) Except for disclosure at the time of sentencing in accordance with this section, the department or
law enforcement agency may disclose a presentence investigation only when:
- 462 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 463 (b) requested by a law enforcement agency or other agency approved by the department for purposes of
supervision, confinement, and treatment of a defendant;
- 465 (c) requested by the board;
- 466 (d) requested by the subject of the presentence investigation report or the subject's authorized
representative;
- 468 (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:
- 471 (i) statements or materials provided by the victim;
- 472 (ii) the circumstances of the offense, including statements by the defendant; or
- 473 (iii) the impact of the offense on the victim or the victim's household; or
- 474 (f) requested by a sex offender treatment provider:
- 475 (i) who is certified to provide treatment under the certification program established in Subsection
64-13-25(2);
- 477 (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
- 479 (iii) who provides written assurance to the department that the report:
- 480 (A) is necessary for the treatment of the defendant;
- 481 (B) will be used solely for the treatment of the defendant; and
- 482 (C) will not be disclosed to an individual or entity other than the defendant.
- 483 (9)
- . (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the
defendant or the prosecuting attorney desires to present concerning the appropriate sentence.
- 486 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on
record and in the presence of the defendant.
- 488 (10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the
appropriate sentence for a defendant.

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490 ~~{Section 9. Section 77-20-102 is amended to read: }~~

491 **77-20-102. Definitions.**

As used in this chapter:

- 493 (1) "Bail" means pretrial release.
- 494 (2) "Bail bond" means the same as that term is defined in Section 31A-35-102.
- 495 (3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- 496 (4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.
- 497 (5) "County jail official" means a county sheriff or the county sheriff's designee.
- 498 (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability
for a bail bond.
- 500 (7) "Financial condition" means any monetary condition that is imposed to secure an individual's
pretrial release.
- 502 (8) "Forfeiture" means:
- 503 (a) to divest an individual or surety from a right to the repayment of monetary bail; or
- 504 (b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure
an individual's pretrial release.
- 506 (9) "Magistrate" means the same as that term is defined in Section 77-1-3.
- 507 (10)
- . (a) "Material change in circumstances" includes:
- 508 (i) an unreasonable delay in prosecution that is not attributable to the defendant;
- 509 (ii) a material change in the risk that an individual poses to a victim, a witness, or the public if
released due to the passage of time or any other relevant factor;
- 511 (iii) a material change in the conditions of release or the services that are reasonably available to the
defendant if released;
- 513 (iv) a willful or repeated failure by the defendant to appear at required court appearances; or
- 515 (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.
- 517 (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.
- 519 (11) "Monetary bail" means a financial condition.
- 520

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- (12) "Own recognizance" means the release of an individual without any condition of release other than the individual's promise to:
- 522 (a) appear for all required court proceedings; and
- 523 (b) not commit any criminal offense.
- 524 (13) "Pretrial detention hearing" means a hearing described in Section 77-20-206.
- 525 (14) "Pretrial release" means the release of an individual from law enforcement custody during the time the individual awaits trial or other resolution of criminal charges.
- 527 (15) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial release.
- 530 (16) "Pretrial services program" means a program that is established to:
- 531 (a) gather information on individuals booked into a jail facility;
- 532 (b) conduct pretrial risk assessments; and
- 533 (c) supervise individuals granted pretrial release.
- 534 (17) "Pretrial status order" means an order issued by a magistrate or judge that:
- 535 (a) releases the individual on the individual's own recognizance while the individual awaits trial or other resolution of criminal charges;
- 537 (b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or other resolution of criminal charges; or
- 539 (c) denies pretrial release and orders that the individual be detained while the individual awaits trial or other resolution of criminal charges.
- 541 (18) "Principal" means the same as that term is defined in Section 31A-35-102.
- 542 (19) "Surety" means a surety insurer or a bail bond agency.
- 543 (20) "Surety insurer" means the same as that term is defined in Section 31A-35-102.
- 544 (21) "Temporary pretrial status order" means an order issued by a magistrate that:
- 545 (a) releases the individual on the individual's own recognizance until a pretrial status order is issued;
- 547 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued;
- or
- 549 (c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.
- 551 [~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails to appear for any required court appearance.~~]

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830 Section 15. Section 77-20-103 is amended to read:

831 **77-20-103. Release data requirements.**

832 (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:

836 (a) for the preceding calendar year:

837 (i) the number of individuals charged with a criminal offense who failed to appear at a required court
preceding while on pretrial release under each of the following categories of release:

840 (A) the individual's own recognizance;

841 (B) a financial condition; and

842 (C) a release condition other than a financial condition;

843 (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:

846 (A) the individual's own recognizance;

847 (B) a financial condition; and

848 (C) a release condition other than a financial condition; and

849 (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:

852 (A) an individual's own recognizance;

853 (B) a financial condition; and

854 (C) a release condition other than a financial condition; and

855 (b) at the end of the preceding calendar year:

856 (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:

859 (A) the individual's own recognizance;

860 (B) a financial condition; and

861 (C) a release condition other than a financial condition;

862 (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

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- 864 (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:
- 866 (A) a first degree felony;
- 867 (B) a second degree felony;
- 868 (C) a third degree felony;
- 869 (D) a class A misdemeanor;
- 870 (E) a class B misdemeanor; and
- 871 (F) a class C misdemeanor.
- 872 (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:
- 874 (a) the number of individuals released upon payment of monetary bail before appearing before a court;
- 876 (b) the number of individuals released on the individual's own recognizance before appearing before a
court;~~and~~
- 878 (c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals
collected by the county jail~~[-]~~ ;
- 880 (d) the number of individuals released as a result of overcrowding; and
- 881 (e) the number of individuals released on pretrial release.
- 882 (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.

885 Section 16. Section **77-20-203** is amended to read:

886 **77-20-203. County sheriff authority to release an individual from jail on own recognizance.**

556 (1) As used in this section:

557 (a)

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

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

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

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

563

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- (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:
- 565 (a) the individual was arrested without a warrant;
- 566 (b) the individual was not~~[-arrested for]~~:
- 567 (i) arrested for a violent [felony] offense as defined in Section 76-3-201.10;
- 568 (ii) arrested for a qualifying offense;
- 569 (iii) arrested for the offense of driving under the influence or driving with a measurable controlled
substance in the body if the offense results in death or serious bodily injury to an individual;~~[-or]~~
- 572 (iv) arrested for an offense described in Subsection 76-9-101(4);
- 573 (v) arrested for possession of any composition or mixture, including pills, that contains 100 grams or
more of fentanyl or a fentanyl-related substance;or
- 575 (vi) ~~{ arrested for another crime }~~ previously booked into the same jail within the immediately
preceding ~~{ 30-day }~~ 12-month period; ~~{ or }~~
- 576 ~~{ (vii) { convicted in at least nine previous cases of one or more misdemeanor offenses in each case~~
~~within the immediately preceding one-year period; } }~~
- 578 (c) law enforcement has not submitted a probable cause statement to a court or magistrate;
- 580 (d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest;
and
- 582 (e) the individual qualifies for release under the written policy described in Subsection (4) for the
county.
- 584 (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.
- 587 (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.
- 589 (b) The written policy shall describe the criteria an individual shall meet to be released on the
individual's own recognizance.
- 591 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 592 (i) criminal history;
- 593 (ii) prior instances of failing to appear for a mandatory court appearance;

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- 594 (iii) current employment;
- 595 (iv) residency;
- 596 (v) ties to the community;
- 597 (vi) an offense for which the individual was arrested;
- 598 (vii) any potential criminal charges that have not yet been filed;
- 599 (viii) the individual's health condition;
- 600 (ix) any potential risks to a victim, a witness, or the public; and
- 601 (x) any other similar factor a sheriff determines is relevant.
- 602 (5)
- . (a)
- . (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 [(i) the individual is on supervised probation or parole and that information is reasonably available; and]
- 604 [(ii) the individual was arrested for:]
- 606 [(A) a violent felony; or]
- 607 [(B) a qualifying domestic violence offense] the individual is on supervised probation or parole and that information is reasonably available.
- 608 [(ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than eight hours if:
- 941 (A) the entity supervising the person on probation or parole informs the jail that they do not intend to place a hold on the individual; and
- 943 (B) a court or magistrate has ordered a release.
- 945 (b) [The] Before any release, a jail facility shall:
- 609 (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
- 610 (ii) only release the individual:
- 612 (A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or
- 613 (B) if a court or magistrate orders release.
- 615 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.
- 616

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618 (6) This section does not prohibit a court and a county from entering into an agreement regarding
release.

958 Section 17. Section **77-20-204** is amended to read:

959 **77-20-204. County jail authority to release an individual from jail on monetary bail.**

623 (1) As used in this section, "eligible felony offense" means a third degree felony violation under:

625 (a) Section 23A-4-501 or 23A-4-502;

626 (b) Section 23A-5-311;

627 (c) Section 23A-5-313;

628 (d) Title 76, Chapter 6, Part 4, Theft;

629 (e) Title 76, Chapter 6, Part 5, Fraud;

630 (f) Title 76, Chapter 6, Part 6, Retail Theft;

631 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

632 (h) Title 76, Chapter 6, Part 8, Library Theft;

633 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

634 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

635 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

636 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

637 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

638 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

639 (o) Title 76, Chapter 6a, Pyramid Scheme Act;

640 (p) Title 76, Chapter 7, Offenses Against the Family;

641 (q) Title 76, Chapter 7a, Abortion Prohibition;

642 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

643 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

644 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

645 (u) Title 76, Chapter 9, Part 5, Libel; or

646 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

647 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an
individual if:

649 (a)

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- 652 (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;
- 651 (ii) the individual is arrested for, or charged with:
 - 652 (A) a misdemeanor offense under state law, excluding a misdemeanor offense:
 - 653 (I) for domestic violence as defined in Section 77-36-1; or
 - 654 (II) for driving under the influence under Title 41, Chapter 6, Part 5, Driving Under the Influence and Reckless Driving, or Section 76-5-102.1; or
 - 656 (B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;
- 658 (iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- 660 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 661 (b)
 - . (i) the individual is arrested for, or charged with, an eligible felony offense;
 - 662 (ii) the individual is not on pretrial release for a separate criminal offense;
 - 663 (iii) the individual is not on probation or parole;
 - 664 (iv) the primary risk posed by the individual is the risk of failure to appear;
 - 665 (v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
 - 667 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 668 (3) A county jail official may not fix a financial condition at a monetary amount that exceeds:
 - 670 (a) \$5,000 for an eligible felony offense;
 - 671 (b) \$1,950 for a class A misdemeanor offense;
 - 672 (c) \$680 for a class B misdemeanor offense;
 - 673 (d) \$340 for a class C misdemeanor offense;
 - 674 (e) \$150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or
 - 676 (f) \$80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.
- 678 (4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:
 - 680 (a) the county jail official shall fix the financial condition at a single monetary amount; and
 - 682 (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.

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- 684 (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.
- 686 (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.
- 689 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:
- 691 (a) a county jail official may not fix or modify a financial condition for an individual; and
- 693 (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.
- 696 (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.
- 698 (9) This section does not prohibit a court and a county from entering into an agreement regarding release.

700 ~~{Section 12. Section 77-20-205 is amended to read: }~~

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

702 (1)

- . (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable 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:
- 705 (i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;
- 707 (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
- 710 (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).
- 713 (b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:
- 715 (i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

717

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(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.

720 (c)

(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:

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

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

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

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

730 [(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)(c)(i).]~~ :

735 (I) is a habitual offender as defined in Section 77-18-102; or

736 (II) will be a habitual offender as defined in Section 77-18-102 if the individual is convicted of the felony offense.

738 ~~[(d)]~~ (ii) ~~[Subsection]~~ 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).

741 (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.

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

745 (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;

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

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

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

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- 752 (3)
- . (a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:
- 754 (i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;
- 756 (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
- 759 (iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.
- 761 (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.
- 764 (4) In making a determination about pretrial release, a magistrate or judge shall impose:
- 765 (a) only conditions of release that are reasonably available; and
- 766 (b) conditions of release that reasonably ensure:
- 767 (i) the individual's appearance in court when required;
- 768 (ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;
- 770 (iii) the safety and welfare of the public; and
- 771 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.
- 773 (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:
- 775 (a) not commit a federal, state, or local offense during the period of pretrial release;
- 776 (b) avoid contact with a victim of the alleged offense;
- 777 (c) avoid contact with a witness who:
- 778 (i) may testify concerning the alleged offense; and
- 779 (ii) is named in the pretrial status order;
- 780 (d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;
- 782 (e) submit to drug or alcohol testing;
- 783 (f) complete a substance abuse evaluation and comply with any recommended treatment or release program;
- 785 (g) submit to electronic monitoring or location device tracking;
- 786 (h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

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- 788 (i) maintain employment or actively seek employment if unemployed;
- 789 (j) maintain or commence an education program;
- 790 (k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;
- 792 (l) comply with specified restrictions on personal associations, place of residence, or travel;
- 794 (m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
- 796 (n) comply with a specified curfew;
- 797 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 798 (p) if the individual is charged with an offense against a child, limit or prohibit access to 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;
- 803 (q) comply with requirements for house arrest;
- 804 (r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
- 806 (s) remain in custody of one or more designated individuals who agree to:
- 807 (i) supervise and report on the behavior and activities of the individual; and
- 808 (ii) encourage compliance with all court orders and attendance at all required court proceedings;
- 810 (t) comply with a financial condition; or
- 811 (u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).
- 813 (6)
- . (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.
- 816 (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.
- 819 (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.

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- 822 (7)
- . (a) If the magistrate or judge determines that a financial condition~~[, 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.
- 826 (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:
- 830 (i) the county jail official's action to fix a financial condition; or
- 831 (ii) the amount of the financial condition that the individual was required to pay for pretrial release.
- 833 (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.
- 835 (8) In making a determination about pretrial release, the magistrate or judge may:
- 836 (a) rely upon information contained in:
- 837 (i) the indictment or information;
- 838 (ii) any sworn or probable cause statement or other information provided by law enforcement;
- 840 (iii) a pretrial risk assessment;
- 841 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 842 (v) witness statements or testimony;
- 843 (vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or
- 845 (vii) any other reliable record or source, including proffered evidence; and
- 846 (b) consider:
- 847 (i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:
- 849 (A) whether the offense is a violent offense; and
- 850 (B) the vulnerability of a witness or alleged victim;
- 851 (ii) the nature and circumstances of the individual, including the individual's:
- 852 (A) character;
- 853 (B) physical and mental health;
- 854 (C) family and community ties;
- 855 (D) employment status or history;
- 856 (E) financial resources;

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- 857 (F) past criminal conduct;
- 858 (G) history of drug or alcohol abuse; and
- 859 (H) history of timely appearances at required court proceedings;
- 860 (iii) the potential danger to another individual, or individuals, posed by the release of the individual;
- 862 (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;
- 865 (v) the availability of:
- 866 (A) other individuals who agree to assist the individual in attending court when required; or
- 868 (B) supervision of the individual in the individual's community;
- 869 (vi) the eligibility and willingness of the individual to participate in various treatment programs,
including drug treatment; or
- 871 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
- 873 (9) The magistrate or judge may not base a determination about pretrial release solely:
- 874 (a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the
individual is arrested for or charged with a capital felony; or
- 876 (b) on an algorithm or a risk assessment tool score.
- 877 (10) An individual arrested for violation of a jail release agreement, or a jail release court order, issued
in accordance with Section 78B-7-802:
- 879 (a) may not be released before the individual's first appearance before a magistrate or judge; and
- 881 (b) may be denied pretrial release by the magistrate or judge.

1038 Section 18. Section **77-20-402** is amended to read:

1039 **77-20-402. Payment of monetary bail to court -- Specific payment methods -- Refund of
monetary bail.**

- 885 (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:
- 887 (a) in cash;
- 888 (b) by a bail bond with a surety; or
- 889 [~~e~~] ~~by an unsecured bond, at the discretion of the judge or magistrate; or~~
- 890 [~~d~~] (c) by credit or debit card, at the discretion of the judge or magistrate.
- 891 (2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described
in Subsection (1):

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- 893 (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;
- 895 (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;
- 898 (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;
- 901 (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
- 904 (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in any case
involving the defendant.
- 906 (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.
- 908 (4) Monetary bail posted by debit or credit card, less the fee charged by the financial institution, shall be
tendered to the courts.
- 910 (5)
- . (a) Monetary bail refunded by the court may be refunded by credit to the debit or credit card or in cash.
- 912 (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.
- 915 (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.

1075 Section 19. **Repealer.**

This Bill Repeals:

1076 This bill repeals:

1077 Section **64-13e-105, Subcommittee on County Correctional Facility Contracting and**
1078 **Reimbursement -- Purpose -- Responsibilities -- Membership.**

1079 Section **77-27-21.9, Sex offender assessment.**

1080 Section 20. **Effective date.**

This bill takes effect on {~~May 7,~~ **September 1,** 2025.

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