

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:

▸ 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 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 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 lawfully present in the United States; and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

29 **64-13-10.6**, as last amended by Laws of Utah 2023, Chapters 58, 414

30 **76-3-204**, as last amended by Laws of Utah 2019, Chapter 222

31 **76-3-208**, as last amended by Laws of Utah 2021, Chapter 260

32 **77-20-201**, as last amended by Laws of Utah 2024, Chapter 197

33 **77-20-202**, as last amended by Laws of Utah 2024, Chapter 181

34 **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16

35 ENACTS:

36 **64-13-10.7**, Utah Code Annotated 1953

37

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

39 Section 1. Section **17-22-9.5** is amended to read:

40 **17-22-9.5 . Citizenship determination of incarcerated persons -- Notification to**
 41 **and coordination with federal authorities when releasing certain individuals.**

42 (1) The sheriff shall make a reasonable effort to determine the citizenship status of [~~a person~~]
 43 an individual charged with a felony or driving under the influence under Section
 44 41-6a-502 when the [~~person~~] individual is confined to the county jail for a period of time.

45 (2) If the confined [~~person~~] individual is a foreign national, the sheriff shall make a
 46 reasonable effort to verify that [~~the person~~]:

47 (a) the individual has been lawfully admitted into the United States; and

48 (b) the [~~person's~~] individual's lawful status has not expired.

49 (3)(a) If the sheriff cannot verify the confined [~~person's~~] individual's lawful status from
 50 documents in the [~~person's~~] individual's possession, the sheriff shall attempt to verify
 51 that status within 48 hours of the [~~person's~~] individual's confinement at the jail
 52 through contacting:

53 (i) the Law Enforcement Support Center of the United States Department of
 54 Homeland Security; or

55 (ii) an office or agency designated for citizenship status verification by the United
 56 States Department of Homeland Security.

57 (b) The sheriff shall notify the United States Department of Homeland Security of [~~a~~
 58 ~~person~~] an individual whose lawful citizenship status cannot be verified under
 59 Subsection (2) or (3)(a).

60 (4) [~~It~~] In accordance with Title 77, Chapter 20, Bail, it is a rebuttable presumption for the
 61 purpose of determining [~~the grant or issuance of a bond that a person~~] whether to grant
 62 pretrial release that an individual who is verified under this section as a foreign national

63 not lawfully admitted into the United States is at risk of flight.

64 (5)(a) As soon as practicable before the day of release, the sheriff shall notify the United
 65 States Department of Homeland Security, or other relevant federal agency in charge
 66 of handling immigration violations or deportations, when the sheriff is preparing to
 67 release an individual from the county jail who:

68 (i) is being released after serving the individual's jail sentence for:

69 (A) a class A misdemeanor described under Subsection 76-3-204(1)(b)(i); or

70 (B) a felony; and

71 (ii) is unlawfully present in the United States.

72 (b) The sheriff shall coordinate with federal authorities to transfer the custody of a
 73 released individual into federal custody as may be required under Subsection (5)(a).

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

79 Section 2. Section **64-13-10.6** is amended to read:

80 **64-13-10.6 . Transition and reentry of an inmate at termination of incarceration.**

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

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

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

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

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

91 (e) ensuring that the offender has access to the web portal described in Section
 92 35A-2-204 a minimum of 30 days before the offender's anticipated release date.

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

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

96 (b) any specific conditions of parole necessary to better facilitate transition to the

97 community.

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

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

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

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

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

111 (5)(a) If an inmate accepts assistance in obtaining a current state-issued identification
112 card or driver license, as described in Subsection 64-13-10.4(4), the department shall
113 coordinate with the Driver License Division to:

114 (i)(A) obtain a duplicate of the inmate's state-issued driver license, as described in
115 Section 53-3-215; or

116 (B) renew the inmate's state-issued driver license, if the inmate meets the criteria
117 listed in Section 53-3-214; or

118 (ii)(A) extend the inmate's state-issued regular identification card, as described in
119 Section 53-3-807; or

120 (B) issue the inmate a temporary regular identification card as described in
121 Subsection 53-3-805(10), unless the inmate will live outside this state
122 immediately upon release.

123 (b)(i) Subject to Subsection (5)(b)(ii), the department shall ensure that within the last
124 seven days of the inmate's incarceration, the inmate meets with the Driver License
125 Division to be issued a duplicate driver license, a renewed driver license, an
126 extended regular identification card, or a temporary regular identification card, as
127 described in Subsection (5)(a).

128 (ii) If an inmate is released from a facility other than a state correctional facility, the
129 department shall coordinate with that correctional facility and the Driver License
130 Division in assisting the inmate in meeting with the Driver License Division.

131 (c) Before the inmate meets with the Driver License Division, as described in Subsection
 132 (5)(b)(i), the department shall ensure that the inmate is provided all required
 133 documentation and information the department possesses for the inmate to obtain a
 134 document listed in Subsection (5)(a), including:

- 135 (i) all personal identification documentation; and
 136 (ii) a voucher for payment toward any one of the documents listed in Subsection
 137 (5)(a), up to the cost of a temporary regular identification card described in
 138 Subsection 53-3-805(10).

139 (6)(a) Subsections (4) and (5) do not apply to an inmate that is not:

- 140 ~~[(a)]~~ (i) a citizen of the United States; or
 141 ~~[(b)]~~ (ii) a lawful resident of the United States and has legal authorization to work in
 142 the United States.

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

145 Section 3. Section **64-13-10.7** is enacted to read:

146 **64-13-10.7 . Release of inmates who are not lawfully present in the United States**

147 **-- Notification to and coordination with federal authorities.**

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

- 152 (a) is being released after serving a term of imprisonment for a felony; and
 153 (b) is unlawfully present in the United States.

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

156 Section 4. Section **76-3-204** is amended to read:

157 **76-3-204 . Misdemeanor conviction -- Term of imprisonment.**

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

160 (1)(a) ~~[(a)]~~ Except as provided in Subsection (1)(b), in the case of a class A misdemeanor,
 161 for a term not exceeding 364 days.

162 (b)(i) Except as provided in Subsection (1)(b)(ii), in the case of a class A
 163 misdemeanor under Title 76, Chapter 5, Offenses Against the Individual, for a
 164 term not exceeding one year.

- 165 (ii) For a class A misdemeanor for one of following offenses, for a term not
 166 exceeding 364 days:
 167 (A) Section 76-5-102.9, propelling a bodily substance or material as described in
 168 Section 76-5-102.9;
 169 (B) Section 76-5-107.5, prohibition of "hazing";
 170 (C) Section 76-5-113, surreptitious administration of certain substances; or
 171 (D) Section 76-5-303, custodial interference.

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

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

174 Section 5. Section **76-3-208** is amended to read:

175 **76-3-208 . Imprisonment -- Custodial authorities.**

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

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

179 (b)(i) [~~notwithstanding Section 76-3-204,~~]class A misdemeanor commitments shall

180 be to the jail, or other facility designated by the town, city, or county where the

181 defendant was convicted, unless the defendant is also serving a felony

182 commitment at the Utah State Prison at the commencement of the class A

183 misdemeanor conviction, in which case, the class A misdemeanor commitment

184 shall be to the Utah State Prison for an indeterminate term not to exceed one year

185 with a credit for one day, unless the offense is an offense described in Subsection

186 76-3-204(1)(b)(i), in which case there is no credit for one day; and

187 (ii) the court may not order the imprisonment of a defendant to the Utah State Prison

188 for a fixed term or other term that is inconsistent with this section and Section

189 77-18-111; and

190 (c) all other misdemeanor commitments shall be to the jail or other facility designated by

191 the town, city or county where the defendant was convicted.

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

194 (a) the custodial authority does not have space to accommodate the prisoner; or

195 (b) the security of the institution or prisoner requires the prisoner to be placed in a

196 facility other than the one to which the prisoner was committed.

197 Section 6. Section **77-20-201** is amended to read:

198 **77-20-201 . Right to bail -- Capital felony.**

- 199 (1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail
200 as a matter of right, except if the individual is charged with:
- 201 (a) a capital felony when there is substantial evidence to support the charge;
- 202 (b) a felony committed while on parole or on probation for a felony conviction, or while
203 free on bail awaiting trial on a previous felony charge, when there is substantial
204 evidence to support the current felony charge;
- 205 (c) a felony when there is substantial evidence to support the charge and the court finds,
206 by clear and convincing evidence, that:
- 207 (i) the individual would constitute a substantial danger to any other individual or to
208 the community after considering available conditions of release that the court may
209 impose if the individual is released on bail; or
- 210 (ii) the individual is likely to flee the jurisdiction of the court if the individual is
211 released on bail;
- 212 (d) a felony when there is substantial evidence to support the charge and the court finds,
213 by clear and convincing evidence, that the individual violated a material condition of
214 release while previously on bail;
- 215 (e) a domestic violence offense if:
- 216 (i) there is substantial evidence to support the charge; and
- 217 (ii) the court finds, by clear and convincing evidence, that the individual would
218 constitute a substantial danger to an alleged victim of domestic violence after
219 considering available conditions of release that the court may impose if the
220 individual is released on bail;
- 221 (f) the offense of driving under the influence or driving with a measurable controlled
222 substance in the body if:
- 223 (i) the offense results in death or serious bodily injury to an individual;
- 224 (ii) there is substantial evidence to support the charge; and
- 225 (iii) the court finds, by clear and convincing evidence, that the individual would
226 constitute a substantial danger to the community after considering available
227 conditions of release that the court may impose if the individual is released on
228 bail;
- 229 (g) a felony violation of Section 76-9-101 if:
- 230 (i) there is substantial evidence to support the charge; and
- 231 (ii) the court finds, by clear and convincing evidence, that the individual is not likely
232 to appear for a subsequent court appearance; or

- 233 (h) except as provided in Subsection (4), the offense of driving under the influence or
234 driving with a measurable controlled substance in the body:
- 235 (i) if committed while on parole or on probation for a driving under the influence or
236 driving with a measurable controlled substance in the body conviction; or
237 (ii) while the individual is out of custody awaiting trial on a previous driving under
238 the influence or driving with a measurable controlled substance in the body
239 charge, when the court finds there is substantial evidence to support the current
240 charge.
- 241 (2) Notwithstanding any other provision of this section, there is a rebuttable presumption
242 that an individual is a substantial danger to the community under Subsection (1)(f)(iii):
- 243 (a) as long as the individual has a blood or breath alcohol concentration of .05 grams or
244 greater if the individual is arrested for, or charged with, the offense of driving under
245 the influence and the offense resulted in death or serious bodily injury to an
246 individual; or
- 247 (b) if the individual has a measurable amount of controlled substance in the individual's
248 body, the individual is arrested for, or charged with, the offense of driving with a
249 measurable controlled substance in the body and the offense resulted in death or
250 serious bodily injury to an individual.
- 251 (3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section
252 76-5-202, aggravated murder, is a capital felony unless:
- 253 (a) the prosecuting attorney files a notice of intent to not seek the death penalty; or
254 (b) the time for filing a notice to seek the death penalty has expired and the prosecuting
255 attorney has not filed a notice to seek the death penalty.
- 256 (4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an individual
257 would not constitute a substantial danger to any other person or the community if:
- 258 (a) the court orders the person to participate in an inpatient drug and alcohol treatment
259 program; or
260 (b) the court orders the person to participate in home confinement through the use of
261 electronic monitoring as described in Section 41-6a-506.
- 262 (5) For purposes of a determination under Subsection (1)(c)(ii), there is a rebuttable
263 presumption that an individual is at risk of fleeing the jurisdiction if the individual is not
264 lawfully present in the United States.

265 Section 7. Section **77-20-202** is amended to read:
266 **77-20-202 . Collection of pretrial information.**

- 267 (1) When an individual is arrested without a warrant for an offense and booked at a jail
268 facility, an employee at the jail facility, or an employee of a pretrial services program,
269 shall submit the following information to the court with the probable cause statement:
- 270 (a) identification information for the individual, including:
- 271 (i) the individual's legal name and any known aliases;
 - 272 (ii) the individual's date of birth;
 - 273 (iii) the individual's state identification number;
 - 274 (iv) the individual's mobile phone number; ~~and~~
 - 275 (v) the individual's email address; and
 - 276 (vi) the individual's immigration status, if the individual is not a United States citizen
277 or national;
- 278 (b) the individual's residential address;
- 279 (c) any pending criminal charge or warrant for the individual, including the offense
280 tracking number of the current offense for which the individual is booked;
- 281 (d) the individual's probation or parole supervision status;
- 282 (e) whether the individual was on pretrial release for another criminal offense prior to
283 the booking of the individual for the current criminal offense if the employee knows
284 that the individual was on pretrial release for a prior criminal offense;
- 285 (f) the individual's financial circumstances to the best of the individual's knowledge at
286 the time of booking, including:
- 287 (i) the individual's current employer;
 - 288 (ii) the individual's monthly income, including any alimony or child support that
289 contributes to the individual's monthly income;
 - 290 (iii) the individual's monthly expenses, including any alimony or child support
291 obligation that the individual is responsible for paying;
 - 292 (iv) the individual's ownership of, or any interest in, personal or real property,
293 including any savings or checking accounts or cash;
 - 294 (v) the number, ages, and relationships of any dependents;
 - 295 (vi) any financial support or benefit that the individual receives from a state or
296 federal government; and
 - 297 (vii) any other information about the individual's financial circumstances that may be
298 relevant;
- 299 (g) any ties the individual has to the community, including:
- 300 (i) the length of time that the individual has been at the individual's residential

- 301 address;
- 302 (ii) any enrollment in a local college, university, or trade school; and
- 303 (iii) the name and contact information for any family member or friend that the
- 304 individual believes would be willing to provide supervision of the individual;
- 305 (h) the results of a lethality assessment completed in accordance with Section 77-36-2.1,
- 306 if any; and
- 307 (i) whether the individual is under the influence of alcohol or a controlled substance to a
- 308 degree that would endanger the individual or another individual if the individual is
- 309 released.
- 310 (2) Upon request, the jail facility, or the pretrial services program, shall provide the
- 311 information described in Subsection (1) to the individual, the individual's attorney, or the
- 312 prosecuting attorney.
- 313 (3) Any information collected from an individual under Subsection (1) is inadmissible in
- 314 any court proceeding other than:
- 315 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the
- 316 offense, or offenses, for which the individual was arrested or charged with; or
- 317 (b) another criminal proceeding regarding prosecution for providing a false statement
- 318 under Subsection (1).
- 319 (4) Nothing in this section prohibits a court and a county from entering into an agreement
- 320 regarding information to be submitted to the court with a probable cause statement.
- 321 Section 8. Section **77-20-203** is amended to read:
- 322 **77-20-203 . County sheriff authority to release an individual from jail on own**
- 323 **recognizance.**
- 324 (1) As used in this section:
- 325 (a)(i) "Qualifying domestic violence offense" means the same as that term is defined
- 326 in Subsection 77-36-1.1(4).
- 327 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
- 328 described in Section 76-6-106.
- 329 (b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 330 (c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 331 (2) Except as provided in Subsection (3), a county jail official may release an individual
- 332 from a jail facility on the individual's own recognizance if:
- 333 (a) the individual was arrested without a warrant;
- 334 (b) the individual was not arrested for:

- 335 (i) a violent felony;
- 336 (ii) a qualifying offense;
- 337 (iii) the offense of driving under the influence or driving with a measurable
- 338 controlled substance in the body if the offense results in death or serious bodily
- 339 injury to an individual; or
- 340 (iv) an offense described in Subsection 76-9-101(4);
- 341 (c) law enforcement has not submitted a probable cause statement to a court or
- 342 magistrate;
- 343 (d) the individual agrees in writing to appear for any future criminal proceedings related
- 344 to the arrest; and
- 345 (e) the individual qualifies for release under the written policy described in Subsection
- 346 (4) for the county.
- 347 (3) A county jail official may not release an individual from a jail facility if the individual is
- 348 subject to a 72-hour hold placed on the individual by the Department of Corrections as
- 349 described in Section 64-13-29.
- 350 (4)(a) A county sheriff shall create and approve a written policy for the county that
- 351 governs the release of an individual on the individual's own recognizance.
- 352 (b) The written policy shall describe the criteria an individual shall meet to be released
- 353 on the individual's own recognizance.
- 354 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 355 (i) criminal history;
- 356 (ii) prior instances of failing to appear for a mandatory court appearance;
- 357 (iii) current employment;
- 358 (iv) residency, including immigration status;
- 359 (v) ties to the community;
- 360 (vi) an offense for which the individual was arrested;
- 361 (vii) any potential criminal charges that have not yet been filed;
- 362 (viii) the individual's health condition;
- 363 (ix) any potential risks to a victim, a witness, or the public; and
- 364 (x) any other similar factor a sheriff determines is relevant.
- 365 (5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual
- 366 for up to 24 hours from booking if:
- 367 (i) the individual is on supervised probation or parole and that information is
- 368 reasonably available; and

- 369 (ii) the individual was arrested for:
- 370 (A) a violent felony; or
- 371 (B) a qualifying domestic violence offense.
- 372 (b) The jail facility shall:
- 373 (i) notify the entity supervising the individual's probation or parole that the individual
- 374 is being detained; and
- 375 (ii) release the individual:
- 376 (A) to the Department of Corrections if the Department of Corrections supervises
- 377 the individual and requests the individual's release; or
- 378 (B) if a court or magistrate orders release.
- 379 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
- 380 accordance with this chapter for a new criminal offense.
- 381 (6) This section does not prohibit a court and a county from entering into an agreement
- 382 regarding release.

383 **Section 9. Effective Date.**

384 This bill takes effect on May 7, 2025.