

Candice B. Pierucci proposes the following substitute bill:

Criminal Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses criminal offenses and repercussions from those offenses.

Highlighted Provisions:

This bill:

- provides that the attorney general or the director of the Division of Corporations and Commercial Code may bring a judicial action to dissolve a domestic nonprofit corporation, or to revoke the authority of a foreign nonprofit corporation to conduct affairs in the state, if the nonprofit corporation is convicted of certain criminal offenses;
- requires a county sheriff to notify and coordinate with the relevant federal immigration authority when preparing to release from the county jail an individual who:
 - is being released after serving the individual's jail sentence for certain class A misdemeanors or a felony; and
 - is, or may be, unlawfully present in the United States;
- requires the Department of Corrections to notify and coordinate with the relevant federal immigration authority when preparing to release an inmate who:
 - is being released after serving a term of imprisonment for a felony; and
 - is, or may be, unlawfully present in the United States;
- amends the sentence of imprisonment for a class A misdemeanor to one year for certain offenses;
- amends certain pretrial release provisions to add a rebuttable presumption that an individual is a flight risk if the individual is not, or may no longer be, lawfully present in the United States; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **16-6a-1414**, as last amended by Laws of Utah 2024, Chapter 33134 **16-6a-1515**, as last amended by Laws of Utah 2008, Chapter 36435 **16-6a-1516**, as last amended by Laws of Utah 2009, Chapter 38636 **17-22-9.5**, as enacted by Laws of Utah 2008, Chapter 2637 **64-13-10.6**, as last amended by Laws of Utah 2023, Chapters 58, 41438 **76-3-204**, as last amended by Laws of Utah 2019, Chapter 22239 **76-3-208**, as last amended by Laws of Utah 2021, Chapter 26040 **77-20-201**, as last amended by Laws of Utah 2024, Chapter 19741 **77-20-202**, as last amended by Laws of Utah 2024, Chapter 18142 **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16

43 ENACTS:

44 **64-13-10.7**, Utah Code Annotated 1953

45

46 *Be it enacted by the Legislature of the state of Utah:*47 Section 1. Section **16-6a-1414** is amended to read:48 **16-6a-1414 . Grounds and procedure for judicial dissolution.**49 (1) The attorney general or the division director may bring an action in a court with
50 jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a
51 nonprofit corporation if it is established that:52 (a) the nonprofit corporation obtained the nonprofit corporation's articles of
53 incorporation through fraud;~~[-or]~~54 (b) the nonprofit corporation has continued to exceed or abuse the authority conferred
55 upon the nonprofit corporation by law~~[-]~~ ; or56 (c) the nonprofit corporation has been convicted under federal or state law for illegally
57 committing, or attempting, soliciting, or conspiring to commit, an offense under:58 (i) 8 U.S.C. Chapter 12, Subchapter II, Part VIII; or59 (ii) Section 76-5-308.3, Human smuggling.60 (2) A member or director of a nonprofit corporation may bring an action in a court with
61 jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the
62 nonprofit corporation if it is established that:

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

97 the court may:

98 (i) issue an injunction preventing the nonprofit corporation from selling or disposing
99 of any assets held by the nonprofit corporation; and

100 (ii) require the nonprofit corporation to deposit funds, or post a bond, with the court
101 for the amount of damages pleaded in the complaint.

102 (e) The court may void a transaction that is made by the nonprofit corporation within 12
103 months before the day on which the action was filed with the court if the court finds
104 that the transaction is voidable under Section 25-6-202.

105 (5) If an action is brought under this section, it is not necessary to make directors or
106 members parties to the action to dissolve the nonprofit corporation unless relief is sought
107 against the members individually.

108 (6) In an action under this section, the court may:

109 (a) issue injunctions;

110 (b) appoint a receiver or a custodian pendente lite with all powers and duties the court
111 directs; or

112 (c) take other action required to preserve the nonprofit corporation's assets wherever
113 located and carry on the business of the nonprofit corporation until a full hearing can
114 be held.

115 (7) If a nonprofit corporation has been dissolved by voluntary or another action taken under
116 this part:

117 (a) the nonprofit corporation may bring a proceeding to wind up and liquidate its
118 business and affairs under judicial supervision in accordance with Section 16-6a-1405;
119 and

120 (b) the attorney general, a director, a member, a creditor, or a plaintiff under Subsection
121 (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit
122 corporation under judicial supervision in accordance with Section 16-6a-1405, upon
123 establishing the grounds set forth in Subsections (1) through (4).

124 Section 2. Section **16-6a-1515** is amended to read:

125 **16-6a-1515 . Grounds for revocation.**

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

128 [(+) (a) the foreign nonprofit corporation does not deliver its annual report to the
129 division when it is due;

130 [(2) (b) the foreign nonprofit corporation does not pay when they are due any taxes,

131 fees, or penalties imposed by this chapter or other applicable laws of this state;
 132 ~~[(3)]~~ (c) the foreign nonprofit corporation is without a registered agent in this state;
 133 ~~[(4)]~~ (d) the foreign nonprofit corporation does not inform the division by an appropriate
 134 filing, within 30 days of the change or resignation, that:
 135 ~~[(a)]~~ (i) its registered agent has changed; or
 136 ~~[(b)]~~ (ii) its registered agent has resigned;
 137 ~~[(5)]~~ (e) an incorporator, director, officer, or agent of the foreign nonprofit corporation
 138 signs a document knowing it is false in any material respect with intent that the
 139 document be delivered to the division for filing; or
 140 ~~[(6)]~~ (f) the division receives a duly authenticated certificate from the division or other
 141 official having custody of corporate records in the state or country under whose law
 142 the foreign nonprofit corporation is incorporated stating that the foreign nonprofit
 143 corporation has dissolved or disappeared as the result of a merger.

144 (2) The attorney general or the division director may bring an action in a court with
 145 jurisdiction under Title 78A, Judiciary and Judicial Administration, to revoke the
 146 authority of a foreign nonprofit corporation to conduct affairs in this state if it is
 147 established that the nonprofit corporation has been convicted under federal or state law
 148 for illegally committing, or attempting, soliciting, or conspiring to commit, an offense
 149 under:

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

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

152 Section 3. Section **16-6a-1516** is amended to read:

153 **16-6a-1516 . Procedure for and effect of revocation.**

154 (1) If the division determines that one or more grounds exist under ~~[Section 16-6a-1515]~~
 155 Subsection 16-6a-1515(1) for revoking the authority of a foreign nonprofit corporation
 156 to conduct affairs in this state, the division shall mail to the foreign nonprofit
 157 corporation with written notice of the division's determination stating the grounds.

158 (2)(a) If the foreign nonprofit corporation does not correct each ground for revocation or
 159 demonstrate to the reasonable satisfaction of the division that each ground
 160 determined by the division does not exist, within 60 days after mailing of the notice
 161 under Subsection (1), the division shall revoke the foreign nonprofit corporation's
 162 authority to conduct affairs in this state.

163 (b) If a foreign nonprofit corporation's authority to conduct affairs in this state is revoked
 164 under Subsection (2)(a), the division shall:

- 165 (i) mail a written notice of the revocation to the foreign nonprofit corporation stating
166 the effective date of the revocation; and
- 167 (ii) mail a copy of the notice to:
- 168 (A) the last registered agent of the foreign nonprofit corporation; or
169 (B) if there is no registered agent of record, at least one officer of the corporation.
- 170 (3) The authority of a foreign nonprofit corporation to conduct affairs in this state ceases on
171 the date shown on the division's certificate revoking the foreign nonprofit corporation's
172 certificate of authority.
- 173 (4) Revocation of a foreign nonprofit corporation's authority to conduct affairs in this state
174 does not terminate the authority of the registered agent of the foreign nonprofit
175 corporation.
- 176 (5) A notice mailed under this section shall be:
- 177 (a) mailed first class, postage prepaid; and
178 (b) addressed to the most current mailing address appearing on the records of the
179 division for:
- 180 (i) the registered agent of the nonprofit corporation, if the notice is required to be
181 mailed to the registered agent; or
182 (ii) the officer of the nonprofit corporation that is mailed the notice if the notice is
183 required to be mailed to an officer of the nonprofit corporation.

184 Section 4. Section **17-22-9.5** is amended to read:

185 **17-22-9.5 . Citizenship determination of incarcerated persons -- Notification to**
186 **and coordination with federal authorities when releasing certain individuals.**

- 187 (1) The sheriff shall make a reasonable effort to determine the citizenship status of [~~a person~~]
188 an individual charged with a felony or driving under the influence under Section
189 41-6a-502 when the [~~person~~] individual is confined to the county jail for a period of time.
- 190 (2) If the confined [~~person~~] individual is a foreign national, the sheriff shall make a
191 reasonable effort to verify that [~~the person~~]:
- 192 (a) the individual has been lawfully admitted into the United States; and
193 (b) the [~~person's~~] individual's lawful status has not expired.
- 194 (3)(a) If the sheriff cannot verify the confined [~~person's~~] individual's lawful status from
195 documents in the [~~person's~~] individual's possession, the sheriff shall attempt to verify
196 that status within 48 hours of the [~~person's~~] individual's confinement at the jail
197 through contacting:
- 198 (i) the Law Enforcement Support Center of the United States Department of

- 199 Homeland Security; or
- 200 (ii) an office or agency designated for citizenship status verification by the United
201 States Department of Homeland Security.
- 202 (b) The sheriff shall notify the United States Department of Homeland Security of [a
203 ~~person~~] an individual whose lawful citizenship status cannot be verified under
204 Subsection (2) or (3)(a).
- 205 (4) [~~It~~] In accordance with Title 77, Chapter 20, Bail, it is a rebuttable presumption for the
206 purpose of determining [the grant or issuance of a bond that a person] whether to grant
207 pretrial release that an individual who is verified under this section as a foreign national
208 not lawfully admitted into the United States is at risk of flight.
- 209 (5)(a) As soon as practicable before the day of release, the sheriff shall notify the United
210 States Department of Homeland Security, or other relevant federal agency in charge
211 of handling immigration violations or deportations, when the sheriff is preparing to
212 release an individual from the county jail who:
- 213 (i) is being released after serving the individual's jail sentence for:
- 214 (A) a class A misdemeanor described under Subsection 76-3-204(1)(b); or
- 215 (B) a felony; and
- 216 (ii)(A) is unlawfully present in the United States; or
- 217 (B) is lawfully present in the United States but has been charged with, or arrested
218 for, a criminal offense that could affect the individual's lawful presence status.
- 219 (b) The sheriff shall coordinate with federal authorities to transfer the custody of a
220 released individual into federal custody as may be required under Subsection (5)(a).
- 221 (c) The requirements described in Subsection (5)(a) do not prohibit a sheriff from
222 notifying or working with the United States Department of Homeland Security, or
223 other relevant federal agency in charge of handling immigration violations or
224 deportations, at any time with regard to an individual who is at the county jail or
225 otherwise in the sheriff's custody.

226 Section 5. Section **64-13-10.6** is amended to read:

227 **64-13-10.6 . Transition and reentry of an inmate at termination of incarceration.**

- 228 (1) The department shall evaluate the case action plan and update the case action plan as
229 necessary to prepare for the offender's transition from incarceration to release, including:
- 230 (a) establishing the supervision level and program needs, based on the offender's
231 criminal risk factors;
- 232 (b) identifying barriers to the offender's ability to obtain housing, food, clothing, and

- 233 transportation;
- 234 (c) identifying community-based treatment resources that are reasonably accessible to
235 the offender;
- 236 (d) establishing the initial supervision procedures and strategy for the offender's parole
237 officer[-]; and
- 238 (e) ensuring that the offender has access to the web portal described in Section
239 35A-2-204 a minimum of 30 days before the offender's anticipated release date.
- 240 (2) The department shall notify the Board of Pardons and Parole not fewer than 30 days
241 prior to an offender's release of:
- 242 (a) the offender's case action plan; and
- 243 (b) any specific conditions of parole necessary to better facilitate transition to the
244 community.
- 245 (3)(a) At least six months before the projected date of an inmate's release from
246 incarceration, if practicable, the department shall follow the procedures described in
247 Section 64-13-10.4.
- 248 (b) If the department is notified of the inmate's release and the remaining term of
249 incarceration is for less than six months, the department shall follow the procedures
250 described in Section 64-13-10.4 as soon as practicable after the department receives
251 notification of the inmate's release date.
- 252 (4) If the inmate's term of incarceration is for longer than six months, the department shall
253 follow procedures described in Section 64-13-10.4:
- 254 (a) approximately six months before the date of the inmate's anticipated release, if the
255 inmate's term of incarceration is for longer than six months; or
- 256 (b) as soon as possible, upon notification of the inmate's release, if the release is in
257 shorter than six months.
- 258 (5)(a) If an inmate accepts assistance in obtaining a current state-issued identification
259 card or driver license, as described in Subsection 64-13-10.4(4), the department shall
260 coordinate with the Driver License Division to:
- 261 (i)(A) obtain a duplicate of the inmate's state-issued driver license, as described in
262 Section 53-3-215; or
- 263 (B) renew the inmate's state-issued driver license, if the inmate meets the criteria
264 listed in Section 53-3-214; or
- 265 (ii)(A) extend the inmate's state-issued regular identification card, as described in
266 Section 53-3-807; or

- 267 (B) issue the inmate a temporary regular identification card as described in
 268 Subsection 53-3-805(10), unless the inmate will live outside this state
 269 immediately upon release.
- 270 (b)(i) Subject to Subsection (5)(b)(ii), the department shall ensure that within the last
 271 seven days of the inmate's incarceration, the inmate meets with the Driver License
 272 Division to be issued a duplicate driver license, a renewed driver license, an
 273 extended regular identification card, or a temporary regular identification card, as
 274 described in Subsection (5)(a).
- 275 (ii) If an inmate is released from a facility other than a state correctional facility, the
 276 department shall coordinate with that correctional facility and the Driver License
 277 Division in assisting the inmate in meeting with the Driver License Division.
- 278 (c) Before the inmate meets with the Driver License Division, as described in Subsection
 279 (5)(b)(i), the department shall ensure that the inmate is provided all required
 280 documentation and information the department possesses for the inmate to obtain a
 281 document listed in Subsection (5)(a), including:
- 282 (i) all personal identification documentation; and
 283 (ii) a voucher for payment toward any one of the documents listed in Subsection
 284 (5)(a), up to the cost of a temporary regular identification card described in
 285 Subsection 53-3-805(10).
- 286 (6)(a) Subsections (4) and (5) do not apply to an inmate that is not:
- 287 ~~[(a)]~~ (i) a citizen of the United States; or
 288 ~~[(b)]~~ (ii) a lawful resident of the United States and has legal authorization to work in
 289 the United States.
- 290 (b) An inmate described in Subsection (6)(a) may be subject to the department's
 291 notification requirements under Section 64-13-10.7.
- 292 Section 6. Section **64-13-10.7** is enacted to read:
- 293 **64-13-10.7 . Release of inmates who are not lawfully present in the United States**
 294 **-- Notification to and coordination with federal authorities.**
- 295 (1) As soon as practicable before the day of release, but at least five business days before
 296 the day of release, the department shall notify the United States Department of
 297 Homeland Security, or other relevant federal agency in charge of handling immigration
 298 violations or deportations, when the department is preparing to release an inmate who:
- 299 (a) is being released after serving a term of imprisonment for a felony; and
 300 (b)(i) is unlawfully present in the United States; or

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

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

306 Section 7. Section **76-3-204** is amended to read:

307 **76-3-204 . Misdemeanor conviction -- Term of imprisonment.**

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

310 (1)(a) ~~[H]~~ Expect as provided in Subsection (1)(b), in the case of a class A misdemeanor,
311 for a term not exceeding 364 days.

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

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

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

317 Section 8. Section **76-3-208** is amended to read:

318 **76-3-208 . Imprisonment -- Custodial authorities.**

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

321 (a) felony commitments shall be to the Utah State Prison;

322 (b)(i) ~~[notwithstanding Section 76-3-204,]~~ class A misdemeanor commitments shall
323 be to the jail, or other facility designated by the town, city, or county where the
324 defendant was convicted, unless the defendant is also serving a felony
325 commitment at the Utah State Prison at the commencement of the class A
326 misdemeanor conviction, in which case, the class A misdemeanor commitment
327 shall be to the Utah State Prison for an indeterminate term not to exceed one year
328 with a credit for one day, unless the offense is an offense described in Subsection
329 76-3-204(1)(b), in which case there is no credit for one day; and

330 (ii) the court may not order the imprisonment of a defendant to the Utah State Prison
331 for a fixed term or other term that is inconsistent with this section and Section
332 77-18-111; and

333 (c) all other misdemeanor commitments shall be to the jail or other facility designated by
334 the town, city or county where the defendant was convicted.

335 (2) A custodial authority may place a prisoner in a facility other than the one to which the
336 prisoner was committed when:

- 337 (a) the custodial authority does not have space to accommodate the prisoner; or
338 (b) the security of the institution or prisoner requires the prisoner to be placed in a
339 facility other than the one to which the prisoner was committed.

340 Section 9. Section **77-20-201** is amended to read:

341 **77-20-201 . Right to bail -- Capital felony.**

342 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail
343 as a matter of right, except if the individual is charged with:

- 344 (a) a capital felony when there is substantial evidence to support the charge;
345 (b) a felony committed while on parole or on probation for a felony conviction, or while
346 free on bail awaiting trial on a previous felony charge, when there is substantial
347 evidence to support the current felony charge;
348 (c) a felony when there is substantial evidence to support the charge and the court finds,
349 by clear and convincing evidence, that:
350 (i) the individual would constitute a substantial danger to any other individual or to
351 the community after considering available conditions of release that the court may
352 impose if the individual is released on bail; or
353 (ii) the individual is likely to flee the jurisdiction of the court if the individual is
354 released on bail;
355 (d) a felony when there is substantial evidence to support the charge and the court finds,
356 by clear and convincing evidence, that the individual violated a material condition of
357 release while previously on bail;
358 (e) a domestic violence offense if:
359 (i) there is substantial evidence to support the charge; and
360 (ii) the court finds, by clear and convincing evidence, that the individual would
361 constitute a substantial danger to an alleged victim of domestic violence after
362 considering available conditions of release that the court may impose if the
363 individual is released on bail;
364 (f) the offense of driving under the influence or driving with a measurable controlled
365 substance in the body if:
366 (i) the offense results in death or serious bodily injury to an individual;
367 (ii) there is substantial evidence to support the charge; and
368 (iii) the court finds, by clear and convincing evidence, that the individual would

- 369 constitute a substantial danger to the community after considering available
370 conditions of release that the court may impose if the individual is released on
371 bail;
- 372 (g) a felony violation of Section 76-9-101 if:
- 373 (i) there is substantial evidence to support the charge; and
374 (ii) the court finds, by clear and convincing evidence, that the individual is not likely
375 to appear for a subsequent court appearance; or
- 376 (h) except as provided in Subsection (4), the offense of driving under the influence or
377 driving with a measurable controlled substance in the body:
- 378 (i) if committed while on parole or on probation for a driving under the influence or
379 driving with a measurable controlled substance in the body conviction; or
380 (ii) while the individual is out of custody awaiting trial on a previous driving under
381 the influence or driving with a measurable controlled substance in the body
382 charge, when the court finds there is substantial evidence to support the current
383 charge.
- 384 (2) Notwithstanding any other provision of this section, there is a rebuttable presumption
385 that an individual is a substantial danger to the community under Subsection (1)(f)(iii):
- 386 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or
387 greater if the individual is arrested for, or charged with, the offense of driving under
388 the influence and the offense resulted in death or serious bodily injury to an
389 individual; or
- 390 (b) if the individual has a measurable amount of controlled substance in the individual's
391 body, the individual is arrested for, or charged with, the offense of driving with a
392 measurable controlled substance in the body and the offense resulted in death or
393 serious bodily injury to an individual.
- 394 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
395 76-5-202, aggravated murder, is a capital felony unless:
- 396 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or
397 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting
398 attorney has not filed a notice to seek the death penalty.
- 399 (4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an individual
400 would not constitute a substantial danger to any other person or the community if:
- 401 (a) the court orders the person to participate in an inpatient drug and alcohol treatment
402 program; or

403 (b) the court orders the person to participate in home confinement through the use of
404 electronic monitoring as described in Section 41-6a-506.

405 (5) For purposes of a determination under Subsection (1)(c)(ii), there is a rebuttable
406 presumption that an individual is at risk of fleeing the jurisdiction if the individual:

407 (a) is not lawfully present in the United States; or

408 (b)(i) is lawfully present in the United States; and

409 (ii) has been charged with, or arrested for, a criminal offense that could affect the
410 individual's lawful presence status.

411 Section 10. Section **77-20-202** is amended to read:

412 **77-20-202 . Collection of pretrial information.**

413 (1) When an individual is arrested without a warrant for an offense and booked at a jail
414 facility, an employee at the jail facility, or an employee of a pretrial services program,
415 shall submit the following information to the court with the probable cause statement:

416 (a) identification information for the individual, including:

417 (i) the individual's legal name and any known aliases;

418 (ii) the individual's date of birth;

419 (iii) the individual's state identification number;

420 (iv) the individual's mobile phone number; ~~and~~

421 (v) the individual's email address; and

422 (vi) the individual's immigration status, if the individual is not a United States citizen
423 or national;

424 (b) the individual's residential address;

425 (c) any pending criminal charge or warrant for the individual, including the offense
426 tracking number of the current offense for which the individual is booked;

427 (d) the individual's probation or parole supervision status;

428 (e) whether the individual was on pretrial release for another criminal offense prior to
429 the booking of the individual for the current criminal offense if the employee knows
430 that the individual was on pretrial release for a prior criminal offense;

431 (f) the individual's financial circumstances to the best of the individual's knowledge at
432 the time of booking, including:

433 (i) the individual's current employer;

434 (ii) the individual's monthly income, including any alimony or child support that
435 contributes to the individual's monthly income;

436 (iii) the individual's monthly expenses, including any alimony or child support

- 437 obligation that the individual is responsible for paying;
- 438 (iv) the individual's ownership of, or any interest in, personal or real property,
- 439 including any savings or checking accounts or cash;
- 440 (v) the number, ages, and relationships of any dependents;
- 441 (vi) any financial support or benefit that the individual receives from a state or
- 442 federal government; and
- 443 (vii) any other information about the individual's financial circumstances that may be
- 444 relevant;
- 445 (g) any ties the individual has to the community, including:
- 446 (i) the length of time that the individual has been at the individual's residential
- 447 address;
- 448 (ii) any enrollment in a local college, university, or trade school; and
- 449 (iii) the name and contact information for any family member or friend that the
- 450 individual believes would be willing to provide supervision of the individual;
- 451 (h) the results of a lethality assessment completed in accordance with Section 77-36-2.1,
- 452 if any; and
- 453 (i) whether the individual is under the influence of alcohol or a controlled substance to a
- 454 degree that would endanger the individual or another individual if the individual is
- 455 released.
- 456 (2) Upon request, the jail facility, or the pretrial services program, shall provide the
- 457 information described in Subsection (1) to the individual, the individual's attorney, or the
- 458 prosecuting attorney.
- 459 (3) Any information collected from an individual under Subsection (1) is inadmissible in
- 460 any court proceeding other than:
- 461 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the
- 462 offense, or offenses, for which the individual was arrested or charged with; or
- 463 (b) another criminal proceeding regarding prosecution for providing a false statement
- 464 under Subsection (1).
- 465 (4) Nothing in this section prohibits a court and a county from entering into an agreement
- 466 regarding information to be submitted to the court with a probable cause statement.
- 467 Section 11. Section **77-20-203** is amended to read:
- 468 **77-20-203 . County sheriff authority to release an individual from jail on own**
- 469 **recognizance.**
- 470 (1) As used in this section:

- 471 (a)(i) "Qualifying domestic violence offense" means the same as that term is defined
472 in Subsection 77-36-1.1(4).
- 473 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
474 described in Section 76-6-106.
- 475 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 476 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 477 (2) Except as provided in Subsection (3), a county jail official may release an individual
478 from a jail facility on the individual's own recognizance if:
- 479 (a) the individual was arrested without a warrant;
- 480 (b) the individual was not arrested for:
- 481 (i) a violent felony;
- 482 (ii) a qualifying offense;
- 483 (iii) the offense of driving under the influence or driving with a measurable
484 controlled substance in the body if the offense results in death or serious bodily
485 injury to an individual; or
- 486 (iv) an offense described in Subsection 76-9-101(4);
- 487 (c) law enforcement has not submitted a probable cause statement to a court or
488 magistrate;
- 489 (d) the individual agrees in writing to appear for any future criminal proceedings related
490 to the arrest; and
- 491 (e) the individual qualifies for release under the written policy described in Subsection
492 (4) for the county.
- 493 (3) A county jail official may not release an individual from a jail facility if the individual is
494 subject to a 72-hour hold placed on the individual by the Department of Corrections as
495 described in Section 64-13-29.
- 496 (4)(a) A county sheriff shall create and approve a written policy for the county that
497 governs the release of an individual on the individual's own recognizance.
- 498 (b) The written policy shall describe the criteria an individual shall meet to be released
499 on the individual's own recognizance.
- 500 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 501 (i) criminal history;
- 502 (ii) prior instances of failing to appear for a mandatory court appearance;
- 503 (iii) current employment;
- 504 (iv) residency, including immigration status;

- 505 (v) ties to the community;
- 506 (vi) an offense for which the individual was arrested;
- 507 (vii) any potential criminal charges that have not yet been filed;
- 508 (viii) the individual's health condition;
- 509 (ix) any potential risks to a victim, a witness, or the public; and
- 510 (x) any other similar factor a sheriff determines is relevant.
- 511 (5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual
- 512 for up to 24 hours from booking if:
- 513 (i) the individual is on supervised probation or parole and that information is
- 514 reasonably available; and
- 515 (ii) the individual was arrested for:
- 516 (A) a violent felony; or
- 517 (B) a qualifying domestic violence offense.
- 518 (b) The jail facility shall:
- 519 (i) notify the entity supervising the individual's probation or parole that the individual
- 520 is being detained; and
- 521 (ii) release the individual:
- 522 (A) to the Department of Corrections if the Department of Corrections supervises
- 523 the individual and requests the individual's release; or
- 524 (B) if a court or magistrate orders release.
- 525 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
- 526 accordance with this chapter for a new criminal offense.
- 527 (6) This section does not prohibit a court and a county from entering into an agreement
- 528 regarding release.

529 **Section 12. Effective Date.**

530 This bill takes effect on May 7, 2025.