

# HB0312S02 compared with HB0312S01

~~{Omitted text}~~ shows text that was in HB0312S01 but was omitted in HB0312S02  
inserted text shows text that was not in HB0312S01 but was inserted into HB0312S02

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## Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor:

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### LONG TITLE

#### General Description:

This bill modifies statutory provisions related to criminal justice.

#### Highlighted Provisions:

This bill:

- ▶ ~~{permits city prosecutors to file certain charges after a county or district attorney has declined to do so;}~~
- ▶ modifies compliance requirements for sheriffs;
- ▶ modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- ▶ requires a county sheriff who permits probation to establish probations standards and procedures established by the Utah Sheriffs' Association;
- ▶ ~~{establishes}~~ modifies contractual term requirements for ~~{standards and practices for adult probation programs}~~ the state court administrator in relation to provision of security;
- ▶ ~~{prohibits the use of state funds for a syringe exchange program;}~~
- ▶

HB0312S01

## HB0312S01 compared with HB0312S02

~~{ moves provisions governing sex offender assessments from the Utah Code of Criminal Procedure to the code chapter governing the Department of Corrections -- State Prison; }~~

- 16       ▶ modifies ~~{ permitted uses for funds in }~~ provisions related to the ~~{ Adult Probation }~~ definition  
and ~~{ Parole Employment Incentive Program }~~ calculation of the state daily incarceration rate;
- 18       ▶ ~~{ adds strangulation or choking as a criminal offense included with the crime of commission of domestic violence in the presence of a child; }~~
- 20       ▶ ~~{ creates a criminal offense for the intentional concealment of identity in a public gathering; }~~
- 21       ▶ modifies the definition of habitual offender and makes conforming changes;
- 22       ▶ removes references to unsecured bonds;
- 23       ▶ modifies provisions related to a county sheriff's release of individuals on their own recognizance;
- 25       ▶ 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
- 28       ▶ ~~{ adds procedures and restrictions relating }~~ modifies provisions related to a magistrate's orders for pretrial release or detention{ ; } .
- 30       ▶ ~~{ repeals the requirement to use the services of a court reporter in a death sentence commutation hearing; }~~
- 32       ▶ ~~{ modifies the duties of the Utah Indigent Defense Commission and the Office of Indigent Defense Services; }~~
- 34       ▶ ~~{ extends the date of the verification of indigency pilot program; }~~
- 35       ▶ ~~{ modifies duties and reporting requirements related to the verification of indigency pilot program; }~~
- 37       ▶ ~~{ permits a court to require that certain minors convicted of aggravated murder be housed in a prison or jail, rather than in a juvenile secure care facility; and }~~
- 39       ▶ ~~{ permits a prosecutor to request that a judge review whether certain minors convicted of aggravated murder should be transferred from a juvenile secure care facility to a prison or jail. }~~

### 25 Money Appropriated in this Bill:

26       None

27       None

30 AMENDS:

48

## HB0312S01 compared with HB0312S02

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

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

32 **17-22-5.5** , as last amended by Laws of Utah 2024, Chapter 419 , as last amended by Laws of Utah 2024, Chapter 419

33 **17-22-5.6** , as enacted by Laws of Utah 2024, Chapter 16 , as enacted by Laws of Utah 2024, Chapter 16

34 **17-22-27 , as last amended by Laws of Utah 2011, Chapter 297 , as last amended by Laws of Utah 2011, Chapter 297**

51 ~~{26B-7-117 , as last amended by Laws of Utah 2024, Chapter 250 , as last amended by Laws of Utah 2024, Chapter 250}~~

35 **64-13e-102 , as last amended by Laws of Utah 2024, Chapter 467 , as last amended by Laws of Utah 2024, Chapter 467**

36 **64-13e-103.1 , as last amended by Laws of Utah 2024, Chapter 467 , as last amended by Laws of Utah 2024, Chapter 467**

52 ~~{64-13g-102 , as last amended by Laws of Utah 2024, Chapter 208 , as last amended by Laws of Utah 2024, Chapter 208}~~

53 ~~{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}~~

37 **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

38 **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

40 **77-20-203** , as last amended by Laws of Utah 2024, Chapter 16 , as last amended by Laws of Utah 2024, Chapter 16

41 **77-20-204** , as last amended by Laws of Utah 2024, Chapter 16 , as last amended by Laws of Utah 2024, Chapter 16

42

## HB0312S01 compared with HB0312S02

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

60 ~~{77-20-206 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4}~~

43 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

63 ~~{77-27-8 , as last amended by Laws of Utah 2010, Chapter 110 , as last amended by Laws of Utah 2010, Chapter 110}~~

64 ~~{78B-22-301 , as last amended by Laws of Utah 2020, Chapters 371, 392 , as last amended by Laws of Utah 2020, Chapters 371, 392}~~

65 ~~{78B-22-404 , as last amended by Laws of Utah 2024, Chapter 193 , as last amended by Laws of Utah 2024, Chapter 193}~~

66 ~~{78B-22-452 , as last amended by Laws of Utah 2024, Chapter 193 , as last amended by Laws of Utah 2024, Chapter 193}~~

67 ~~{78B-22-1001 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4 , as enacted by Laws of Utah 2021, Second Special Session, Chapter 4}~~

68 ~~{80-6-507 , as last amended by Laws of Utah 2022, Chapter 135 , as last amended by Laws of Utah 2022, Chapter 135}~~

. ENACTS:

70 ~~{17-22-5.7 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

71 ~~{64-13-51 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

72 ~~{76-9-110 , Utah Code Annotated 1953 , Utah Code Annotated 1953}~~

. REPEALS:

74 ~~{77-27-21.9 , as enacted by Laws of Utah 2008, Chapter 309 , as enacted by Laws of Utah 2008, Chapter 309}~~

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

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

78 **10-3-928. Attorney duties -- Deputy public prosecutor.**

In cities with a city attorney, the city attorney:

80 (1) may prosecute violations of city ordinances;

## HB0312S01 compared with HB0312S02

- 81 (2) may prosecute, under state law, infractions and misdemeanors occurring within the boundaries of  
the municipality;
- 83 (3) may review investigation results de novo and file criminal charges, if warranted, under state law, for  
a felony of the third degree that occurs within the boundaries of the municipality if:
- 86 (a)
- . (i) the county attorney or district attorney has declined the case; or
- 87 (ii) the county attorney or district attorney has advised the city attorney of the county or district  
attorney's intent to not file charges for a certain class of offense or enhancement, and the felony of  
the third degree is within that class of offense or enhancement; and
- 91 (b) no charges that arise from the same set of facts or circumstances of the actions resulting in those  
potential charges are being pursued by another prosecuting attorney.
- 93 (4) has the same powers in respect to violations as are exercised by a county attorney or district  
attorney, except that a city attorney's authority to grant immunity shall be limited to:
- 96 (a) granting transactional immunity for violations of city ordinances; and
- 97 (b) granting transactional immunity under state law for infractions and misdemeanors occurring within  
the boundaries of the municipality;
- 99 [(4)] (5) shall represent the interests of the state or the municipality in the appeal of any matter  
prosecuted in any trial court by the city attorney;
- 101 [(5)] (6) may cooperate with the Office of the Attorney General during investigations; and
- 102 [(6)] (7) may designate a city attorney from another municipality or a public prosecutor to prosecute a  
matter, in the court having jurisdiction over the matter, if the city attorney has a conflict of interest  
regarding the matter being prosecuted.

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

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

- 49 (1) The sheriff shall:
- 50 (a) preserve the peace;
- 51 (b) make all lawful arrests;
- 52 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when 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];~~

## HB0312S01 compared with HB0312S02

- 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;
- 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;

## HB0312S01 compared with HB0312S02

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

## HB0312S01 compared with HB0312S02

- 126           **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.**
- 109   (1)
- .   (a) Except as provided in Subsection [~~(4)~~] (5), a county sheriff shall determine:
- 110           (i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility  
                  under the sheriff's control;
- 112           (ii) the nature of each program conducted at a jail facility under the sheriff's control; and
- 114           (iii) the internal operation of a jail facility under the sheriff's control.
- 115   (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.
- 117   (2) Except as provided in Subsection [~~(4)~~] (5), each county sheriff shall:
- 118           (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
- 121           (b) upon a jail facility reaching the jail facility's maximum operating capacity:
- 122           (i) transfer prisoners to another appropriate facility:
- 123               (A) under the sheriff's control; or
- 124               (B) available to the sheriff by contract;
- 125           (ii) subject to the requirements of Subsection (4), release prisoners:
- 126               (A) to a supervised release program, according to release criteria established by the sheriff; or
- 128               (B) to another alternative incarceration program developed by the sheriff; or
- 129           (iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all  
                  entities using the county jail.
- 131   (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).
- 134           (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.
- 136   (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:
- 139           (a) is arrested or convicted of a violent criminal offense as defined in Section 76-3-203.10;
- 141           (b) is arrested or convicted of a drug offense that is a felony;



## HB0312S01 compared with HB0312S02

- 142 (c) is arrested or convicted of possession of any composition or mixture, including pills, that contains  
143 100 grams or more of fentanyl or a fentanyl-related substance;
- 144 (d) is arrested or convicted of an offense of driving under the influence or driving with a measurable  
145 controlled substance in the body, if the offense results in death or serious bodily injury to an  
146 individual;
- 147 (e) has been arrested or convicted of another crime within the { 14-day } 30-day period immediately  
148 preceding the date of the arrest or conviction; {or}
- 149 (f) has been arrested or charged with a crime that:
- 149 {(f)} (i) {is-} classifies the individual as a habitual offender as defined in Section 77-18-102{-}; or
- 171 (ii) will classify the individual as a habitual offender under Section 77-18-102 if the individual is  
172 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  
174 ordered as a condition of pretrial release.
- 150 [(4)] (5)
- 151 (a) This section may not be construed to authorize a sheriff to modify provisions of a contract with the  
152 Department of Corrections to house in a county jail an individual sentenced to the Department of  
153 Corrections.
- 153 (b) A county contracting with another county to house an individual:
- 154 (i) shall contract with the nearest county that:
- 155 (A) has available capacity in its county jail; and
- 156 (B) contracts to house the individual;
- 157 (ii) may not house federal detainees; and
- 158 (iii) shall, subject to the agreement of the parties to the contract, pay to the county contracting to receive  
159 the transferred individual a day per capita rate that does not exceed the higher of:
- 161 (A) the current average cost of housing an individual in the transferring county jail; or
- 163 (B) the daily incarceration rates described in Section 64-13e-103.1.
- 164 [(5)] (6) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity  
165 under Subsection (2), a sheriff may release an individual from a jail facility in accordance with  
166 Section 77-20-203 or 77-20-204.
- 167 [(6)] (7) The sheriff of a county of the first class is encouraged to open and operate all sections of a jail  
168 facility within the county that is not being used to full capacity.

## HB0312S01 compared with HB0312S02

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

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

172 (1) As used in this section:

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

175 (b)

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

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

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

180 (2) A county sheriff who permits an individual to be granted probation shall adopt probation standards and practices { as required } that are established by { Section 17-22-5.7 } the Utah Sheriffs' Association.

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

184 (a) incarceration is recommended as a sanction;

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

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

188 (i) a violent felony; or

189 (ii) a qualifying domestic violence offense.

190 ~~[(3)]~~ (4) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if there is probable cause to believe that the probationer has committed a violation of probation.

193 ~~[(4)]~~ (5) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

195 ~~[(5)]~~ (6) If the county sheriff detains a probationer under Subsection ~~[(3)]~~ (4), the county sheriff shall ensure the proper court is notified.

197 ~~[(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.

## HB0312S01 compared with HB0312S02

200 [(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.

203 [(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.

207 Section 4. Section 4 is enacted to read:

208 **17-22-5.7. Probation standards and practices.**

209 (1) As used in this section, "probationer" means an individual on probation under the supervision of the  
county sheriff.

211 (2) A county sheriff shall adopt written standards and procedures for probation that are consistent with  
the requirements of this section.

213 (3) General probation program standards and procedures shall include:

214 (a) a written mission statement and a list of goals that provide guidance for general supervision and  
programmatic efforts;

216 (b) a code of conduct or ethics policy that employees are required to be familiar with and follow, which  
shall include a prohibition on unlawful discrimination against an individual based on race, national  
origin, color, gender, sexual orientation, religion, age, disability, or another status that is protected  
under state or federal law;

220 (c) a job description and required standards for each job type, or each category of employee, that has  
duties in relation to a probation unit within the county or state, which may include:

223 (i) any certification or education that is required for the job type or category of employee;

225 (ii) screening processes for new or existing employees; and

226 (iii) other standards as determined by the county sheriff;

227 (d) standards for training employees who have duties in relation to a probation unit, including  
requirements for:

229 (i) initial or onboarding training; and

230 (ii) ongoing training that requires or permits employees to stay current on changes or developments in  
the field of probation;

232 (e) a requirement that the county sheriff collect and document information related to the type and  
circumstances related to each probationer, which shall include, for each instance of probation:

## HB0312S01 compared with HB0312S02

- 235 (i) the classification of each offense involved, including the type and level of each misdemeanor or  
237 felony;
- 239 (ii) the circumstances of the probation, including pre-trial or post-conviction probation; and  
241 (iii) the general category of each offense, including domestic violence, drug-related offenses, property-  
related crimes, or other classifications;
- 243 (f) a requirement that the county sheriff shall provide access to the information contained in Subsection  
(3)(e) to:
- 245 (i) the court system for the purpose of assisting a court in determining the best sentencing options for an  
offender; and
- 248 (ii) the public, including a written description of what portion of the information is publicly available  
under state and federal law, and, if applicable, what portion is private or protected under state or  
federal law;
- 251 (g) a description of the types of supervision that are provided or required in the probation program,  
including electronic monitoring, alcohol use monitoring, office visits, home visits, and other  
services;
- 255 (h) a requirement that the county sheriff shall provide notice of the types of supervision that have been  
imposed on a probationer to the courts, treatment providers, and other probation partners for the  
purpose of facilitating an appropriate and coordinated supervision process; and
- 258 (i) a requirement that the county sheriff shall, through a records management system, document and  
maintain a case management plan for each probationer, including progress reports, violation reports,  
and other probation-related records or events.
- 259 (4) Standards and procedures for offender assessment and intake shall include:
- 261 (a) a description of the intake and assessment procedures required by the county sheriff and employees;
- 263 (b) a requirement that each assessment for an individual being considered for supervision:
- 265 (i) includes identification of criminogenic factors and risk levels for that individual; and  
(ii) be validated and based on criminogenic factors including antisocial beliefs, antisocial associations,  
antisocial personality disorder or anger management issues, history of criminal convictions, family  
relationship issues, level of education, employment history, leisure and recreational activities, and  
substance or alcohol abuse issues;
- 270 (c) a requirement that the county sheriff shall use the result of an assessment to assist in planning and  
conducting the supervision of the individual;

## HB0312S01 compared with HB0312S02

- 272 (d) a requirement that each individual who is subject to an assessment is:  
273 (i) notified that an assessment will be performed;  
274 (ii) provided with a description of the intake and assessment procedures for the purpose of ensuring that  
an individual understands the process and is afforded an opportunity to positively engage with the  
assessment process; and  
277 (iii) provided an opportunity to engage with the conductor of the assessment in a cooperative manner;  
and  
279 (e) a description of the procedures to be followed if an individual refuses to participate in an  
assessment, including procedures for documentation of the refusal, and notification to the courts and  
applicable treatment providers or agencies.
- 282 (5) Standards and procedures for case planning, offender programming, and treatment shall include a  
requirement that:
- 284 (a) case planning for a probationer shall be established based on:  
285 (i) individual factors identified in intake assessments, treatment provider assessments, and other  
specifically-designated processes;  
287 (ii) criminogenic and other risk factors identified in relation to the probationer; and  
288 (iii) other factors specifically designated in the standards and procedures;  
289 (b) case plans shall be clearly outlined and explained to each probationer for the purpose of allowing the  
probationer to cooperatively engage in the probationer's own treatment;  
292 (c) case plans shall document and clearly identify long-term and short-term goals associated with  
treatment;  
294 (d) treatment providers, education classes, behavior modification classes, and any other resource  
utilized in treatment shall be provided by properly certified providers;  
296 (e) treatment options or requirements shall be tailored to the specific needs of each probationer; and  
298 (f) a probationer may not be required to complete treatment options or requirements that have no  
relation to the probationer's specific needs.
- 300 (6) Standards and procedures for supervision shall include:  
301 (a) a requirement that supervision be based on the individual risk factor of each probationer, with low,  
medium, and high risk probationers being subject to different standards and procedures;  
304 (b) a description of the standards and procedures to be used in treating low, medium, and high risk  
probationers, respectively, including:

## HB0312S01 compared with HB0312S02

- 306 (i) a statement as to why procedures should vary for different risk levels, including a goal to match  
procedures and treatments to the individual needs and risk level of each probationer and other goals  
identified by the county sheriff;
- 309 (ii) procedures for separating and providing different treatments and requirements for probationers with  
differing risk levels; and
- 311 (iii) a description of the different procedures and treatments that apply to each risk level, which may  
include differing electronic monitoring options, frequency and type of house checks, frequency  
of probationary check-ins, housing or incarceration separation procedures, and other differing  
standards and procedures;
- 315 (c) a requirement that a probationer be re-assessed at intervals during the probationary period to identify  
any change in the risk level of the probationer;
- 317 (d) a requirement that standards and procedures applying to a probationer be adjusted consistent with  
any changes in the probationer's risk assessment;
- 319 (e) a requirement that case management and programmatic content shall change as needed to reflect  
changes in the needs of each probationer;
- 321 (f) a requirement that any action taken by the county sheriff, an employee, a treatment provider, or other  
probation partner be in compliance with state and federal laws and consistent with best practices;  
and
- 324 (g) a requirement that any decision imposing sanctions against a probationer shall take into account  
current and past behavior of the probationer, individual needs of the probationer, progress or goals  
achieved or not achieved by the probationer, and any other factor specifically identified in the  
standards and procedures.

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

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

- 234 (1) The sheriff shall assign law enforcement officers or special function officers, as defined 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

## HB0312S01 compared with HB0312S02

~~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.
- 255 (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.

328 ~~{Section 5. Section 26B-7-117 is amended to read: }~~

### 329 **26B-7-117. Syringe exchange and education -- Prohibition on use of state funds.**

- 330 (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:
- 333 (a) a government entity, including:
- 334 (i) the department;
- 335 (ii) a local health department; or
- 336 (iii) a local substance abuse authority, as defined in Section 26B-5-101;
- 337 (b) a nongovernment entity, including:
- 338 (i) a nonprofit organization; or
- 339 (ii) a for-profit organization; or
- 340 (c) any other entity that complies with Subsections (2) and (3).
- 341 (2) An entity operating a syringe exchange program in the state shall:
- 342 (a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

## HB0312S01 compared with HB0312S02

- 344 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
- 345 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human  
immunodeficiency virus; and
- 347 (ii) options for obtaining:
- 348 (A) services for the treatment of a substance use disorder;
- 349 (B) testing for a blood-borne disease; and
- 350 (C) an opiate antagonist; and
- 351 (c) report annually to the department the following information about the program's activities:
- 353 (i) the number of individuals who have exchanged syringes;
- 354 (ii) the number of used syringes exchanged for new syringes; and
- 355 (iii) the number of new syringes provided in exchange for used syringes.
- 356 (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).
- 359 (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.

362 Section 6. Section 6 is enacted to read:

363 **64-13-51. Sex offender assessment.**

364 (1) As used in this section:

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

367 (i) can change or be influenced; and

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

370 (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:

374 (i) alcohol and other drug use;

375 (ii) mental health status;

376 (iii) physical health;



## HB0312S01 compared with HB0312S02

- 377 (iv) criminal behavior;  
378 (v) education;  
379 (vi) emotional health and barriers;  
380 (vii) employment;  
381 (viii) family dynamics;  
382 (ix) housing;  
383 (x) physical health and nutrition;  
384 (xi) spirituality;  
385 (xii) social support systems; and  
386 (xiii) special population needs, including:  
387 (A) co-existing disorders;  
388 (B) domestic violence;  
389 (C) drug of choice;  
390 (D) gender, ethnic, and cultural considerations;  
391 (E) other health issues;  
392 (F) sexual abuse;  
393 (G) sexual orientation;  
394 (H) transportation; and  
395 (I) treatment involvement.  
396 (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).  
399 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe conditions within  
the areas defined in Subsection (1)(b).  
401 (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.  
405 (3) The request for proposals shall include a requirement that the multi-domain assessment tool be  
designed to be administered:  
407 (a) every 16 weeks during the first year a sex offender is supervised in the community; and  
409

## HB0312S01 compared with HB0312S02

(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.

412 (4) The department shall promptly make results of the multi-domain assessment available to:

414 (a) the sex offender's treatment team; and

415 (b) the corrections personnel responsible for supervising the offender.

416 (5) The department shall provide to the Law Enforcement and Criminal Justice Interim Committee at the conclusion of the trial period a written report of the results of the use of the multi-domain assessments, including:

419 (a) the impact on recidivism;

420 (b) other indicators of the effect of the use of the assessments;

421 (c) the number of assessments administered annually;

422 (d) the number of individuals who were assessed during the year; and

423 (e) any recommended legislative or policy changes.

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

258 **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:

## HB0312S01 compared with HB0312S02

- 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 (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:

## HB0312S01 compared with HB0312S02

- 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)
- . (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~~[, calculated by the  
department based on the previous three fiscal years,]~~ 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

## HB0312S01 compared with HB0312S02

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

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

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

347 (1)  
348 (a) Before July 1, 2026, the department shall calculate the state daily incarceration rate based on the previous four fiscal years.  
(b) Beginning July 1, 2026, the department shall calculate the state daily incarceration rate based on the previous five fiscal years.

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 of the Legislature for purposes of setting the appropriation for the department's budget.

424 ~~{Section 7. Section 64-13g-102 is amended to read: }~~

425 **64-13g-102. Adult Probation and Parole Employment Incentive Program.**

426 (1) There is created the Adult Probation and Parole Employment Incentive Program.  
427 (2) The department and the office shall implement the program in accordance with the requirements of this chapter.  
429 (3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:  
431 (a) the parole employment rate and the average length of employment of individuals on parole;  
433 (b) the probation employment rate and average length of employment of individuals on felony probation;

## HB0312S01 compared with HB0312S02

- 435 (c) the recidivism percentage, using applicable recidivism metrics described in Subsections  
63M-7-102(1) and (3);
- 437 (d) the number and percentage of individuals who successfully complete parole or felony probation;
- 439 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism  
percentage when compared to the fiscal year immediately preceding the fiscal year to which the  
recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration  
savings to the state, based on the marginal cost of incarceration;
- 444 (f) the number of individuals who successfully complete parole and, during the entire six months before  
the day on which the individuals' parole ends, held eligible employment; and
- 447 (g) the number of individuals who successfully complete felony probation and, during the entire six  
months before the day on which the individuals' parole ended, held eligible employment.
- 450 (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.
- 453 (5) After receiving the information described in Subsections (3) and (4), the office, in consultation with  
the department, shall, for each region:
- 455 (a) add the region's baseline parole employment rate and the region's baseline probation employment  
rate;
- 457 (b) add the region's parole employment rate and the region's probation employment rate;
- 458 (c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and
- 460 (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
- 462 (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:
- 465 (A) multiplying the rate difference by the average daily population for that region; and
- 467 (B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by \$2,500.
- 469 (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

## HB0312S01 compared with HB0312S02

the region by \$2,500 to determine the end-of-supervision employment incentive payment for the region.

- 474 (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.
- 479 (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:
- 482 (a) 15% of the payment may be used by the department for expenses related to administering the program; and
- 484 (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:
- 486 (i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;
- 488 (ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;
- 491 (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;
- 495 (iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;
- 497 (v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training;
- 499 (vi) funding workforce development coordinators, bus passes, soft skills instructors, job search technology in community correctional centers, or sector-specific workforce development programs;
- 502 [~~vi~~] (vii) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.
- 504 (9)

## HB0312S01 compared with HB0312S02

- . (a) The report described in Subsections (3) and (4) is a public record.
- 505 (b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.
- 507 (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.

510 ~~{Section 8. Section 76-5-114 is amended to read: }~~

### 511 **76-5-114. Commission of domestic violence in the presence of a child.**

512 (1)

513 (2)

. (a) As used in this section:

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

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

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

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

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

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

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

522 ~~[(2)]~~ (3) An actor commits domestic violence in the presence of a child if the actor:

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

525 (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]~~

528 (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

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

534 ~~[(3)]~~ (4)

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



## HB0312S01 compared with HB0312S02

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

536 [~~(4)~~] (5)

(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.

538 (b) Either or both charges may be filed by the prosecutor.

539 [~~(5)~~] (6) 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.

542 Section 9. Section **9** is enacted to read:

543 **76-9-110. Intentional concealment of identity in a public gathering.**

544 (1)

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

546 (i) streets or highways; and

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

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

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

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

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

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

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

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

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

As used in this chapter:

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

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

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

## HB0312S01 compared with HB0312S02

- 565 (4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.
- 567 (5) "Convicted" means the same as that term is defined in Section 76-3-201.
- 568 (6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.
- 570 (7) "Default" means the same as that term is defined in Section 77-32b-102.
- 571 (8) "Delinquent" means the same as that term is defined in Section 77-32b-102.
- 572 (9) "Department" means the Department of Corrections created in Section 64-13-2.
- 573 (10) "Habitual offender" means an individual who ~~has been convicted in~~:
- 574 (a)
- . (i) has been convicted in at least [six] five previous cases for one or more felony offenses in each case;  
and
- 576 ~~[(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[-] ;
- 580 (b)
- . (i) has been charged with one or more felony offenses in at least nine separate cases; and
- 582 (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;
- 585 (c)
- . (i) has been convicted in at least nine previous cases for one or more misdemeanor offenses in each  
case; and
- 587 (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
- 590 (d)
- . (i) has been charged with one or more misdemeanor offenses in at least 19 separate cases; and
- 592 (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.
- 595 (11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- 596 (12) "Restitution" means the same as that term is defined in Section 77-38b-102.

## HB0312S01 compared with HB0312S02

- 597 (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.
- 599 (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.
- 400 Section 8. Section **77-18-103** is amended to read:
- 401 **77-18-103. Presentence investigation report -- Classification of presentence investigation  
report -- Evidence or other information at sentencing.**
- 605 (1) Before the imposition of a sentence, the court may:
- 606 (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
- 610 (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.
- 613 (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.
- 616 (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.
- 620 (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:
- 623 (a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);
- 625 (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
- 626 (c) recommendations for treatment for the defendant; and
- 627 (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.

## HB0312S01 compared with HB0312S02

- 631 (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.
- 635 (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:
- 638 (A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and  
640 (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.
- 644 (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:
- 647 (A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence  
investigation report; and  
649 (B) provide the written finding to the department or the law enforcement agency.
- 650 (b) The department shall attach the written finding to the presentence investigation report as an  
addendum.
- 652 (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.
- 654 (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.
- 657 (7)  
. (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2,  
Government Records Access and Management Act.
- 659 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order  
the disclosure of a presentence investigation report.

661

## HB0312S01 compared with HB0312S02

- (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:
- 664 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 665 (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;
- 667 (c) requested by the board;
- 668 (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
- 670 (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:
- 673 (i) statements or materials provided by the victim;
- 674 (ii) the circumstances of the offense, including statements by the defendant; or
- 675 (iii) the impact of the offense on the victim or the victim's household; or
- 676 (f) requested by a sex offender treatment provider:
- 677 (i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);
- 679 (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
- 681 (iii) who provides written assurance to the department that the report:
- 682 (A) is necessary for the treatment of the defendant;
- 683 (B) will be used solely for the treatment of the defendant; and
- 684 (C) will not be disclosed to an individual or entity other than the defendant.
- 685 (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.
- 688 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in open court on record and in the presence of the defendant.
- 690 (10) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

490 Section 9. Section **77-20-102** is amended to read:

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

## HB0312S01 compared with HB0312S02

As used in this chapter:

- 695 (1) "Bail" means pretrial release.
- 696 (2) "Bail bond" means the same as that term is defined in Section 31A-35-102.
- 697 (3) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- 698 (4) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.
- 699 (5) "County jail official" means a county sheriff or the county sheriff's designee.
- 700 (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability  
for a bail bond.
- 702 (7) "Financial condition" means any monetary condition that is imposed to secure an individual's  
pretrial release.
- 704 (8) "Forfeiture" means:
- 705 (a) to divest an individual or surety from a right to the repayment of monetary bail; or
- 706 (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.
- 708 (9) "Magistrate" means the same as that term is defined in Section 77-1-3.
- 709 (10)
- . (a) "Material change in circumstances" includes:
- 710 (i) an unreasonable delay in prosecution that is not attributable to the defendant;
- 711 (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;
- 713 (iii) a material change in the conditions of release or the services that are reasonably available to the  
defendant if released;
- 715 (iv) a willful or repeated failure by the defendant to appear at required court appearances; or
- 717 (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.
- 719 (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.
- 721 (11) "Monetary bail" means a financial condition.
- 722 (12) "Own recognizance" means the release of an individual without any condition of release other than  
the individual's promise to:
- 724 (a) appear for all required court proceedings; and

## HB0312S01 compared with HB0312S02

- 725 (b) not commit any criminal offense.
- 726 (13) "Pretrial detention hearing" means a hearing described in Section 77-20-206.
- 727 (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.
- 729 (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.
- 732 (16) "Pretrial services program" means a program that is established to:
- 733 (a) gather information on individuals booked into a jail facility;
- 734 (b) conduct pretrial risk assessments; and
- 735 (c) supervise individuals granted pretrial release.
- 736 (17) "Pretrial status order" means an order issued by a magistrate or judge that:
- 737 (a) releases the individual on the individual's own recognizance while the individual awaits trial or other  
resolution of criminal charges;
- 739 (b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or  
other resolution of criminal charges; or
- 741 (c) denies pretrial release and orders that the individual be detained while the individual awaits trial or  
other resolution of criminal charges.
- 743 (18) "Principal" means the same as that term is defined in Section 31A-35-102.
- 744 (19) "Surety" means a surety insurer or a bail bond agency.
- 745 (20) "Surety insurer" means the same as that term is defined in Section 31A-35-102.
- 746 (21) "Temporary pretrial status order" means an order issued by a magistrate that:
- 747 (a) releases the individual on the individual's own recognizance until a pretrial status order is issued;
- 749 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued;  
or
- 751 (c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.
- 753 [~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails  
to appear for any required court appearance.~~]
- 553 Section 10. Section **77-20-203** is amended to read:
- 554 **77-20-203. County sheriff authority to release an individual from jail on own recognizance.**
- 758 (1) As used in this section:

## HB0312S01 compared with HB0312S02

- 759 (a)
- . (i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).
- 761 (ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.
- 763 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 764 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 765 (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:
- 767 (a) the individual was arrested without a warrant;
- 768 (b) the individual was not~~[-arrested for]~~:
- 769 (i) arrested for a violent [felony] offense as defined in Section 76-3-201.10;
- 770 (ii) arrested for a qualifying offense;
- 771 (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]~~
- 774 (iv) arrested for an offense described in Subsection 76-9-101(4);
- 775 (v) arrested for possession of any composition or mixture, including pills, that contains 100 grams or more of fentanyl or a fentanyl-related substance;
- 777 (vi) arrested for another crime within the immediately preceding { ~~14-day~~ } 30-day period; or
- 778 (vii) convicted in at least nine previous cases of one or more misdemeanor offenses in each case within the immediately preceding one-year period;
- 780 (c) law enforcement has not submitted a probable cause statement to a court or magistrate;
- 782 (d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- 784 (e) the individual qualifies for release under the written policy described in Subsection (4) for the county.
- 786 (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.
- 789 (4)
- .



## HB0312S01 compared with HB0312S02

- (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.
- 791 (b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.
- 793 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 794 (i) criminal history;
- 795 (ii) prior instances of failing to appear for a mandatory court appearance;
- 796 (iii) current employment;
- 797 (iv) residency;
- 798 (v) ties to the community;
- 799 (vi) an offense for which the individual was arrested;
- 800 (vii) any potential criminal charges that have not yet been filed;
- 801 (viii) the individual's health condition;
- 802 (ix) any potential risks to a victim, a witness, or the public; and
- 803 (x) any other similar factor a sheriff determines is relevant.
- 804 (5)
- . (a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:
- 806 (i) the individual is on supervised probation or parole and that information is reasonably available;
- and
- 808 (ii) the individual was arrested for:
- 809 (A) a violent felony; or
- 810 (B) a qualifying domestic violence offense.
- 811 (b) The jail facility shall:
- 812 (i) notify the entity supervising the individual's probation or parole that the individual is being detained;
- and
- 814 (ii) release the individual:
- 815 (A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or
- 817 (B) if a court or magistrate orders release.
- 818

## HB0312S01 compared with HB0312S02

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## HB0312S01 compared with HB0312S02

- 851 (a)
- . (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;
- 853 (ii) the individual is arrested for, or charged with:
- 854 (A) a misdemeanor offense under state law, excluding a misdemeanor offense:
- 855 (I) for domestic violence as defined in Section 77-36-1; or
- 856 (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
- 858 (B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;
- 860 (iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- 862 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 863 (b)
- . (i) the individual is arrested for, or charged with, an eligible felony offense;
- 864 (ii) the individual is not on pretrial release for a separate criminal offense;
- 865 (iii) the individual is not on probation or parole;
- 866 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 867 (v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- 869 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 870 (3) A county jail official may not fix a financial condition at a monetary amount that exceeds:
- 872 (a) \$5,000 for an eligible felony offense;
- 873 (b) \$1,950 for a class A misdemeanor offense;
- 874 (c) \$680 for a class B misdemeanor offense;
- 875 (d) \$340 for a class C misdemeanor offense;
- 876 (e) \$150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or
- 878 (f) \$80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.
- 880 (4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:
- 882 (a) the county jail official shall fix the financial condition at a single monetary amount; and
- 884

## HB0312S01 compared with HB0312S02

- (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.
- 886 (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.
- 888 (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.
- 891 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:
- 893 (a) a county jail official may not fix or modify a financial condition for an individual; and
- 895 (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.
- 898 (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.
- 900 (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.**
- 904 (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:
- 907 (i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;
- 909 (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
- 912 (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).
- 915 (b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:
- 917

## HB0312S01 compared with HB0312S02

- (i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or
- 919 (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.
- 922 (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:
- 925 ~~[(i)]~~ (A) there is substantial evidence to support the individual's arrest for the felony offense;
- 927 ~~[(ii)]~~ (B) the individual committed the felony offense while:
- 928 ~~[(A)]~~ (I) the individual was on parole or probation for a conviction of a felony offense; or
- 930 ~~[(B)]~~ (II) the individual was released and awaiting trial on a previous charge for a felony offense; and
- 932 ~~[(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).]~~ { is a habitual offender as defined in Section 77-18-102. } :
- 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.
- 937 ~~[(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).
- 940 (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.
- 942 (b) The magistrate or judge may delay the issuance of a pretrial status order at an individual's first appearance before the court:
- 944 (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;
- 946 (ii) if a party requests a delay; or
- 947 (iii) if there is good cause to delay the issuance.
- 948

## HB0312S01 compared with HB0312S02

(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.

951 (3)

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

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

955 (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

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

960 (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.

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

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

965 (b) conditions of release that reasonably ensure:

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

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

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

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

972 (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:

974 (a) not commit a federal, state, or local offense during the period of pretrial release;

975 (b) avoid contact with a victim of the alleged offense;

976 (c) avoid contact with a witness who:

977 (i) may testify concerning the alleged offense; and

978 (ii) is named in the pretrial status order;

979 (d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

981 (e) submit to drug or alcohol testing;

982

## HB0312S01 compared with HB0312S02

- (f) complete a substance abuse evaluation and comply with any recommended treatment or release program;
- 984 (g) submit to electronic monitoring or location device tracking;
- 985 (h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;
- 987 (i) maintain employment or actively seek employment if unemployed;
- 988 (j) maintain or commence an education program;
- 989 (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;
- 991 (l) comply with specified restrictions on personal associations, place of residence, or travel;
- 993 (m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
- 995 (n) comply with a specified curfew;
- 996 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 997 (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;
- 1002 (q) comply with requirements for house arrest;
- 1003 (r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
- 1005 (s) remain in custody of one or more designated individuals who agree to:
- 1006 (i) supervise and report on the behavior and activities of the individual; and
- 1007 (ii) encourage compliance with all court orders and attendance at all required court proceedings;
- 1009 (t) comply with a financial condition; or
- 1010 (u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).
- 1012 (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.

1015

## HB0312S01 compared with HB0312S02

- (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.
- 1018 (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.
- 1021 (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.
- 1025 (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:
- 1029 (i) the county jail official's action to fix a financial condition; or
- 1030 (ii) the amount of the financial condition that the individual was required to pay for pretrial release.
- 1032 (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.
- 1034 (8) In making a determination about pretrial release, the magistrate or judge may:
- 1035 (a) rely upon information contained in:
- 1036 (i) the indictment or information;
- 1037 (ii) any sworn or probable cause statement or other information provided by law enforcement;
- 1039 (iii) a pretrial risk assessment;
- 1040 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 1041 (v) witness statements or testimony;
- 1042 (vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or
- 1044 (vii) any other reliable record or source, including proffered evidence; and
- 1045 (b) consider:
- 1046 (i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:
- 1048 (A) whether the offense is a violent offense; and
- 1049 (B) the vulnerability of a witness or alleged victim;
- 1050 (ii) the nature and circumstances of the individual, including the individual's:



## HB0312S01 compared with HB0312S02

- 1051 (A) character;
- 1052 (B) physical and mental health;
- 1053 (C) family and community ties;
- 1054 (D) employment status or history;
- 1055 (E) financial resources;
- 1056 (F) past criminal conduct;
- 1057 (G) history of drug or alcohol abuse; and
- 1058 (H) history of timely appearances at required court proceedings;
- 1059 (iii) the potential danger to another individual, or individuals, posed by the release of the individual;
- 1061 (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;
- 1064 (v) the availability of:
- 1065 (A) other individuals who agree to assist the individual in attending court when required; or
- 1067 (B) supervision of the individual in the individual's community;
- 1068 (vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or
- 1070 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
- 1072 (9) The magistrate or judge may not base a determination about pretrial release solely:
- 1073 (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
- 1075 (b) on an algorithm or a risk assessment tool score.
- 1076 (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:
- 1078 (a) may not be released before the individual's first appearance before a magistrate or judge; and
- 1080 (b) may be denied pretrial release by the magistrate or judge.
- 1081 ~~{Section 16. Section 77-20-206 is amended to read: }~~
- 1082 **77-20-206. Motion for pretrial detention -- Pretrial detention hearing.**
- 1083 (1)
- . (a) If the criminal charges filed against an individual include one or more offenses eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8, the prosecuting attorney may make a motion for pretrial detention.

## HB0312S01 compared with HB0312S02

- 1086 (b) The motion for pretrial detention may include proposed factual findings for the court to adopt.  
1088 [~~(b)~~] (c) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge shall set a  
pretrial detention hearing in accordance with Subsection (2).
- 1090 (2) If a pretrial status order is not issued at an individual's first appearance and the individual remains  
detained, a pretrial detention hearing shall be held at the next available court hearing that is:
- 1093 (a) no sooner than seven days from the day on which the defendant was arrested; and  
1094 (b) no later than fourteen days from the day on which the defendant was arrested.  
1095 (3)
- . (a) An individual, who is the subject of a pretrial detention hearing, has the right to be represented by  
counsel at the pretrial detention hearing.
- 1097 (b) If a judge finds the individual is indigent under Section 78B-22-202, the judge shall appoint counsel  
to represent the individual in accordance with Section 78B-22-203.
- 1099 (4) At the pretrial detention hearing:
- 1100 (a) if requested by the prosecuting attorney or the individual, the court shall make a finding that  
evidence presented at the hearing is subject to the Utah Rules of Evidence;  
1103 (b) the judge shall give both parties the opportunity to make arguments and to present relevant evidence  
or information;
- 1105 [~~(b)~~] (c) the prosecuting attorney and the defendant have a right to subpoena witnesses to testify; and  
1107 [~~(e)~~] (d) the judge shall issue a pretrial status order in accordance with Subsection (5) and Section  
77-20-205.
- 1109 (5) After hearing evidence on a motion for pretrial detention, and based on the totality of the  
circumstances, a judge may order detention if:
- 1111 (a) the individual is accused of committing an offense that qualifies for detention of the individual  
under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8; [~~and~~]
- 1114 (b) the prosecuting attorney demonstrates substantial evidence to support the charge, and meets all  
additional evidentiary burdens required under Subsection 77-20-201(1) or [~~Utah Constitution,  
Article I, Section 8.~~] Utah Constitution, Article I, Section 8; and
- 1117 (c) the order meets the requirements of Subsection (8).
- 1118 (6) An alleged victim has the right to be heard at a pretrial detention hearing on a motion for pretrial  
detention.
- 1120

## HB0312S01 compared with HB0312S02

- (7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the pretrial detention hearing, a defendant may issue a subpoena, at the conclusion of the pretrial detention hearing, compelling the alleged victim to testify at a subsequent hearing only if the judge finds that the testimony sought by the subpoena:
- 1124 (a) is material to the substantial evidence or clear and convincing evidence determinations described in Section 77-20-201 in light of all information presented to the court; and
- 1127 (b) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.
- 1129 (8)
- . (a) An order of detention shall include written findings of fact and conclusions of law.
- 1130 (b) A signed order of detention containing written findings of fact and conclusions of law must be entered within 24 hours of the pretrial detention hearing. If the signed order is not entered within 24 hours of the hearing, the individual shall be released.
- 1133 (c) If a judge uses an algorithm or pretrial risk assessment tool as part of the analysis for the findings in the order of detention, the judge:
- 1135 (i) may not base a determination about pretrial detention solely on an algorithm or a risk assessment tool score; and
- 1137 (ii) shall identify in the order the statistical likelihood of reoffense or non-appearance based on the individual's score from the algorithm or tool.
- 882 Section 13. Section **77-20-402** is amended to read:
- 883 **77-20-402. Payment of monetary bail to court -- Specific payment methods -- Refund of monetary bail.**
- 1142 (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:
- 1144 (a) in cash;
- 1145 (b) by a bail bond with a surety; or
- 1146 [~~(e) by an unsecured bond, at the discretion of the judge or magistrate; or~~]
- 1147 [~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.
- 1148 (2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1):
- 1150 (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;

## HB0312S01 compared with HB0312S02

- 1152 (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;
- 1155 (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;
- 1158 (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
- 1161 (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in any case  
involving the defendant.
- 1163 (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.
- 1165 (4) Monetary bail posted by debit or credit card, less the fee charged by the financial institution, shall be  
tendered to the courts.
- 1167 (5)
- . (a) Monetary bail refunded by the court may be refunded by credit to the debit or credit card or in cash.
- 1169 (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.
- 1172 (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.
- 1176 ~~{Section 18. Section 77-27-8 is amended to read: }~~
- 1177 **77-27-8. Record of hearing.**
- 1178 (1) A verbatim record of proceedings before the Board of Pardons and Parole shall be maintained by a  
suitable electronic recording device, except when the board dispenses with a record in a particular  
hearing or a portion of the proceedings.
- 1181 ~~[(2) When the hearing involves the commutation of a death sentence, a certified shorthand reporter, in  
addition to electronic means, shall record all proceedings except when the board dispenses with a  
record for the purpose of deliberations in executive session. The compensation of the reporter shall  
be determined by the board. The reporter shall immediately file with the board the original record~~

## HB0312S01 compared with HB0312S02

and when requested shall with reasonable diligence furnish a transcription or copy of the record upon payment of reasonable fees as determined by the board.]

1188 [(3)] (2) When an inmate or offender affirms by affidavit that he is unable to pay for a copy of the record, the board may furnish a copy of the record, at the expense of the state, to the inmate or offender.

1191 {Section 19. Section 78B-22-301 is amended to read: }

1192 **78B-22-301. Standards for indigent defense systems -- Written report.**

1193 (1) An indigent defense system shall provide indigent defense services for an indigent individual in accordance with the core principles adopted by the commission under Section 78B-22-404.

1196 (2)

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

1198 (i) describes each indigent defense system's compliance with the commission's core principles[-] ;  
and

1200 (ii) if the indigent defense system operates in a county that is participating in the verification of indigency pilot program created in Section 78B-22-1002, provides information and feedback on the indigent defense system's activities in relation to the pilot program.

1204 (b) If an indigent defense system fails to submit a timely report under Subsection (2)(a), the indigent defense system is disqualified from receiving a grant from the commission for the following calendar year.

1207 {Section 20. Section 78B-22-404 is amended to read: }

1208 **78B-22-404. Powers and duties of the commission.**

1209 (1) The commission shall:

1210 (a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:

1214 (i) an indigent defense system shall ensure that in providing indigent defense services:

1215 (A) an indigent individual receives conflict-free indigent defense services; and

1216 (B) there is a separate contract for each type of indigent defense service; and

1217 (ii) an indigent defense system shall ensure an indigent defense service provider has:

1218

## HB0312S01 compared with HB0312S02

- 1221 (A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;
- 1222 (B) adequate access to indigent defense resources;
- 1225 (C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;
- 1228 (D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;
- 1229 (E) adequate compensation without financial disincentives;
- 1231 (F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;
- 1234 (G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and
- 1237 (H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;
- 1240 (b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;
- 1242 (c) emphasize the importance of ensuring constitutionally effective indigent defense services;
- 1244 (d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services;
- 1245 (e) oversee individuals and entities involved in providing indigent defense services; ~~and~~
- 1247 (f) establish, and periodically review and revise, recommended criteria and standards for determining and verifying indigency; and
- 1249 [(f)] (g) manage county participation in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701.
- 1250 (2) The commission may:
- 1252 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;
- 1254 (b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

## HB0312S01 compared with HB0312S02

- (c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Fund created in Section 78B-22-455; and
- 1256 (d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.
- 1258 ~~{Section 21. Section 78B-22-452 is amended to read: }~~
- 1259 **78B-22-452. Duties of the office.**
- 1260 (1) The office shall:
- 1261 (a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;
- 1263 (b) assist the commission in performing the commission's statutory duties described in this chapter;
- 1265 (c) identify and collect data that is necessary for the commission to:
- 1266 (i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and
- 1269 (ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;
- 1271 (d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;
- 1274 (e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;
- 1276 (f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;
- 1278 (g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:
- 1280 (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501;
- 1282 (ii) is charged with having committed a crime within that state prison; and
- 1283 (iii) has been appointed counsel in accordance with Section 78B-22-203;
- 1284 (h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;
- 1286 (i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;
- 1289

## HB0312S01 compared with HB0312S02

- (j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;
- 1291 (k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
- 1293 (l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;
- 1296 (m) annually report to the governor, ~~[Legislature,]~~Judiciary Interim Committee, and Judicial Council, regarding:
- 1298 (i) the operations of the commission;
- 1299 (ii) the operations of the indigent defense systems in the state;~~[-and]~~
- 1300 (iii) the current activities and results of the verification of indigency pilot program created in Section 78B-22-1001; and
- 1302 ~~[(iii)]~~ (iv) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;
- 1304 (n) submit recommendations to the commission for improving indigent defense services in the state;
- 1306 (o) publish an annual report on the commission's website; and
- 1307 (p) perform all other duties assigned by the commission related to indigent defense services.
- 1309 (2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.
- 1311 (3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.
- 1314 ~~{Section 22. Section 78B-22-1001 is amended to read: }~~
- 1315 **78B-22-1001. Verification of indigency -- Pilot program.**
- 1316 (1) Beginning on July 1, 2022, and ending on June 30, ~~[2025]~~ 2028, an indigent defense system in Cache County, Davis County, Duchesne County, and San Juan County shall conduct a pilot program to verify the indigency of individuals who were provided indigent defense services by the indigent defense system, except as provided in Subsection ~~[(5)]~~ (6).
- 1321 (2) Under the pilot program described in Subsection (1), the indigent defense system shall review and verify financial information in a statistically significant sample of cases for each calendar year where, except as provided in Subsection (5):
- 1324 (a) an individual was found to be indigent by a court; and



## HB0312S01 compared with HB0312S02

- 1325 (b) the indigent defense system provided indigent defense services to the individual.
- 1326 (3) To verify financial information under Subsection (2), the indigent defense system may require an individual to provide financial documentation or proof demonstrating that the individual qualifies as indigent under Section 78B-22-202.
- 1329 (4) An indigent defense system described in Subsection (1) shall report to [~~the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee,~~] the commission concerning the results of the pilot program described in this section, on or before [~~November 4~~] March 30 of each year of the three-year pilot program.
- 1333 (5) The commission shall regularly coordinate with the office regarding the ongoing activities and results of the pilot program.
- 1335 [~~(5)~~] (6) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.
- 1337 ~~{Section 23. Section 80-6-507 is amended to read: }~~
- 1338 **80-6-507. Commitment of a minor by a district court -- Housing in secure care facility or correctional facility.**
- 1340 (1)
- . (a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:
- 1342 (i) the district court shall order the minor committed to prison; and
- 1343 (ii)
- . (A) the minor shall be provisionally housed in a secure care facility [-]until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole[-] ; or
- 1346 (B) if the minor is convicted of aggravated murder under Section 76-5-202, the minor was 17 years old when the aggravated murder occurred, and the minor was 18 years old or older at the time of sentencing, the district court may order the minor to be housed in a correctional facility rather than a secure care facility.
- 1351 (b) Upon a motion by a prosecuting attorney, a district court may review the status of a minor who is provisionally housed in a secure care facility as described in Subsection (1)(a)(ii)(A) and order that the minor be committed to the physical custody of the Department of Corrections and housed in a correctional facility if:
- 1355 (i) the minor meets the requirements of Subsection (1)(a)(ii)(B); and

## HB0312S01 compared with HB0312S02

- 1356 (ii) the court finds that the transfer is warranted.
- 1357 [(b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as  
described in Subsection (1)(a) on or after May 4, 2022.]
- 1359 (2)
- . (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah  
Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure  
care facility under Subsection (1) to the physical custody of the Department of Corrections.
- 1363 (b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that  
housing the minor in a secure care facility [-]presents an unreasonable risk to others or that it is not  
in the best interest of the minor, the division shall transfer the physical custody of the minor to the  
Department of Corrections.
- 1367 (3)
- . (a) When a minor is committed to prison but provisionally housed in a secure care facility [-]under this  
section, the district court and the division shall immediately notify the Board of Pardons and Parole  
so [~~that~~]the minor may be scheduled for a hearing according to board procedures.
- 1371 (b) If a minor who is provisionally housed in a secure care facility [-]under this section has not been  
paroled or otherwise released from incarceration by the time the minor reaches 25 years old, the  
division shall as soon as reasonably possible, but not later than when the minor reaches 25 years and  
6 months old, transfer the minor to the physical custody of the Department of Corrections.
- 1376 (4) Upon the commitment of a minor to the custody of the division or the Department of Corrections  
under this section, the Board of Pardons and Parole has authority over the minor for purposes of  
parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of  
restitution, and all other purposes authorized by law.
- 1380 (5) The authority [-]shall:
- 1381 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody  
of the division under this section; and
- 1383 (b) forward to the Board of Pardons and Parole any information or recommendations concerning the  
minor.
- 1385 (6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

919 Section 14. **Effective date.**

This bill takes effect on May 7, 2025.

## **HB0312S01 compared with HB0312S02**

. Section 26. **Repealer.**

This Bill Repeals:

1389 Section **77-27-21.9, Sex offender assessment.**

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