

HB0593S01 compared with HB0593

~~{Omitted text}~~ shows text that was in HB0593 but was omitted in HB0593S01

inserted text shows text that was not in HB0593 but was inserted into HB0593S01

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1

Bail Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor:

2

3

LONG TITLE

4

General Description:

5

This bill addresses bail.

6

Highlighted Provisions:

7

This bill:

8

▸ defines terms;

9

▸ ~~{creates the Pretrial Release Task Force (task force);}~~

10

▸ ~~{establishes members and duties of the task force;}~~

11

▸ ~~{provides a sunset date for the task force;}~~

12

▸ modifies provisions related to:

13

• the collection of certain pretrial information about an individual arrested without a warrant and booked at a jail facility; and

15

• pretrial release by a magistrate or judge;and

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▸ ~~{provides that a court shall distribute a portion of forfeited monetary bail to the Indigent Defense Resources Restricted Account; and}~~

18

▸ makes technical and conforming changes.

HB0593

HB0593 compared with HB0593S01

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

25 ~~{63I-2-277, as last amended by Laws of Utah 2025, Chapters 235, 252}~~

20 77-17-8, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

21 77-20-202, as last amended by Laws of Utah 2025, Chapter 227

22 77-20-203, as last amended by Laws of Utah 2025, Chapter 243

23 77-20-205, as last amended by Laws of Utah 2025, Chapter 243

24 77-20-207, as last amended by Laws of Utah 2025, Chapter 526

25 77-20-301, as last amended by Laws of Utah 2023, Chapter 408

26 77-20-302, as last amended by Laws of Utah 2023, Chapters 113, 408

33 ~~{77-20-403, as renumbered and amended by Laws of Utah 2021, Second Special Session,
Chapter 4}~~

ENACTS:

36 ~~{77-20-104, Utah Code Annotated 1953}~~

27

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

39 ~~{Section 1. Section 63I-2-277 is amended to read: }~~

40 **63I-2-277. Repeal dates: Title 77.**

41 (1) Section 77-20-104, Pretrial Release Task Force, is repealed January 1, 2028.

42 [(1)] (2) Subsection 77-23f-102(2)(a)(ii), regarding a notice for certain search warrant applications, is
repealed January 1, 2033.

44 [(2)] (3) Subsection 77-23f-102.1(2)(a), regarding a notice for certain search warrant applications, is
repealed January 1, 2033.

46 [(3)] (4) Subsection 77-23f-103(2)(a)(ii), regarding a notice for certain reverse-location search warrant
applications, is repealed January 1, 2033.

29 Section 1. Section **77-17-8** is amended to read:

30 **77-17-8. Mistake in charging offense -- Procedure -- Witnesses.**

HB0593 compared with HB0593S01

- 50 (1) If, at any time before verdict or judgment, a mistake is made in charging the proper offense, and
there is probable cause to believe that the defendant is chargeable with another offense, the court
may:
- 53 (a) release the individual on the individual's own recognizance, as defined in Section 77-20-102, during
the time the individual awaits trial or other resolution of criminal charges;
- 56 (b) designate a condition, or a combination of conditions, described in Subsection
[77-20-205(4)] 77-20-205(6), to be imposed upon the individual's release during the time the
individual awaits trial or other resolution of criminal charges; or
- 59 (c) order the individual be detained during the time the individual awaits trial or other resolution of
criminal charges.
- 61 (2) A court may require a witness to post monetary bail, as defined in Section 77-20-102, to ensure that
the witness appears in court.

63 Section 3. Section **3** is enacted to read:

64 **77-20-104. Pretrial Release Task Force.**

- 65 (1) As used in this section, "task force" means the Pretrial Release Task Force created in this section.
- 67 (2) There is created the Pretrial Release Task Force consisting of the following members:
- 68 (a) one member of the Senate, appointed by the president of the Senate, who shall serve as co-chair of
the task force;
- 70 (b) one member of the House of Representatives, appointed by the speaker of the House of
Representatives, who shall serve as co-chair of the task force;
- 72 (c) one representative of the Division of Adult Probation and Parole appointed by the director of the
Division of Adult Probation and Parole;
- 74 (d) one representative of the Administrative Office of the Courts appointed by the state court
administrator;
- 76 (e) one representative of a pretrial services program appointed by the chairs;
- 77 (f) one representative of the Utah Sheriffs Association appointed by the president of the Utah Sheriffs
Association;
- 79 (g) one criminal defense attorney appointed by the Utah Association of Criminal Defense Lawyers; and
- 81 (h) one criminal prosecuting attorney appointed by the Statewide Association of Prosecutors and Public
Attorneys.

83

HB0593 compared with HB0593S01

(3) The task force shall study and make recommendations regarding the improvement of pretrial release practices, including:

85 (a) risk assessment tools for potential use in pretrial release determinations;

86 (b) the use of pretrial release information in pretrial release decisions;

87 (c) communication and information sharing between courts, jail facilities, and pretrial services programs; and

89 (d) any other matter related to pretrial release that the task force determines appropriate.

90 (4) The Office of Legislative Research and General Counsel shall provide staff to the Pretrial Release Task Force.

92 (5) A majority of members of the task force constitutes a quorum.

93 (6)

(a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

96 (b) A member of the task force who is not a legislator:

97 (i) may not receive compensation or benefits for the member's service; and

98 (ii) may receive per diem and travel expenses in accordance with:

99 (A) Section 63A-3-106;

100 (B) Section 63A-3-107; and

101 (C) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

103 (7) On or before September 1, 2027, the task force shall report to the Judiciary Interim Committee:

105 (a) the information gathered by the task force under Subsection (3); and

106 (b) any recommendations for statutory changes.

44 Section 2. Section **77-20-202** is amended to read:

45 **77-20-202. Collection of pretrial information.**

109 (1) [~~When-~~] Notwithstanding any other provision of law, when an individual is arrested without a warrant for an offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial services program, shall submit the following information to the court with the probable cause statement:

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

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

HB0593 compared with HB0593S01

- 115 (ii) the individual's date of birth;
- 116 (iii) the individual's state identification number;
- 117 (iv) the individual's mobile phone number;
- 118 (v) the individual's email address; and
- 119 (vi) the individual's immigration status, if the individual is not a United States citizen or national;
- 121 (b) the individual's residential address;
- 122 (c) any pending criminal charge or warrant for the individual, including the offense tracking number of
the current offense for which the individual is booked;
- 124 (d) the individual's probation or parole supervision status;
- 125 (e) whether the individual was on pretrial release for another criminal offense [~~prior to~~] before the
booking of the individual for the current criminal offense if the employee knows that the individual
was on pretrial release for a prior criminal offense;
- 128 (f) the individual's financial circumstances to the best of the individual's knowledge at the time of
booking, including:
- 130 (i) the individual's current employer;
- 131 (ii) the individual's monthly income, including any alimony or child support that contributes to the
individual's monthly income;
- 133 (iii) the individual's monthly expenses, including any alimony or child support obligation that the
individual is responsible for paying;
- 135 (iv) the individual's ownership of, or any interest in, personal or real property, including any savings or
checking accounts or cash;
- 137 (v) the number, ages, and relationships of any dependents;
- 138 (vi) any financial support or benefit that the individual receives from a state or federal government; and
- 140 (vii) any other information about the individual's financial circumstances that may be relevant;
- 142 (g) any ties the individual has to the community, including:
- 143 (i) the length of time that the individual has been at the individual's residential address;
- 145 (ii) any enrollment in a local college, university, or trade school; and
- 146 (iii) the name and contact information for any family member or friend that the individual believes
would be willing to provide supervision of the individual;
- 148 (h) the results of a lethality assessment completed in accordance with Section 77-36-2.1, if any; and
- 150

HB0593 compared with HB0593S01

- (i) whether the individual is under the influence of alcohol or a controlled substance to a degree that would endanger the individual or another individual if the individual is released.
- 153 (2) ~~Upon~~ Notwithstanding any other provision of law, upon request, the jail facility, or the pretrial services program, shall provide the information described in Subsection (1) to the individual, the individual's attorney, or the prosecuting attorney.
- 156 (3) Any information collected from an individual under Subsection (1) is inadmissible in any court proceeding other than:
- 158 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the offense, or offenses, for which the individual was arrested or charged with; or
- 160 (b) another criminal proceeding regarding prosecution for providing a false statement under Subsection (1).
- 162 (4) Nothing in this section prohibits a court and a county from entering into an agreement regarding information to be submitted to the court with a probable cause statement.
- 101 Section 3. Section **77-20-203** is amended to read:
- 102 **77-20-203. County sheriff authority to release an individual from jail on own recognizance.**
- 167 (1) As used in this section:
- 168 (a) "Division" means the Division of Adult Probation and Parole created in Section 64-14-202.
- 170 (b)
- (i) "Qualifying domestic violence offense" means the same as that term is defined in ~~[Subsection 77-36-1.1(4)]~~ Section 77-36-1.1.
- 172 (ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.
- 174 (c) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
- 175 (d) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- 176 (2) Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:
- 178 (a) the individual was arrested without a warrant;
- 179 (b) the individual was not:
- 180 (i) arrested for a violent criminal offense as defined in Section ~~[76-3-201.10]~~ 76-3-203.10;
- 182 (ii) arrested for a qualifying offense;
- 183

HB0593 compared with HB0593S01

- (iii) arrested for the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual;
- 186 (iv) arrested for an offense described in Subsection 76-9-101(3)(b);
- 187 (v) arrested for possession of any composition or mixture, including pills, that contains 100 grams or more of fentanyl or a fentanyl-related substance; or
- 189 (vi) previously booked into the same jail within the immediately preceding 12-month period;
- 191 (c) law enforcement has not submitted a probable cause statement to a court or magistrate;
- 193 (d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
- 195 (e) the individual qualifies for release under the written policy described in Subsection (4) for the county.
- 197 (3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-14-205.
- 200 (4)
- (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.
- 202 (b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.
- 204 (c) A county sheriff may include in the written policy the criteria for release relating to:
- 205 (i) criminal history;
- 206 (ii) prior instances of failing to appear for a mandatory court appearance;
- 207 (iii) current employment;
- 208 (iv) residency, including immigration status;
- 209 (v) ties to the community;
- 210 (vi) an offense for which the individual was arrested;
- 211 (vii) any potential criminal charges that have not yet been filed;
- 212 (viii) the individual's health condition;
- 213 (ix) any potential risks to a victim, a witness, or the public; and
- 214 (x) any other similar factor a sheriff determines is relevant.
- 215 (5)

HB0593 compared with HB0593S01

(a)

(i) Except as provided in Subsection [~~(5)(b)(ii)~~] (5)(a)(ii), a jail facility shall detain an individual for no fewer than eight hours and up to 24 hours from booking if the individual is on supervised probation or parole and that information is reasonably available.

219 (ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than eight hours if:

221 (A) the entity supervising the individual on probation or parole informs the jail that the supervising entity does not intend to place a hold on the individual; and

223 (B) a court or magistrate has ordered a release.

224 (b) Before any release, a jail facility shall:

225 (i) notify the entity supervising the individual's probation or parole that the individual is being detained and provide that entity an opportunity to place a hold on the individual; and

228 (ii) only release the individual:

229 (A) to the division if the division supervises the individual and requests the individual's release; or

231 (B) if a court or magistrate orders release.

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

234 (6) This section does not prohibit a court and a county from entering into an agreement regarding release, except that any such agreement shall apply only to an individual who meets the criteria in an agreement as those criteria existed as of January 1, 2025.

174 Section 4. Section **77-20-205** is amended to read:

175 **77-20-205. Pretrial release by a magistrate or judge.**

239 (1)

(a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

242 (i) except as provided in Subsection {~~(4)(a)~~ ~~(4)(b)~~, releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

245 (ii) subject to Subsection {~~(4)(b)~~ ~~(4)(c)~~, designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

248

HB0593 compared with HB0593S01

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges, subject to the requirements of Subsection (1)(c).

251 (b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

253 (i) except as provided in Subsection ~~{(4)(a)}~~ (4)(b), releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

256 (ii) subject to Subsection ~~{(4)(b)}~~ (4)(c), designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges, subject to the requirements of Subsection (1)(c).

260 (c)

~~[(i)]~~ Notwithstanding ~~[Subsection (1)(a) or (b)]~~ Subsections (1)(a), (1)(b), and ~~{(4)(b)}~~ (4)(c), a magistrate shall issue a temporary pretrial status order of detention under Subsection (1)(a)(iii) if the individual is arrested for a felony offense and the magistrate finds:

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

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

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

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

271 ~~[(C)]~~ (iii) based on information reasonably available to the magistrate, the individual:

272 ~~[(H)]~~ (A) is a habitual offender as defined in Section 77-18-102; or

273 ~~[(H)]~~ (B) will be a habitual offender as defined in Section 77-18-102 if the individual is convicted of the felony offense.

275 ~~[(i)]~~ (d) ~~[This-]~~Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in ~~[this-]~~Subsection (1)(c).

278 (2)

(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

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

282 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

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

HB0593 compared with HB0593S01

- 285 (iii) if there is good cause to delay the issuance.
- 286 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the
magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial
status order.
- 289 (d) A request for a pretrial release that has not been fully presented to and ruled upon by the magistrate
or judge at an initial appearance does not constitute a pretrial detention hearing under Section
77-20-206.
- 292 (3)
- (a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:
- 294 (i) except as provided in Subsection ~~{(4)(a)}~~ (4)(b), release the individual on the individual's own
recognizance during the time the individual awaits trial or other resolution of criminal charges;
- 297 (ii) subject to Subsection ~~{(4)(b)}~~ (4)(c), designate a condition, or a combination of conditions,
to be imposed upon the individual's release during the time the individual awaits trial or other
resolution of criminal charges; or
- 300 (iii) subject to the requirements of Subsection [~~(10)~~] (11), order the individual to be detained during
the time that individual awaits trial or other resolution of criminal charges.
- 303 (b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge
may not give any deference to a magistrate's decision in a temporary pretrial status order.
- 306 (4)
- (a) As used in this Subsection (4), "traffic offense" means the same as that term is defined in Section
77-40a-101.
- (a){(b)} A magistrate or judge may not release an individual arrested for or charged with an offense on
the individual's own recognizance if the magistrate or judge finds that:
- 308 (i) there is substantial evidence to support the offense; and
- 309 {(ii) }
- {(A) {the individual is a habitual offender as defined in Section 77-18-102; or} }
- 310 (B){(ii)} within three years before the {individual will be a habitual offender as defined in Section
77-18-102 if } day on which the individual {is convicted of } was arrested for the offense~~{.}~~, the
individual was:
- 250 (A) arrested for a misdemeanor or felony offense that was not a traffic offense at least five times; and
- 252 (B) convicted of a misdemeanor or felony offense that was not a traffic offense at least one time.

HB0593 compared with HB0593S01

- 312 (b){(c)}
- (i) A magistrate or judge may release an individual described in Subsection ~~{(4)(a)}~~ (4)(b) if the magistrate or judge imposes one or more of the following conditions:
- 314 (A) a condition described in Subsection (6)(g), (h), ~~{(n);}~~ (r), (s), or (t); or
- 315 (B) a financial condition described in Subsection ~~{(6)(h)}~~ (6)(u) other than an unsecured bond.
- 317 (ii) Subsection ~~{(4)(b)(i)}~~ (4)(c)(i) does not prevent a magistrate or judge from imposing any condition described in Subsection (6) in addition to a condition described in Subsection ~~{(4)(b)(i)(A) or (4)(b)(i)(B)}~~ (4)(c)(i)(A) or (4)(c)(i)(B).
- 320 ~~[(4)]~~ (5) In making a determination about pretrial release, a magistrate or judge shall impose:
- 321 (a) only conditions of release that are reasonably available; and
- 322 (b) conditions of release that reasonably ensure:
- 323 (i) the individual's appearance in court when required;
- 324 (ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;
- 326 (iii) the safety and welfare of the public; and
- 327 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.
- 329 ~~[(5)]~~ (6) Except as provided in Subsection (1)(c) or ~~[(6)]~~ (7), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:
- 332 (a) not commit a federal, state, or local offense during the period of pretrial release;
- 333 (b) avoid contact with a victim of the alleged offense;
- 334 (c) avoid contact with a witness who:
- 335 (i) may testify concerning the alleged offense; and
- 336 (ii) is named in the pretrial status order;
- 337 (d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;
- 339 (e) submit to drug or alcohol testing;
- 340 (f) complete a substance abuse evaluation and comply with any recommended treatment or release program;
- 342 (g) submit to electronic monitoring or location device tracking;
- 343 (h) participate in inpatient ~~[or outpatient]~~ medical, behavioral, psychological, or psychiatric treatment;
- 345 (i) participate in outpatient medical, behavioral, psychological, or psychiatric treatment;
- 346 ~~[(i)]~~ (j) maintain employment or actively seek employment if unemployed;

HB0593 compared with HB0593S01

- 347 [~~(j)~~] (k) maintain or commence an education program;
- 348 [~~(k)~~] (l) comply with limitations on where the individual is allowed to be located or the times that the
individual shall be, or may not be, at a specified location;
- 350 [~~(l)~~] (m) comply with specified restrictions on personal associations, place of residence, or travel;
- 352 [~~(m)~~] (n) report to a law enforcement agency, pretrial services program, or other designated agency at a
specified frequency or on specified dates;
- 354 [~~(n)~~] (o) comply with a specified curfew;
- 355 [~~(o)~~] (p) forfeit or refrain from possession of a firearm or other dangerous weapon;
- 356 [~~(p)~~] (q) if the individual is charged with an offense against a child, limit or prohibit access to any
location or occupation where children are located, including any residence where children are on the
premises, activities where children are involved, locations where children congregate, or where a
reasonable person would know that children congregate;
- 361 [~~(q)~~] (r) comply with requirements for house arrest;
- 362 [~~(r)~~] (s) return to custody for a specified period of time following release for employment, schooling, or
other limited purposes;
- 364 [~~(s)~~] (t) remain in custody of one or more designated individuals who agree to:
- 365 (i) supervise and report on the behavior and activities of the individual; and
- 366 (ii) encourage compliance with all court orders and attendance at all required court proceedings;
- 368 [~~(t)~~] (u) comply with a financial condition; or
- 369 [~~(u)~~] (v) comply with any other condition that is reasonably available and necessary to ensure
compliance with Subsection [~~(4)~~] (5).
- 371 [~~(6)~~] (7)
- (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall
consider the services that the county or municipality has identified as available in determining what
conditions of release to impose.
- 374 (b) The magistrate or judge may not order conditions of release that would require the county or
municipality to provide services that are not currently available from the county or municipality.
- 377 (c) Notwithstanding Subsection [~~(6)(a)~~] (7)(a), the magistrate or judge may impose conditions of release
not identified by the county or municipality [~~so long as~~] if the condition does not require assistance
or resources from the county or municipality.
- 380 [~~(7)~~] (8)

HB0593 compared with HB0593S01

- (a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall, when determining the amount of the financial condition, refer to the financial condition schedule in Section 77-20-205.5 and consider the individual's risk of failing to appear and ability to pay.
- 385 (b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:
- 389 (i) the county jail official's action to fix a financial condition; or
- 390 (ii) the amount of the financial condition that the individual was required to pay for pretrial release.
- 392 (c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.
- 394 ~~[(8)]~~ (9) In making a determination about pretrial release, the magistrate or judge may:
- 395 (a) rely upon information contained in:
- 396 (i) the indictment or information;
- 397 (ii) any sworn or probable cause statement or other information provided by law enforcement;
- 399 (iii) a pretrial risk assessment;
- 400 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 401 (v) witness statements or testimony;
- 402 (vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or
- 404 (vii) any other reliable record or source, including proffered evidence; and
- 405 (b) consider:
- 406 (i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:
- 408 (A) whether the offense is a violent offense; and
- 409 (B) the vulnerability of a witness or alleged victim;
- 410 (ii) the nature and circumstances of the individual, including the individual's:
- 411 (A) character;
- 412 (B) physical and mental health;
- 413 (C) family and community ties;
- 414 (D) employment status or history;
- 415 (E) financial resources;

HB0593 compared with HB0593S01

- 416 (F) past criminal conduct;
- 417 (G) history of drug or alcohol abuse; and
- 418 (H) history of timely appearances at required court proceedings;
- 419 (iii) the potential danger to another individual, or individuals, posed by the release of the individual;
- 421 (iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding
at the time the individual allegedly committed the offense or offenses;
- 424 (v) the availability of:
- 425 (A) other individuals who agree to assist the individual in attending court when required; or
- 427 (B) supervision of the individual in the individual's community;
- 428 (vi) the eligibility and willingness of the individual to participate in various treatment programs,
including drug treatment; or
- 430 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
- 432 ~~[(9)]~~ (10) The magistrate or judge may not base a determination about pretrial release solely:
- 433 (a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the
individual is arrested for or charged with a capital felony; or
- 435 (b) on an algorithm or a risk assessment tool score.
- 436 ~~[(10)]~~ (11) If the magistrate or judge issues an order ~~[pursuant to]~~ in accordance with Subsection
~~[77-20-205(3)(a)(iii)]~~ (3)(a)(iii), the magistrate or judge shall make sufficiently detailed findings
of fact on the risk of substantial danger or flight from the court's jurisdiction to enable a reviewing
court to ensure that the magistrate's or judge's determination reasonably considered all of the
evidence presented to the court.
- 441 ~~[(11)]~~ (12) An individual arrested for violation of a jail release agreement, or a jail release court order,
issued in accordance with Section 78B-7-802:
- 443 (a) may not be released before the individual's first appearance before a magistrate or judge; and
- 445 (b) may be denied pretrial release by the magistrate or judge.
- 388 Section 5. Section **77-20-207** is amended to read:
- 389 **77-20-207. Modification of pretrial status order -- Failure to appear.**
- 448 (1) A party may move to modify a pretrial status order:
- 449 (a) at any time after a pretrial status order is issued; and
- 450 (b) only upon a showing that there has been a material change in circumstances.
- 451 (2)

HB0593 compared with HB0593S01

- 453 (a) Notwithstanding Subsection (1), a defendant may move to modify a pretrial status order if:
- 455 (i) the magistrate or judge imposed a financial condition as a condition of release in the pretrial status order; and
 - 457 (ii) the defendant is unable to pay the financial condition within seven days after the day on which the pretrial status order is issued.
- 459 (b) For a motion under Subsection (2)(a), there is a rebuttable presumption that the defendant does not have the ability to pay the financial condition.
- 462 (3)
- 464 (a) If a party makes a motion to modify the pretrial status order, the party shall provide notice to the opposing party sufficient to permit the opposing party to prepare for a hearing and to permit each alleged victim to be notified and be present.
 - 466 (b) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.
 - 469 (c)
- 472 (4) In ruling upon a motion to modify a pretrial status order, the judge may:
- 476 (a) rely on information as provided in Subsection [~~77-20-205(8)~~] 77-20-205(9);
 - 480 (b) base the judge's ruling on evidence provided at the hearing [~~so long as~~] if each party is provided an opportunity to present additional evidence or information relevant to pretrial release; and
- 482 (5) In modifying a pretrial status order upon a motion by a party or on the court's own motion, the court shall consider whether imposing a bail bond as a condition of release in a modified pretrial status order will increase the likelihood of the defendant's appearance when:
- 482 (a) the defendant was previously released on the defendant's own recognizance or on nonfinancial conditions;

HB0593 compared with HB0593S01

(b) the defendant willfully failed to appear at a required court appearance or has failed to appear at a required court appearance more than once; and

484 (c) a bench warrant was issued.

485 (6) A court may not modify a pretrial status order to a no bail hold solely on the basis of a failure to appear.

487 (7) Subsections 77-20-205(3) through [~~(11)~~] (12) apply to a determination about pretrial release in a modified pretrial status order.

431 Section 6. Section **77-20-301** is amended to read:

432 **77-20-301. Grounds for detaining or releasing defendant on conviction and before sentence.**

492 (1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who is waiting imposition or execution of sentence be detained, unless the court finds, by clear and convincing evidence, presented by the defendant that the defendant:

495 (a) is not likely to flee the jurisdiction of the court if released; and

496 (b) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

498 (2) If the court finds the defendant does not need to be detained, the court shall order the release of the defendant on suitable conditions, including conditions of release described in Subsection [~~77-20-205(5)~~] 77-20-205(6).

443 Section 7. Section **77-20-302** is amended to read:

444 **77-20-302. Grounds for detaining defendant while appealing the defendant's conviction --
Conditions for release while on appeal.**

504 (1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

507 (a) the appeal raises a substantial question of law or fact likely to result in:

508 (i) reversal;

509 (ii) an order for a new trial; or

510 (iii) a sentence that does not include a term of imprisonment in jail or prison;

511 (b) the appeal is not for the purpose of delay; and

512 (c) by clear and convincing evidence presented by the defendant, that the defendant:

513 (i) is not likely to flee the jurisdiction of the court if released; and

HB0593 compared with HB0593S01

- 514 (ii) will not pose a danger to the physical, psychological, or financial and economic safety or well-being
of any other person or the community if released.
- 516 (2)
- (a) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court
shall order the release of the defendant, subject [~~to~~]only to conditions of release that are reasonably
available and necessary to reasonably ensure the appearance of the defendant as required and the
safety of any other individual, property, and the community.
- 521 (b) The conditions under Subsection (2)(a) may include conditions described in Subsection
[~~77-20-205(5)~~] 77-20-205(6).
- 523 (c) The court may, in the court's discretion, amend an order granting release to impose additional or
different conditions of release.
- 525 (3) If the defendant is found guilty of an offense in a court not of record and files a timely notice of
appeal in accordance with Subsection 78A-7-118(2) for a trial de novo, the court shall stay all terms
of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence
that the defendant poses a danger to another person or the community.
- 530 (4) If a stay is ordered, the court may order postconviction restrictions on the defendant's conduct as
appropriate, including:
- 532 (a) continuation of any pretrial restrictions or orders;
- 533 (b) sentencing protective orders under Section 78B-7-804;
- 534 (c) drug and alcohol use;
- 535 (d) use of an ignition interlock; and
- 536 (e) posting appropriate monetary bail.
- 537 (5) The provisions of Subsections (3) and (4) do not apply to convictions for an offense under Title 41,
Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.
- 539 (6) Any stay authorized by Subsection (3) is lifted upon the dismissal of the appeal by the district court.

541 ~~{Section 10. Section 77-20-403 is amended to read: }~~

542 **77-20-403. Disposition of forfeited monetary bail.**

If money deposited as a financial condition or money paid by a surety on a bail bond is
forfeited and the forfeiture is not discharged or remitted, the clerk with whom the money is
deposited or paid shall, immediately after final adjournment of the court, pay over the money
forfeited as follows:

HB0593 compared with HB0593S01

- 547 (1) the forfeited amount in cases in precinct justice courts or in municipal justice courts shall be
distributed as provided in Sections 78A-7-120 and 78A-7-121; and
- 549 (2) in all other cases:
- 550 (a) where the financial condition was paid by a surety:
- 551 (i) 60% of the forfeited amount shall be paid to the Pretrial Release Programs Special Revenue Fund
established in Section 63M-7-215;
- 553 (ii) 20% of the forfeited amount shall be paid to the [~~General Fund~~] Indigent Defense Resources
Restricted Account established in Section 78B-22-405; and
- 555 (iii) 20% of the forfeited amount shall be paid to the prosecuting agency that brings an action to collect
under Section 77-20-505; and
- 557 (b) where the financial condition was paid without the assistance of a surety:
- 558 (i) 75% of the forfeited amount shall be paid to the Pretrial Release Programs Special Revenue Fund
established in Section 63M-7-215; and
- 560 (ii) 25% of the forfeited amount shall be paid to the [~~General Fund~~] Indigent Defense Resources
Restricted Account established in Section 78B-22-405.

483 Section 8. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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