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Bail Amendments
 2026 GENERAL SESSION
 STATE OF UTAH
Chief Sponsor: Matt MacPherson
 Senate Sponsor:

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LONG TITLE

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General Description:

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This bill addresses bail.

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Highlighted Provisions:

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This bill:

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- defines terms;

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- creates the Pretrial Release Task Force (task force);

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- establishes members and duties of the task force;

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- provides a sunset date for the task force;

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- modifies provisions related to:

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

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- pretrial release by a magistrate or judge;

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- provides that a court shall distribute a portion of forfeited monetary bail to the Indigent

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Defense Resources Restricted Account; and

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- makes technical and conforming changes.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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

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

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

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

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

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

31 **77-20-301**, as last amended by Laws of Utah 2023, Chapter 408
 32 **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,
 34 Chapter 4

35 ENACTS:

36 **77-20-104**, Utah Code Annotated 1953

37

38 *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
 43 applications, is repealed January 1, 2033.

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

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

48 Section 2. Section **77-17-8** is amended to read:

49 **77-17-8 . Mistake in charging offense -- Procedure -- Witnesses.**

50 (1) If, at any time before verdict or judgment, a mistake is made in charging the proper
 51 offense, and there is probable cause to believe that the defendant is chargeable with
 52 another offense, the court may:

53 (a) release the individual on the individual's own recognizance, as defined in Section
 54 77-20-102, during the time the individual awaits trial or other resolution of criminal
 55 charges;

56 (b) designate a condition, or a combination of conditions, described in Subsection [
 57 ~~77-20-205(4)~~] 77-20-205(6), to be imposed upon the individual's release during the
 58 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
 60 resolution of criminal charges.

61 (2) A court may require a witness to post monetary bail, as defined in Section 77-20-102, to
 62 ensure that the witness appears in court.

63 Section 3. Section **77-20-104** 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
66 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
69 as co-chair of the task force;
70 (b) one member of the House of Representatives, appointed by the speaker of the House
71 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
73 director of the Division of Adult Probation and Parole;
74 (d) one representative of the Administrative Office of the Courts appointed by the state
75 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
78 Utah Sheriffs Association;
79 (g) one criminal defense attorney appointed by the Utah Association of Criminal
80 Defense Lawyers; and
81 (h) one criminal prosecuting attorney appointed by the Statewide Association of
82 Prosecutors and Public Attorneys.
- 83 (3) The task force shall study and make recommendations regarding the improvement of
84 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
88 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
91 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
94 paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3,
95 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
102 and 63A-3-107.

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

- 105 (a) the information gathered by the task force under Subsection (3); and
106 (b) any recommendations for statutory changes.

107 Section 4. Section **77-20-202** is amended to read:

108 **77-20-202 . Collection of pretrial information.**

109 (1) [~~When~~] Notwithstanding any other provision of law, when an individual is arrested
110 without a warrant for an offense and booked at a jail facility, an employee at the jail
111 facility, or an employee of a pretrial services program, shall submit the following
112 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;
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
120 or national;
121 (b) the individual's residential address;
122 (c) any pending criminal charge or warrant for the individual, including the offense
123 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~~]
126 before the booking of the individual for the current criminal offense if the employee
127 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
129 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
132 contributes to the individual's monthly income;

- 133 (iii) the individual's monthly expenses, including any alimony or child support
 134 obligation that the individual is responsible for paying;
- 135 (iv) the individual's ownership of, or any interest in, personal or real property,
 136 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
 139 federal government; and
- 140 (vii) any other information about the individual's financial circumstances that may be
 141 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
 144 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
 147 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,
 149 if any; and
- 150 (i) whether the individual is under the influence of alcohol or a controlled substance to a
 151 degree that would endanger the individual or another individual if the individual is
 152 released.
- 153 (2) ~~Upon~~ Notwithstanding any other provision of law, upon request, the jail facility, or the
 154 pretrial services program, shall provide the information described in Subsection (1) to
 155 the individual, the individual's attorney, or the prosecuting attorney.
- 156 (3) Any information collected from an individual under Subsection (1) is inadmissible in
 157 any court proceeding other than:
- 158 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the
 159 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
 161 under Subsection (1).
- 162 (4) Nothing in this section prohibits a court and a county from entering into an agreement
 163 regarding information to be submitted to the court with a probable cause statement.

164 Section 5. Section **77-20-203** is amended to read:

165 **77-20-203 . County sheriff authority to release an individual from jail on own**
 166 **recognizance.**

- 167 (1) As used in this section:
- 168 (a) "Division" means the Division of Adult Probation and Parole created in Section
169 64-14-202.
- 170 (b)(i) "Qualifying domestic violence offense" means the same as that term is defined
171 in [~~Subsection 77-36-1.1(4)~~] Section 77-36-1.1.
- 172 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
173 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
177 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~~]
181 76-3-203.10;
- 182 (ii) arrested for a qualifying offense;
- 183 (iii) arrested for the offense of driving under the influence or driving with a
184 measurable controlled substance in the body if the offense results in death or
185 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
188 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
190 period;
- 191 (c) law enforcement has not submitted a probable cause statement to a court or
192 magistrate;
- 193 (d) the individual agrees in writing to appear for any future criminal proceedings related
194 to the arrest; and
- 195 (e) the individual qualifies for release under the written policy described in Subsection
196 (4) for the county.
- 197 (3) A county jail official may not release an individual from a jail facility if the individual is
198 subject to a 72-hour hold placed on the individual by the Department of Corrections as
199 described in Section 64-14-205.
- 200 (4)(a) A county sheriff shall create and approve a written policy for the county that

- 201 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
203 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)(a)(i) Except as provided in Subsection [~~(5)(b)(ii)~~] (5)(a)(ii), a jail facility shall
216 detain an individual for no fewer than eight hours and up to 24 hours from
217 booking if the individual is on supervised probation or parole and that information
218 is reasonably available.
- 219 (ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than
220 eight hours if:
- 221 (A) the entity supervising the individual on probation or parole informs the jail
222 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
226 is being detained and provide that entity an opportunity to place a hold on the
227 individual; and
- 228 (ii) only release the individual:
- 229 (A) to the division if the division supervises the individual and requests the
230 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
233 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

235 regarding release, except that any such agreement shall apply only to an individual who
 236 meets the criteria in an agreement as those criteria existed as of January 1, 2025.

237 Section 6. Section **77-20-205** is amended to read:

238 **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
 240 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal
 241 Procedure, the magistrate shall issue a temporary pretrial status order that:

- 242 (i) except as provided in Subsection (4)(a), releases the individual on the individual's
 243 own recognizance during the time the individual awaits trial or other resolution of
 244 criminal charges;
- 245 (ii) subject to Subsection (4)(b), designates a condition, or a combination of
 246 conditions, to be imposed upon the individual's release during the time the
 247 individual awaits trial or other resolution of criminal charges; or
- 248 (iii) orders the individual be detained during the time the individual awaits trial or
 249 other resolution of criminal charges, subject to the requirements of Subsection
 250 (1)(c).

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

- 253 (i) except as provided in Subsection (4)(a), releases the individual on the individual's
 254 own recognizance during the time the individual awaits trial or other resolution of
 255 criminal charges; or
- 256 (ii) subject to Subsection (4)(b), designates a condition, or a combination of
 257 conditions, to be imposed upon the individual's release during the time the
 258 individual awaits trial or other resolution of criminal charges, subject to the
 259 requirements of Subsection (1)(c).

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

- 264 [(A)] (i) there is substantial evidence to support the individual's arrest for the felony
 265 offense;
- 266 [(B)] (ii) the individual committed the felony offense while:
- 267 [(†)] (A) the individual was on parole or probation for a conviction of a felony
 268 offense; or

269 ~~[(H)]~~ (B) the individual was released and awaiting trial on a previous charge for a
270 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
274 individual is convicted of the felony offense.

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

278 (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
279 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
281 individual's first appearance before the court:

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

284 (ii) if a party requests a delay; or
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
287 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
288 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
290 the magistrate or judge at an initial appearance does not constitute a pretrial detention
291 hearing under Section 77-20-206.

292 (3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order
293 shall:

294 (i) except as provided in Subsection (4)(a), release the individual on the individual's
295 own recognizance during the time the individual awaits trial or other resolution of
296 criminal charges;

297 (ii) subject to Subsection (4)(b), designate a condition, or a combination of
298 conditions, to be imposed upon the individual's release during the time the
299 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
301 detained during the time that individual awaits trial or other resolution of criminal
302 charges.

- 303 (b) In making a determination about pretrial release in a pretrial status order, the
304 magistrate or judge may not give any deference to a magistrate's decision in a
305 temporary pretrial status order.
- 306 (4)(a) A magistrate or judge may not release an individual arrested for or charged with
307 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) the individual will be a habitual offender as defined in Section 77-18-102 if
311 the individual is convicted of the offense.
- 312 (b)(i) A magistrate or judge may release an individual described in Subsection (4)(a)
313 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) other than an unsecured
316 bond.
- 317 (ii) Subsection (4)(b)(i) does not prevent a magistrate or judge from imposing any
318 condition described in Subsection (6) in addition to a condition described in
319 Subsection (4)(b)(i)(A) or (4)(b)(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
325 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
328 process.
- 329 ~~[(5)]~~ (6) Except as provided in Subsection (1)(c) or ~~[(6)]~~ (7), a magistrate or judge may
330 impose a condition, or combination of conditions, for pretrial release that requires an
331 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
 338 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
 341 or release program;
- 342 (g) submit to electronic monitoring or location device tracking;
- 343 (h) participate in inpatient [~~or outpatient~~] medical, behavioral, psychological, or
 344 psychiatric treatment;
- 345 (i) participate in outpatient medical, behavioral, psychological, or psychiatric treatment;
- 346 [~~(i)~~] (j) maintain employment or actively seek employment if unemployed;
- 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
 349 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,
 351 or travel;
- 352 [~~(m)~~] (n) report to a law enforcement agency, pretrial services program, or other
 353 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
 357 access to any location or occupation where children are located, including any
 358 residence where children are on the premises, activities where children are involved,
 359 locations where children congregate, or where a reasonable person would know that
 360 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
 363 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
 367 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
 370 ensure compliance with Subsection [~~(4)~~] (5).

- 371 [(6)] (7)(a) If a county or municipality has established a pretrial services program, the
372 magistrate or judge shall consider the services that the county or municipality has
373 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
375 county or municipality to provide services that are not currently available from the
376 county or municipality.
- 377 (c) Notwithstanding Subsection [(6)(a)] (7)(a), the magistrate or judge may impose
378 conditions of release not identified by the county or municipality [so long as] if the
379 condition does not require assistance or resources from the county or municipality.
- 380 [(7)] (8)(a) If the magistrate or judge determines that a financial condition, other than an
381 unsecured bond, is necessary to impose as a condition of release, the magistrate or
382 judge shall, when determining the amount of the financial condition, refer to the
383 financial condition schedule in Section 77-20-205.5 and consider the individual's risk
384 of failing to appear and ability to pay.
- 385 (b) If the magistrate or judge determines that a financial condition is necessary to impose
386 as a condition of release, and a county jail official fixed a financial condition for the
387 individual under Section 77-20-204, the magistrate or judge may not give any
388 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
391 pretrial release.
- 392 (c) If a magistrate or judge orders a financial condition as a condition of release, the
393 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
398 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
403 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
- 407 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;
- 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
- 420 the individual;
- 421 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 422 court proceeding at the time the individual allegedly committed the offense or
- 423 offenses;
- 424 (v) the availability of:
- 425 (A) other individuals who agree to assist the individual in attending court when
- 426 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
- 429 programs, including drug treatment; or
- 430 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
- 431 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
- 434 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
- 437 Subsection [77-20-205(3)(a)(iii)] (3)(a)(iii), the magistrate or judge shall make
- 438 sufficiently detailed findings of fact on the risk of substantial danger or flight from the

439 court's jurisdiction to enable a reviewing court to ensure that the magistrate's or judge's
440 determination reasonably considered all of the evidence presented to the court.

441 [(H)] (12) An individual arrested for violation of a jail release agreement, or a jail release
442 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
444 judge; and

445 (b) may be denied pretrial release by the magistrate or judge.

446 Section 7. Section **77-20-207** is amended to read:

447 **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)(a) Notwithstanding Subsection (1), a defendant may move to modify a pretrial status
452 order if:

453 (i) the magistrate or judge imposed a financial condition as a condition of release in
454 the pretrial status order; and

455 (ii) the defendant is unable to pay the financial condition within seven days after the
456 day on which the pretrial status order is issued.

457 (b) For a motion under Subsection (2)(a), there is a rebuttable presumption that the
458 defendant does not have the ability to pay the financial condition.

459 (3)(a) If a party makes a motion to modify the pretrial status order, the party shall
460 provide notice to the opposing party sufficient to permit the opposing party to prepare
461 for a hearing and to permit each alleged victim to be notified and be present.

462 (b) A hearing on a motion to modify a pretrial status order may be held in conjunction
463 with a preliminary hearing or any other pretrial hearing.

464 (4) In ruling upon a motion to modify a pretrial status order, the judge may:

465 (a) rely on information as provided in Subsection [~~77-20-205(8)~~] 77-20-205(9);

466 (b) base the judge's ruling on evidence provided at the hearing [~~so long as~~] if each party
467 is provided an opportunity to present additional evidence or information relevant to
468 pretrial release; and

469 (c)(i) for a motion to modify a pretrial status order under Subsection (1), modify the
470 pretrial status order, including the conditions of release, upon a finding that there
471 has been a material change in circumstances; or

472 (ii) for a motion to modify a pretrial status order under Subsection (2), modify the

473 pretrial status order by reducing the amount of the financial condition or imposing
474 nonfinancial conditions of release upon a finding that the defendant is unable to
475 pay the amount of the financial condition in the pretrial status order.

- 476 (5) In modifying a pretrial status order upon a motion by a party or on the court's own
477 motion, the court shall consider whether imposing a bail bond as a condition of release
478 in a modified pretrial status order will increase the likelihood of the defendant's
479 appearance when:
- 480 (a) the defendant was previously released on the defendant's own recognizance or on
481 nonfinancial conditions;
 - 482 (b) the defendant willfully failed to appear at a required court appearance or has failed to
483 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
486 failure to appear.
- 487 (7) Subsections 77-20-205(3) through [~~(11)~~] (12) apply to a determination about pretrial
488 release in a modified pretrial status order.

489 Section 8. Section **77-20-301** is amended to read:

490 **77-20-301 . Grounds for detaining or releasing defendant on conviction and**
491 **before sentence.**

- 492 (1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who
493 is waiting imposition or execution of sentence be detained, unless the court finds, by
494 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
497 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
499 release of the defendant on suitable conditions, including conditions of release described
500 in Subsection [~~77-20-205(5)~~] 77-20-205(6).

501 Section 9. Section **77-20-302** is amended to read:

502 **77-20-302 . Grounds for detaining defendant while appealing the defendant's**
503 **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
505 of record and sentenced to a term of imprisonment in jail or prison, and who has filed an
506 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
514 (ii) will not pose a danger to the physical, psychological, or financial and economic
515 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
517 defendant, the court shall order the release of the defendant, subject [~~to~~]only to
518 conditions of release that are reasonably available and necessary to reasonably ensure
519 the appearance of the defendant as required and the safety of any other individual,
520 property, and the community.
- 521 (b) The conditions under Subsection (2)(a) may include conditions described in
522 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
524 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
526 notice of appeal in accordance with Subsection 78A-7-118(2) for a trial de novo, the
527 court shall stay all terms of a sentence, unless at the time of sentencing the judge finds
528 by a preponderance of the evidence that the defendant poses a danger to another person
529 or the community.
- 530 (4) If a stay is ordered, the court may order postconviction restrictions on the defendant's
531 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
538 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
540 district court.

541 Section 10. Section **77-20-403** is amended to read:

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

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

547 (1) the forfeited amount in cases in precinct justice courts or in municipal justice courts
548 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
552 Revenue Fund established in Section 63M-7-215;

553 (ii) 20% of the forfeited amount shall be paid to the [~~General Fund~~] Indigent Defense
554 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
556 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
559 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
561 Resources Restricted Account established in Section 78B-22-405.

562 Section 11. **Effective Date.**

563 This bill takes effect on May 6, 2026.