

**Presumption of Indigency Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Grant Amjad Miller**

Senate Sponsor:

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**LONG TITLE****General Description:**

This bill addresses a court's determination of indigency.

**Highlighted Provisions:**

This bill:

- requires a court to presume that an individual is indigent if:

- the individual is currently incarcerated; and

- the court determines that the period of the individual's incarceration totals or will total at least 10 consecutive days.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-22-202**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

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

Section 1. Section **78B-22-202** is amended to read:

**78B-22-202 . Determining indigency.**

(1) A court shall find an individual indigent if the individual:

(a) has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services; or

(b) has insufficient income or other means to pay for legal counsel and the necessary expenses of representation without depriving the individual or the individual's family of food, shelter, clothing, or other necessities, considering:

(i) the individual's ownership of, or any interest in, personal or real property;

- (ii) the amount of debt owed by the individual or that might reasonably be incurred by the individual because of illness or other needs within the individual's family;
- (iii) the number, ages, and relationships of any dependents;
- (iv) the probable expense and burden of defending the case;
- (v) the reasonableness of fees and expenses charged by an attorney and the scope of representation undertaken when represented by privately retained defense counsel; and
- (vi) any other factor the court considers relevant.

(2) A court shall presume an individual indigent if:

- (a) the individual is incarcerated in a jail, prison, or other holding facility; and
- (b) the court determines that the current period of incarceration totals or will total at least 10 consecutive days.

~~[(2)]~~ (3) Notwithstanding Subsection (1), a court may not find an individual indigent if the individual transferred or otherwise disposed of assets since the commission of the offense with the intent of becoming eligible to receive indigent defense services.

~~[(3)]~~ (4)(a) The court may:

- (i) make a finding of indigency at any time; and
- (ii) rely on information contained in an affidavit of indigency described in Section 78B-22-201.5 in making a finding about whether an individual is an indigent individual.

(b) An individual's inability to submit, or to provide the information required in, an affidavit of indigency under Section 78B-22-201.5 does not preclude a court from:

- (i) making a finding about whether an individual is an indigent individual under this section; or
- (ii) appointing an indigent defense service provider under Section 78B-22-203.

**Section 2. Effective Date.**

This bill takes effect on May 6, 2026.