

Karianne Lisonbee proposes the following substitute bill:

Criminal Justice Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies statutory provisions related to criminal justice.

Highlighted Provisions:

This bill:

- ▶ permits city prosecutors to file certain charges after a county or district attorney has declined to do so;
- ▶ modifies provisions related to the release of individuals due to overcrowding of correctional facilities;
- ▶ establishes requirements for standards and practices for adult probation programs;
- ▶ prohibits the use of state funds for a syringe exchange program;
- ▶ moves provisions governing sex offender assessments from the Utah Code of Criminal Procedure to the code chapter governing the Department of Corrections -- State Prison;
- ▶ modifies permitted uses for funds in the Adult Probation and Parole Employment Incentive Program;
- ▶ adds strangulation or choking as a criminal offense included with the crime of commission of domestic violence in the presence of a child;
- ▶ creates a criminal offense for the intentional concealment of identity in a public gathering;
- ▶ modifies the definition of habitual offender and makes conforming changes;
- ▶ removes references to unsecured bonds;
- ▶ modifies provisions related to a county sheriff's release of individuals on their own recognizance;
- ▶ 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;
- ▶ adds procedures and restrictions relating to a magistrate's orders for pretrial release or

- 29 detention;
- 30 ▸ repeals the requirement to use the services of a court reporter in a death sentence
- 31 commutation hearing;
- 32 ▸ modifies the duties of the Utah Indigent Defense Commission and the Office of Indigent
- 33 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
- 36 program;
- 37 ▸ permits a court to require that certain minors convicted of aggravated murder be housed
- 38 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
- 40 aggravated murder should be transferred from a juvenile secure care facility to a prison
- 41 or jail.

42 **Money Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

- 48 **10-3-928**, as last amended by Laws of Utah 2018, Chapter 24
- 49 **17-22-5.5**, as last amended by Laws of Utah 2024, Chapter 419
- 50 **17-22-5.6**, as enacted by Laws of Utah 2024, Chapter 16
- 51 **26B-7-117**, as last amended by Laws of Utah 2024, Chapter 250
- 52 **64-13g-102**, 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
- 54 **77-18-102**, as last amended by Laws of Utah 2024, Chapters 245, 434
- 55 **77-18-103**, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434
- 56 **77-20-102**, as last amended by Laws of Utah 2023, Chapter 408
- 57 **77-20-203**, as last amended by Laws of Utah 2024, Chapter 16
- 58 **77-20-204**, as last amended by Laws of Utah 2024, Chapter 16
- 59 **77-20-205**, 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
- 61 **77-20-402**, as renumbered and amended by Laws of Utah 2021, Second Special Session,
- 62 Chapter 4

63 **77-27-8**, 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
 65 **78B-22-404**, as last amended by Laws of Utah 2024, Chapter 193
 66 **78B-22-452**, 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
 68 **80-6-507**, as last amended by Laws of Utah 2022, Chapter 135

69 ENACTS:

70 **17-22-5.7**, Utah Code Annotated 1953
 71 **64-13-51**, Utah Code Annotated 1953
 72 **76-9-110**, Utah Code Annotated 1953

73 REPEALS:

74 **77-27-21.9**, as enacted by Laws of Utah 2008, Chapter 309

76 *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.**

79 In cities with a city attorney, the city attorney:

- 80 (1) may prosecute violations of city ordinances;
- 81 (2) may prosecute, under state law, infractions and misdemeanors occurring within the
 82 boundaries of the municipality;
- 83 (3) may review investigation results de novo and file criminal charges, if warranted, under
 84 state law, for a felony of the third degree that occurs within the boundaries of the
 85 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
 88 or district attorney's intent to not file charges for a certain class of offense or
 89 enhancement, and the felony of the third degree is within that class of offense or
 90 enhancement; and
- 91 (b) no charges that arise from the same set of facts or circumstances of the actions
 92 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
 94 district attorney, except that a city attorney's authority to grant immunity shall be limited
 95 to:
- 96 (a) granting transactional immunity for violations of city ordinances; and

97 (b) granting transactional immunity under state law for infractions and misdemeanors
 98 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
 100 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
 103 prosecute a matter, in the court having jurisdiction over the matter, if the city attorney
 104 has a conflict of interest regarding the matter being prosecuted.

105 Section 2. Section 17-22-5.5 is amended to read:

106 **17-22-5.5 . Sheriff's classification of jail facilities -- Maximum operating capacity**
 107 **of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding**
 108 **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
 111 jail facility under the sheriff's control;
- 112 (ii) the nature of each program conducted at a jail facility under the sheriff's control;
 113 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
 116 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
 119 capacity for each jail facility under the sheriff's control, based on facility design and
 120 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
 127 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
 130 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
132 or alternative incarceration program for any prisoner released under Subsection
133 (2)(b)(ii).

134 (b) The sheriff shall make these records available upon request to the Department of
135 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
137 requirements of Subsection (5), contract with another county jail to house an individual
138 who:

139 (a) is arrested or convicted of a violent criminal offense as defined in Section
140 76-3-203.10;

141 (b) is arrested or convicted of a drug offense that is a felony;

142 (c) is arrested or convicted of possession of any composition or mixture, including pills,
143 that contains 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
145 measurable controlled substance in the body, if the offense results in death or serious
146 bodily injury to an individual;

147 (e) has been arrested or convicted of another crime within the 14-day period
148 immediately preceding the date of the arrest or conviction; or

149 (f) is a habitual offender as defined in Section 77-18-102.

150 [(4)] (5)(a) This section may not be construed to authorize a sheriff to modify provisions
151 of a contract with the Department of Corrections to house in a county jail an
152 individual sentenced to the Department of 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
159 contracting to receive the transferred individual a day per capita rate that does not
160 exceed the higher of:

161 (A) the current average cost of housing an individual in the transferring county
162 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

165 operating capacity under Subsection (2), a sheriff may release an individual from a jail
 166 facility in accordance with 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
 168 sections of a jail facility within the county that is not being used to full capacity.

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

170 **17-22-5.6 . Probation supervision -- Violation of probation -- Detention --**
 171 **Hearing.**

172 (1) As used in this section:

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

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

177 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
 178 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 shall adopt probation standards and practices as required by Section
 181 17-22-5.7.

182 (3) A county sheriff shall ensure that the court is notified of violations of the terms and
 183 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
 186 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
 191 72 hours, excluding weekends and holidays, if there is probable cause to believe that the
 192 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
 194 without obtaining a warrant issued by the court.

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

197 ~~[(6)]~~ (7) A written order from the county sheriff is sufficient authorization for a peace
 198 officer to incarcerate a probationer if the county sheriff has determined that there is

199 probable cause to believe that the probationer has violated the conditions of probation.
200 [~~7~~] (8) If a probationer commits a violation outside of the jurisdiction of the county sheriff
201 supervising the probationer, the arresting law enforcement agency is not required to hold
202 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
204 being held for something other than a probation violation, including a warrant issued for
205 new criminal conduct or a new conviction where the individual is sentenced to
206 incarceration.

207 Section 4. Section **17-22-5.7** 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
210 supervision of the county sheriff.
- 211 (2) A county sheriff shall adopt written standards and procedures for probation that are
212 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
215 supervision and programmatic efforts;
- 216 (b) a code of conduct or ethics policy that employees are required to be familiar with and
217 follow, which shall include a prohibition on unlawful discrimination against an
218 individual based on race, national origin, color, gender, sexual orientation, religion,
219 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
221 employee, that has duties in relation to a probation unit within the county or state,
222 which may include:
- 223 (i) any certification or education that is required for the job type or category of
224 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,
228 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
231 developments in the field of probation;
- 232 (e) a requirement that the county sheriff collect and document information related to the

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

- 267 issues, history of criminal convictions, family relationship issues, level of
268 education, employment history, leisure and recreational activities, and substance
269 or alcohol abuse issues;
- 270 (c) a requirement that the county sheriff shall use the result of an assessment to assist in
271 planning and conducting the supervision of the individual;
- 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
275 purpose of ensuring that an individual understands the process and is afforded an
276 opportunity to positively engage with the assessment process; and
- 277 (iii) provided an opportunity to engage with the conductor of the assessment in a
278 cooperative manner; and
- 279 (e) a description of the procedures to be followed if an individual refuses to participate
280 in an assessment, including procedures for documentation of the refusal, and
281 notification to the courts and applicable treatment providers or agencies.
- 282 (5) Standards and procedures for case planning, offender programming, and treatment shall
283 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,
286 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
290 of allowing the probationer to cooperatively engage in the probationer's own
291 treatment;
- 292 (c) case plans shall document and clearly identify long-term and short-term goals
293 associated with treatment;
- 294 (d) treatment providers, education classes, behavior modification classes, and any other
295 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
297 probationer; and
- 298 (f) a probationer may not be required to complete treatment options or requirements that
299 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
302 probationer, with low, medium, and high risk probationers being subject to different
303 standards and procedures;
- 304 (b) a description of the standards and procedures to be used in treating low, medium, and
305 high risk probationers, respectively, including:
- 306 (i) a statement as to why procedures should vary for different risk levels, including a
307 goal to match procedures and treatments to the individual needs and risk level of
308 each probationer and other goals identified by the county sheriff;
- 309 (ii) procedures for separating and providing different treatments and requirements for
310 probationers with differing risk levels; and
- 311 (iii) a description of the different procedures and treatments that apply to each risk
312 level, which may include differing electronic monitoring options, frequency and
313 type of house checks, frequency of probationary check-ins, housing or
314 incarceration separation procedures, and other differing standards and procedures;
- 315 (c) a requirement that a probationer be re-assessed at intervals during the probationary
316 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
318 consistent with any changes in the probationer's risk assessment;
- 319 (e) a requirement that case management and programmatic content shall change as
320 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
322 provider, or other probation partner be in compliance with state and federal laws and
323 consistent with best practices; and
- 324 (g) a requirement that any decision imposing sanctions against a probationer shall take
325 into account current and past behavior of the probationer, individual needs of the
326 probationer, progress or goals achieved or not achieved by the probationer, and any
327 other factor specifically identified in the standards and procedures.

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
331 transmission of disease and reduce morbidity and mortality among individuals who
332 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
 343 in sealed sterile packages;
 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
 346 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
 352 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
 357 Administrative Rulemaking Act, specifying how and when an entity operating a syringe
 358 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
 360 this section should be construed to prohibit the use or distribution of municipal, county,
 361 or federal funds in operating or financing a syringe exchange program under this section.
 362 Section 6. Section **64-13-51** 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
 366 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

- 369 parole.
- 370 (b) "Multi-domain assessment" means an evaluation process or tool which reports in
371 quantitative and qualitative terms an offender's condition, stability, needs, resources,
372 and dynamic factors affecting the offender's transition into the community and
373 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;
 - 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
397 explain significant quantitative indicators or benchmarks within the areas defined in
398 Subsection (1)(b).
- 399 (d) "Quantitative terms" means numerical distinctions or benchmarks used to describe
400 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
402 assessment tool, as defined in Subsection (1)(b) and implement the tool for a three-year

403 trial period in the management of sex offenders being supervised in the community in
404 the department's Region 3.

405 (3) The request for proposals shall include a requirement that the multi-domain assessment
406 tool be designed to be administered:

407 (a) every 16 weeks during the first year a sex offender is supervised in the community;
408 and

409 (b) every 12 to 26 weeks during the second and subsequent years a sex offender is
410 supervised in the community, as determined appropriate by the department's
411 supervisory personnel and the sex offender's treatment team.

412 (4) The department shall promptly make results of the multi-domain assessment available
413 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
417 Committee at the conclusion of the trial period a written report of the results of the use
418 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.

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
428 requirements of this chapter.

429 (3) Beginning July 2026, and each July after 2026, the department shall calculate and report
430 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
432 parole;

433 (b) the probation employment rate and average length of employment of individuals on
434 felony probation;

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

- 437 (d) the number and percentage of individuals who successfully complete parole or
438 felony probation;
- 439 (e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in
440 the recidivism percentage when compared to the fiscal year immediately preceding
441 the fiscal year to which the recidivism percentage described in Subsection (3)(c)
442 relates, the estimated costs of incarceration savings to the state, based on the marginal
443 cost of incarceration;
- 444 (f) the number of individuals who successfully complete parole and, during the entire six
445 months before the day on which the individuals' parole ends, held eligible
446 employment; and
- 447 (g) the number of individuals who successfully complete felony probation and, during
448 the entire six months before the day on which the individuals' parole ended, held
449 eligible employment.
- 450 (4) In addition to the information described in Subsection (3), the department shall report,
451 for each region, the number and types of parole or probation programs that were created,
452 replaced, or discontinued during the preceding fiscal year.
- 453 (5) After receiving the information described in Subsections (3) and (4), the office, in
454 consultation with the department, shall, for each region:
- 455 (a) add the region's baseline parole employment rate and the region's baseline probation
456 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
459 (5)(b); and
- 460 (d)(i) if the rate difference described in Subsection (5)(c) is zero or less than zero,
461 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
463 Subsection (5)(c) is greater than zero, assign an employment incentive payment to
464 the region by:
- 465 (A) multiplying the rate difference by the average daily population for that region;
466 and
- 467 (B) multiplying the product of the calculation described in Subsection
468 (5)(d)(ii)(A) by \$2,500.
- 469 (6) In addition to the employment incentive payment described in Subsection (5), after
470 receiving the information described in Subsections (3) and (4), the office, in consultation

471 with the department, shall, for each region, multiply the sum of the numbers described in
472 Subsections (3)(f) and (g) for the region by \$2,500 to determine the end-of-supervision
473 employment incentive payment for the region.

474 (7) The employment incentive payment, or end-of-supervision employment supervision
475 payment, for a region is zero if the recidivism percentage for the region, described in
476 Subsection (3)(c), represents an increase in the recidivism percentage when compared to
477 the fiscal year immediately preceding the fiscal year to which the recidivism percentage
478 for the region, described in Subsection (3)(c), relates.

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

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

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

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

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

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

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

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

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

502 ~~(vi)~~ (vii) evaluating the effectiveness of rehabilitation and supervision programs and
503 ensuring program fidelity.

504 (9)(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
506 and use of funds under this section.

507 (c) If the money in the restricted account is insufficient to make the full employment
508 incentive payments or the full end-of-supervision employment incentive payments,
509 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
520 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
524 the presence of a child;

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

528 (c) intentionally or knowingly impedes the breathing or the circulation of blood of
529 another individual by the actor's use of unlawful force or violence by applying
530 pressure to the neck or throat of an individual or obstructing the nose, mouth, or
531 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),
533 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.

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,
537 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
 540 present is guilty of one offense of domestic violence in the presence of a child regarding
 541 each child present when the violation occurred.

542 Section 9. Section **76-9-110** 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
 545 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,
 548 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,
 551 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
 554 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,
 557 or a similar activity or celebration.

558 Section 10. Section **77-18-102** is amended to read:

559 **77-18-102 . Definitions.**

560 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
 564 77-32b-102.

565 (4) "Civil judgment of restitution" means the same as that term is defined in Section
 566 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
 569 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
- 575 offenses in each case; and
- 576 [~~(b)~~] ~~(ii)~~ [each case described in Subsection (10)(a) within five years before] the
- 577 conviction for each case referred to in Subsection (10)(a)(i) occurred within the
- 578 five-year period immediately preceding the day on which the defendant is
- 579 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
- 581 cases; and
- 582 (ii) a felony charge in each case referred to in Subsection (10)(b)(i) was issued within
- 583 the five-year period immediately preceding the day on which the defendant is
- 584 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
- 586 offenses in each case; and
- 587 (ii) the conviction for each case referred to in Subsection (10)(c)(i) occurred within
- 588 the three-year period immediately preceding the day on which the defendant is
- 589 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
- 591 separate cases; and
- 592 (ii) a misdemeanor charge in each case referred to in Subsection (10)(d)(i) was issued
- 593 within the three-year period immediately preceding the day on which the
- 594 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.
- 597 (13) "Screening" means a tool or questionnaire that is designed to determine whether an
- 598 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
- 600 disorder program that is licensed by the Office of Licensing within the Department of
- 601 Health and Human Services.
- 602 Section 11. Section **77-18-103** is amended to read:
- 603 **77-18-103 . Presentence investigation report -- Classification of presentence**
- 604 **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

- 607 for a reasonable period of time for the purpose of obtaining a presentence
608 investigation report from the department or a law enforcement agency, or information
609 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
611 department or a law enforcement agency prepare a presentence investigation report
612 for the defendant.
- 613 (2)(a) Notwithstanding Subsection (1), if a defendant is convicted of [~~a felony~~] an
614 offense and the defendant is a habitual offender, the prosecuting attorney shall notify
615 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
617 the conviction without ordering and obtaining a presentence investigation report,
618 unless the court finds good cause to proceed with sentencing without the presentence
619 investigation report.
- 620 (3) If a presentence investigation report is required under Subsection (2) or the standards
621 established by the department described in Section 77-18-109, the presentence
622 investigation report under Subsection (1) shall include:
- 623 (a) any impact statement provided by a victim as described in Subsection 77-38b-203
624 (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
628 in the custody of the jail and the number of days, if any, the defendant was released
629 to a supervised release program or an alternative incarceration program under Section
630 17-22-5.5.
- 631 (4) The department or law enforcement agency shall provide the presentence investigation
632 report to the defendant's attorney, or the defendant if the defendant is not represented by
633 counsel, the prosecuting attorney, and the court for review within three working days
634 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
636 is not resolved by the parties and the department or law enforcement agency
637 before sentencing:
- 638 (A) the alleged inaccuracy shall be brought to the attention of the court at
639 sentencing; and
- 640 (B) the court may grant an additional 10 working days after the day on which the

- 641 alleged inaccuracy is brought to the court's attention to allow the parties and
642 the department to resolve the alleged inaccuracy in the presentence
643 investigation report.
- 644 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the
645 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds
646 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
648 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
651 report as an addendum.
- 652 (c) If a party fails to challenge the accuracy of the presentence investigation report at the
653 time of sentencing, the matter shall be considered waived.
- 654 (6) The contents of the presentence investigation report are protected and not available
655 except by court order for purposes of sentencing as provided by rule of the Judicial
656 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
658 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
660 may not order the disclosure of a presentence investigation report.
- 661 (8) Except for disclosure at the time of sentencing in accordance with this section, the
662 department or law enforcement agency may disclose a presentence investigation only
663 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
666 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
669 authorized representative;
670 (e) requested by the victim of the offense discussed in the presentence investigation
671 report, or the victim's authorized representative, if the disclosure is only information
672 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
 678 Subsection 64-13-25(2);
 679 (ii) who is providing, at the time of the request, sex offender treatment to the offender
 680 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
 686 information that the defendant or the prosecuting attorney desires to present
 687 concerning the appropriate sentence.
- 688 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in
 689 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
 691 determining the appropriate sentence for a defendant.
- 692 Section 12. Section **77-20-102** is amended to read:
 693 **77-20-102 . Definitions.**
 694 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,
 701 from liability for a bail bond.
 702 (7) "Financial condition" means any monetary condition that is imposed to secure an
 703 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
 707 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
- 712 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
- 714 available to the defendant if released;
- 715 (iv) a willful or repeated failure by the defendant to appear at required court
- 716 appearances; or
- 717 (v) any other material change related to the defendant's risk of flight or danger to any
- 718 other individual or to the community if released.
- 719 (b) "Material change in circumstances" does not include any fact or consideration that is
- 720 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
- 723 release other than the individual's promise to:
- 724 (a) appear for all required court proceedings; and
- 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
- 728 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
- 730 tool that measures an individual's risk of flight and risk of anticipated criminal conduct
- 731 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
- 738 awaits trial or other resolution of criminal charges;
- 739 (b) sets the terms and conditions of the individual's pretrial release while the individual
- 740 awaits trial or other resolution of criminal charges; or
- 741 (c) denies pretrial release and orders that the individual be detained while the individual
- 742 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
 748 order is issued;
 749 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status
 750 order is issued; or
 751 (c) denies pretrial release and orders that the individual be detained until a pretrial status
 752 order is issued.

753 [~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if the~~
 754 ~~individual fails to appear for any required court appearance.~~]

755 Section 13. Section **77-20-203** is amended to read:

756 **77-20-203 . County sheriff authority to release an individual from jail on own**
 757 **recognizance.**

- 758 (1) As used in this section:
 759 (a)(i) "Qualifying domestic violence offense" means the same as that term is defined
 760 in Subsection 77-36-1.1(4).
 761 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
 762 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
 766 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
 772 measurable controlled substance in the body if the offense results in death or
 773 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
 776 contains 100 grams or more of fentanyl or a fentanyl-related substance;

- 777 (vi) arrested for another crime within the immediately preceding 14-day period; or
778 (vii) convicted in at least nine previous cases of one or more misdemeanor offenses
779 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
781 magistrate;
- 782 (d) the individual agrees in writing to appear for any future criminal proceedings related
783 to the arrest; and
- 784 (e) the individual qualifies for release under the written policy described in Subsection
785 (4) for the county.
- 786 (3) A county jail official may not release an individual from a jail facility if the individual is
787 subject to a 72-hour hold placed on the individual by the Department of Corrections as
788 described in Section 64-13-29.
- 789 (4)(a) A county sheriff shall create and approve a written policy for the county that
790 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
792 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
805 for up to 24 hours from booking if:
- 806 (i) the individual is on supervised probation or parole and that information is
807 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
- 813 is being detained; and
- 814 (ii) release the individual:
- 815 (A) to the Department of Corrections if the Department of Corrections supervises
- 816 the individual and requests the individual's release; or
- 817 (B) if a court or magistrate orders release.
- 818 (c) This Subsection (5) does not prohibit a jail facility from holding the individual in
- 819 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
- 821 regarding release.

822 Section 14. Section **77-20-204** is amended to read:

823 **77-20-204 . County jail authority to release an individual from jail on monetary**

824 **bail.**

- 825 (1) As used in this section, "eligible felony offense" means a third degree felony violation
- 826 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
- 850 condition for an individual if:
- 851 (a)(i) the individual is ineligible to be released on the individual's own recognizance
- 852 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
- 857 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
- 859 misdemeanor offense;
- 860 (iii) the individual agrees in writing to appear for any future criminal proceedings
- 861 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
- 868 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
- 871 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
- 877 misdemeanor; or
- 878 (f) \$80 for a violation of a city or county ordinance that is classified as a class C

879 misdemeanor.

880 (4) If an individual is arrested for more than one offense, and the county jail official fixes a
881 financial condition for release:

882 (a) the county jail official shall fix the financial condition at a single monetary amount;
883 and

884 (b) the single monetary amount may not exceed the monetary amount under Subsection
885 (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
887 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
889 shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of
890 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
892 Rules of Criminal Procedure:

893 (a) a county jail official may not fix or modify a financial condition for an individual;
894 and

895 (b) if a county jail official fixed a financial condition for the individual before the
896 magistrate's review, the individual may no longer be released on the financial
897 condition.

898 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
899 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
901 regarding release.

902 Section 15. Section **77-20-205** is amended to read:

903 **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
905 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal
906 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
908 individual awaits trial or other resolution of criminal charges;

909 (ii) designates a condition, or a combination of conditions, to be imposed upon the
910 individual's release during the time the individual awaits trial or other resolution
911 of criminal charges; or

912 (iii) orders the individual be detained during the time the individual awaits trial or

- 913 other resolution of criminal charges, subject to the requirements of Subsections
 914 (1)(c) and (1)(d).
- 915 (b) At the time that a magistrate issues a summons, the magistrate may issue a temporary
 916 pretrial status order that:
- 917 (i) releases the individual on the individual's own recognizance during the time the
 918 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
 920 individual's release during the time the individual awaits trial or other resolution
 921 of criminal charges.
- 922 (c)(i) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary
 923 pretrial status order of detention under Subsection [~~(1) that detains an individual~~]
 924 (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
 926 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
 929 offense; or
- 930 [~~(B)~~] (II) the individual was released and awaiting trial on a previous charge for
 931 a felony offense; and
- 932 [~~(iii)~~] (C) based on information reasonably available to the magistrate, the
 933 individual [~~has at least nine cases where the individual has been charged or~~
 934 ~~convicted, or entered a plea of guilty, within five years from the day on which~~
 935 ~~the individual was arrested for the felony offense described in Subsection~~
 936 ~~(1)(e)(i).~~] is a habitual offender as defined in Section 77-18-102.
- 937 [~~(d)~~] (ii) [~~Subsection~~] This Subsection (1)(c) does not limit or prohibit a magistrate's
 938 authority to detain an individual who does not meet the requirements described in
 939 this Subsection (1)(c).
- 940 (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
 941 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
 943 individual's first appearance before the court:
- 944 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion
 945 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 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection
949 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
950 the issuance of a pretrial status order.
- 951 (3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order
952 shall:
- 953 (i) release the individual on the individual's own recognizance during the time the
954 individual awaits trial or other resolution of criminal charges;
- 955 (ii) designate a condition, or a combination of conditions, to be imposed upon the
956 individual's release during the time the individual awaits trial or other resolution
957 of criminal charges; or
- 958 (iii) order the individual to be detained during the time that individual awaits trial or
959 other resolution of criminal charges.
- 960 (b) In making a determination about pretrial release in a pretrial status order, the
961 magistrate or judge may not give any deference to a magistrate's decision in a
962 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
968 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
971 process.
- 972 (5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a
973 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
980 prescribed by a licensed medical practitioner;

- 981 (e) submit to drug or alcohol testing;
- 982 (f) complete a substance abuse evaluation and comply with any recommended treatment
983 or release program;
- 984 (g) submit to electronic monitoring or location device tracking;
- 985 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
986 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
990 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
992 travel;
- 993 (m) report to a law enforcement agency, pretrial services program, or other designated
994 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
998 any location or occupation where children are located, including any residence where
999 children are on the premises, activities where children are involved, locations where
1000 children congregate, or where a reasonable person would know that children
1001 congregate;
- 1002 (q) comply with requirements for house arrest;
- 1003 (r) return to custody for a specified period of time following release for employment,
1004 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
1008 proceedings;
- 1009 (t) comply with a financial condition; or
- 1010 (u) comply with any other condition that is reasonably available and necessary to ensure
1011 compliance with Subsection (4).
- 1012 (6)(a) If a county or municipality has established a pretrial services program, the
1013 magistrate or judge shall consider the services that the county or municipality has
1014 identified as available in determining what conditions of release to impose.

- 1015 (b) The magistrate or judge may not order conditions of release that would require the
1016 county or municipality to provide services that are not currently available from the
1017 county or municipality.
- 1018 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of
1019 release not identified by the county or municipality so long as the condition does not
1020 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~~
1022 ~~unsecured bond,~~] is necessary to impose as a condition of release, the magistrate or
1023 judge shall consider the individual's ability to pay when determining the amount of
1024 the financial condition.
- 1025 (b) If the magistrate or judge determines that a financial condition is necessary to impose
1026 as a condition of release, and a county jail official fixed a financial condition for the
1027 individual under Section 77-20-204, the magistrate or judge may not give any
1028 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
1031 pretrial release.
- 1032 (c) If a magistrate or judge orders a financial condition as a condition of release, the
1033 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
1038 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
1043 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
1047 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:
- 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
- 1060 the individual;
- 1061 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 1062 court proceeding at the time the individual allegedly committed the offense or
- 1063 offenses;
- 1064 (v) the availability of:
- 1065 (A) other individuals who agree to assist the individual in attending court when
- 1066 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
- 1069 programs, including drug treatment; or
- 1070 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
- 1071 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
- 1074 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
- 1077 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
- 1079 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
1084 eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I,
1085 Section 8, the prosecuting attorney may make a motion for pretrial detention.
- 1086 (b) The motion for pretrial detention may include proposed factual findings for the court
1087 to adopt.
- 1088 ~~[(b)]~~ (c) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge
1089 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
1091 individual remains detained, a pretrial detention hearing shall be held at the next
1092 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
1096 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
1098 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
1101 finding that evidence presented at the hearing is subject to the Utah Rules of
1102 Evidence;
- 1103 (b) the judge shall give both parties the opportunity to make arguments and to present
1104 relevant evidence or information;
- 1105 ~~[(b)]~~ (c) the prosecuting attorney and the defendant have a right to subpoena witnesses to
1106 testify; and
- 1107 ~~[(e)]~~ (d) the judge shall issue a pretrial status order in accordance with Subsection (5) and
1108 Section 77-20-205.
- 1109 (5) After hearing evidence on a motion for pretrial detention, and based on the totality of
1110 the circumstances, a judge may order detention if:
- 1111 (a) the individual is accused of committing an offense that qualifies for detention of the
1112 individual under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8;[
1113 and]
- 1114 (b) the prosecuting attorney demonstrates substantial evidence to support the charge, and
1115 meets all additional evidentiary burdens required under Subsection 77-20-201(1) or [
1116 ~~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
1119 for pretrial detention.
- 1120 (7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the
1121 pretrial detention hearing, a defendant may issue a subpoena, at the conclusion of the
1122 pretrial detention hearing, compelling the alleged victim to testify at a subsequent
1123 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
1125 determinations described in Section 77-20-201 in light of all information presented to
1126 the court; and
- 1127 (b) would not unnecessarily intrude on the rights of the victim or place an undue burden
1128 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
1131 law must be entered within 24 hours of the pretrial detention hearing. If the signed
1132 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
1134 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
1136 risk assessment tool score; and
- 1137 (ii) shall identify in the order the statistical likelihood of reoffense or non-appearance
1138 based on the individual's score from the algorithm or tool.

1139 Section 17. Section **77-20-402** is amended to read:

1140 **77-20-402 . Payment of monetary bail to court -- Specific payment methods --**

1141 **Refund of monetary bail.**

- 1142 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary bail
1143 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 [~~(c) 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
1149 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

- 1151 the case involves a violent offense;
- 1152 (b) in order to allow the defendant to voluntarily remit the fine in accordance with
- 1153 Section 77-7-21 and the offense with which the defendant is charged is listed in the
- 1154 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
- 1156 which the defendant is charged is listed in the shared master offense table as one for
- 1157 which an appearance is not mandatory;
- 1158 (d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts
- 1159 receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is
- 1160 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
- 1162 any case involving the defendant.
- 1163 (3) Monetary bail may not be accepted without receiving in writing at the time the bail is
- 1164 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
- 1166 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
- 1168 credit card or in cash.
- 1169 (b) The amount refunded shall be the full amount received by the court under Subsection
- 1170 (4), which may be less than the full amount of the monetary bail set by the judge or
- 1171 magistrate.
- 1172 (c) Before refunding monetary bail that is posted by the defendant in cash, by credit
- 1173 card, or by debit card, the court may apply the amount posted toward a criminal
- 1174 accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant
- 1175 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
- 1179 maintained by a suitable electronic recording device, except when the board dispenses
- 1180 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~~
- 1182 ~~reporter, in addition to electronic means, shall record all proceedings except when the~~
- 1183 ~~board dispenses with a record for the purpose of deliberations in executive session. The~~
- 1184 ~~compensation of the reporter shall be determined by the board. The reporter shall~~

1185 immediately file with the board the original record and when requested shall with
 1186 reasonable diligence furnish a transcription or copy of the record upon payment of
 1187 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
 1189 of the record, the board may furnish a copy of the record, at the expense of the state, to
 1190 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
 1194 individual in accordance with the core principles adopted by the commission under
 1195 Section 78B-22-404.

1196 (2)(a) On or before March 30 of each year, all indigent defense systems shall submit a
 1197 written report to the commission that[-] :

1198 (i) describes each indigent defense system's compliance with the commission's core
 1199 principles[-] ; and

1200 (ii) if the indigent defense system operates in a county that is participating in the
 1201 verification of indigency pilot program created in Section 78B-22-1002, provides
 1202 information and feedback on the indigent defense system's activities in relation to
 1203 the pilot program.

1204 (b) If an indigent defense system fails to submit a timely report under Subsection (2)(a),
 1205 the indigent defense system is disqualified from receiving a grant from the
 1206 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
 1211 representation of indigent individuals consistent with the requirements of the United
 1212 States Constitution, the Utah Constitution, and the Utah Code, which principles at a
 1213 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 (A) the ability to exercise independent judgment without fear of retaliation and is

- 1219 free to represent an indigent individual based on the indigent defense service
1220 provider's own independent judgment;
- 1221 (B) adequate access to indigent defense resources;
- 1222 (C) the ability to provide representation to accused individuals in criminal cases at
1223 the critical stages of proceedings, and at all stages to indigent individuals in
1224 juvenile delinquency and child welfare proceedings;
- 1225 (D) a workload that allows for sufficient time to meet with clients, investigate
1226 cases, file appropriate documents with the courts, and otherwise provide
1227 effective assistance of counsel to each client;
- 1228 (E) adequate compensation without financial disincentives;
- 1229 (F) appropriate experience or training in the area for which the indigent defense
1230 service provider is representing indigent individuals;
- 1231 (G) compensation for legal training and education in the areas of the law relevant
1232 to the types of cases for which the indigent defense service provider is
1233 representing indigent individuals; and
- 1234 (H) the ability to meet the obligations of the Utah Rules of Professional Conduct,
1235 including expectations on client communications and managing conflicts of
1236 interest;
- 1237 (b) encourage and aid indigent defense systems in the state in the regionalization of
1238 indigent defense services to provide for effective and efficient representation to the
1239 indigent individuals;
- 1240 (c) emphasize the importance of ensuring constitutionally effective indigent defense
1241 services;
- 1242 (d) encourage members of the judiciary to provide input regarding the delivery of
1243 indigent defense services;
- 1244 (e) oversee individuals and entities involved in providing indigent defense services;~~and~~
- 1245 (f) establish, and periodically review and revise, recommended criteria and standards for
1246 determining and verifying indigency; and
- 1247 ~~(f)~~ (g) manage county participation in the Indigent Aggravated Murder Defense Fund
1248 created in Section 78B-22-701.
- 1249 (2) The commission may:
- 1250 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1251 Rulemaking Act, to carry out the commission's duties under this part;
- 1252 (b) assign duties related to indigent defense services to the office to assist the

- 1253 commission with the commission's statutory duties;
- 1254 (c) request supplemental appropriations from the Legislature to address a deficit in the
1255 Indigent Inmate Fund created in Section 78B-22-455; and
- 1256 (d) request supplemental appropriations from the Legislature to address a deficit in the
1257 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
1262 Restricted Account created in Section 78B-22-405;
- 1263 (b) assist the commission in performing the commission's statutory duties described in
1264 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
1267 commission's core principles for the effective representation of indigent
1268 individuals; and
- 1269 (ii) provide reports regarding the operation of the commission and the provision of
1270 indigent defense services by indigent defense systems in the state;
- 1271 (d) assist indigent defense systems by reviewing contracts and other agreements, to
1272 ensure compliance with the commission's core principles for effective representation
1273 of indigent individuals;
- 1274 (e) establish procedures for the receipt and acceptance of complaints regarding the
1275 provision of indigent defense services in the state;
- 1276 (f) establish procedures to award grants to indigent defense systems under Section
1277 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
1279 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
1281 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
1285 procedures;
- 1286 (i) investigate, audit, and review the provision of indigent defense services to ensure

- 1287 compliance with the commission's core principles for the effective representation of
 1288 indigent individuals;
- 1289 (j) administer the Child Welfare Parental Representation Program in accordance with
 1290 Part 8, Child Welfare Parental Representation Program;
- 1291 (k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7,
 1292 Indigent Aggravated Murder Defense Fund;
- 1293 (l) assign an indigent defense service provider to represent an individual prosecuted for
 1294 aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense
 1295 Fund;
- 1296 (m) annually report to the governor, [~~Legislature,~~]Judiciary Interim Committee, and
 1297 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
 1301 created in Section 78B-22-1001; and
- 1302 [~~(iii)] (iv) compliance with the commission's core principles by indigent defense~~
- 1303 systems receiving grants from the commission;
- 1304 (n) submit recommendations to the commission for improving indigent defense services
 1305 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
 1308 services.
- 1309 (2) The office may enter into contracts and accept, allocate, and administer funds and grants
 1310 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
 1312 provided in a manner consistent with the commission's core principles implemented
 1313 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
 1317 system in Cache County, Davis County, Duchesne County, and San Juan County shall
 1318 conduct a pilot program to verify the indigency of individuals who were provided
 1319 indigent defense services by the indigent defense system, except as provided in
 1320 Subsection [~~(5)] (6).~~

- 1321 (2) Under the pilot program described in Subsection (1), the indigent defense system shall
 1322 review and verify financial information in a statistically significant sample of cases for
 1323 each calendar year where, except as provided in Subsection (5):
- 1324 (a) an individual was found to be indigent by a court; and
 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
 1327 require an individual to provide financial documentation or proof demonstrating that the
 1328 individual qualifies as indigent under Section 78B-22-202.
- 1329 (4) An indigent defense system described in Subsection (1) shall report to [~~the Judiciary~~
 1330 ~~Interim Committee and the Law Enforcement and Criminal Justice Interim Committee,~~]
 1331 the commission concerning the results of the pilot program described in this section, on
 1332 or before [~~November 1~~] March 30 of each year of the three-year pilot program.
- 1333 (5) The commission shall regularly coordinate with the office regarding the ongoing
 1334 activities and results of the pilot program.
- 1335 [~~(5)~~] (6) This section does not apply to a minor, who is appointed an indigent defense
 1336 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**
 1339 **facility or correctional facility.**
- 1340 (1)(a) If the district court determines that probation is not appropriate and commitment
 1341 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
 1344 minor reaches 25 years old, unless released earlier from incarceration by the
 1345 Board of Pardons and Parole[-] ; or
- 1346 (B) if the minor is convicted of aggravated murder under Section 76-5-202, the
 1347 minor was 17 years old when the aggravated murder occurred, and the minor
 1348 was 18 years old or older at the time of sentencing, the district court may order
 1349 the minor to be housed in a correctional facility rather than a secure care
 1350 facility.
- 1351 (b) Upon a motion by a prosecuting attorney, a district court may review the status of a
 1352 minor who is provisionally housed in a secure care facility as described in Subsection
 1353 (1)(a)(ii)(A) and order that the minor be committed to the physical custody of the
 1354 Department of Corrections and housed in a correctional facility if:

- 1355 (i) the minor meets the requirements of Subsection (1)(a)(ii)(B); and
 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~~
 1358 ~~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,
 1360 Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor
 1361 provisionally housed in a secure care facility under Subsection (1) to the physical
 1362 custody of the Department of Corrections.
- 1363 (b) If, in accordance with the rules adopted under Subsection (2)(a), the division
 1364 determines that housing the minor in a secure care facility [-]presents an unreasonable
 1365 risk to others or that it is not in the best interest of the minor, the division shall
 1366 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
 1368 facility [-]under this section, the district court and the division shall immediately
 1369 notify the Board of Pardons and Parole so [that]the minor may be scheduled for a
 1370 hearing according to board procedures.
- 1371 (b) If a minor who is provisionally housed in a secure care facility [-]under this section
 1372 has not been paroled or otherwise released from incarceration by the time the minor
 1373 reaches 25 years old, the division shall as soon as reasonably possible, but not later
 1374 than when the minor reaches 25 years and 6 months old, transfer the minor to the
 1375 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
 1377 Corrections under this section, the Board of Pardons and Parole has authority over the
 1378 minor for purposes of parole, pardon, commutation, termination of sentence, remission
 1379 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
 1382 in the custody of the division under this section; and
- 1383 (b) forward to the Board of Pardons and Parole any information or recommendations
 1384 concerning the minor.
- 1385 (6) Commitment of a minor under this section is a prison commitment for all sentencing
 1386 purposes.

1387 Section 24. **Repealer.**

1388 This bill repeals:

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

1390 Section 25. **Effective Date.**

1391 This bill takes effect on May 7, 2025.