

Matt MacPherson proposes the following substitute bill:

Bail Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses bail.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions related to:
 - the collection of certain pretrial information about an individual arrested without a warrant and booked at a jail facility; and
 - pretrial release by a magistrate or judge; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 77-17-8**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
- 77-20-202**, as last amended by Laws of Utah 2025, Chapter 227
- 77-20-203**, as last amended by Laws of Utah 2025, Chapter 243
- 77-20-205**, as last amended by Laws of Utah 2025, Chapter 243
- 77-20-207**, as last amended by Laws of Utah 2025, Chapter 526
- 77-20-301**, as last amended by Laws of Utah 2023, Chapter 408
- 77-20-302**, as last amended by Laws of Utah 2023, Chapters 113, 408

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

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

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

- 31 (1) If, at any time before verdict or judgment, a mistake is made in charging the proper
 32 offense, and there is probable cause to believe that the defendant is chargeable with
 33 another offense, the court may:
- 34 (a) release the individual on the individual's own recognizance, as defined in Section
 35 77-20-102, during the time the individual awaits trial or other resolution of criminal
 36 charges;
- 37 (b) designate a condition, or a combination of conditions, described in Subsection [
 38 ~~77-20-205(4)~~] 77-20-205(6), to be imposed upon the individual's release during the
 39 time the individual awaits trial or other resolution of criminal charges; or
- 40 (c) order the individual be detained during the time the individual awaits trial or other
 41 resolution of criminal charges.
- 42 (2) A court may require a witness to post monetary bail, as defined in Section 77-20-102, to
 43 ensure that the witness appears in court.

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

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

- 46 (1) [~~When~~] Notwithstanding any other provision of law, when an individual is arrested
 47 without a warrant for an offense and booked at a jail facility, an employee at the jail
 48 facility, or an employee of a pretrial services program, shall submit the following
 49 information to the court with the probable cause statement:
- 50 (a) identification information for the individual, including:
- 51 (i) the individual's legal name and any known aliases;
- 52 (ii) the individual's date of birth;
- 53 (iii) the individual's state identification number;
- 54 (iv) the individual's mobile phone number;
- 55 (v) the individual's email address; and
- 56 (vi) the individual's immigration status, if the individual is not a United States citizen
 57 or national;
- 58 (b) the individual's residential address;
- 59 (c) any pending criminal charge or warrant for the individual, including the offense
 60 tracking number of the current offense for which the individual is booked;
- 61 (d) the individual's probation or parole supervision status;
- 62 (e) whether the individual was on pretrial release for another criminal offense [~~prior to~~]
 63 before the booking of the individual for the current criminal offense if the employee

- 64 knows that the individual was on pretrial release for a prior criminal offense;
- 65 (f) the individual's financial circumstances to the best of the individual's knowledge at
- 66 the time of booking, including:
- 67 (i) the individual's current employer;
- 68 (ii) the individual's monthly income, including any alimony or child support that
- 69 contributes to the individual's monthly income;
- 70 (iii) the individual's monthly expenses, including any alimony or child support
- 71 obligation that the individual is responsible for paying;
- 72 (iv) the individual's ownership of, or any interest in, personal or real property,
- 73 including any savings or checking accounts or cash;
- 74 (v) the number, ages, and relationships of any dependents;
- 75 (vi) any financial support or benefit that the individual receives from a state or
- 76 federal government; and
- 77 (vii) any other information about the individual's financial circumstances that may be
- 78 relevant;
- 79 (g) any ties the individual has to the community, including:
- 80 (i) the length of time that the individual has been at the individual's residential
- 81 address;
- 82 (ii) any enrollment in a local college, university, or trade school; and
- 83 (iii) the name and contact information for any family member or friend that the
- 84 individual believes would be willing to provide supervision of the individual;
- 85 (h) the results of a lethality assessment completed in accordance with Section 77-36-2.1,
- 86 if any; and
- 87 (i) whether the individual is under the influence of alcohol or a controlled substance to a
- 88 degree that would endanger the individual or another individual if the individual is
- 89 released.
- 90 (2) ~~Upon~~ Notwithstanding any other provision of law, upon request, the jail facility, or the
- 91 pretrial services program, shall provide the information described in Subsection (1) to
- 92 the individual, the individual's attorney, or the prosecuting attorney.
- 93 (3) Any information collected from an individual under Subsection (1) is inadmissible in
- 94 any court proceeding other than:
- 95 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the
- 96 offense, or offenses, for which the individual was arrested or charged with; or
- 97 (b) another criminal proceeding regarding prosecution for providing a false statement

98 under Subsection (1).

99 (4) Nothing in this section prohibits a court and a county from entering into an agreement
100 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**
103 **recognizance.**

104 (1) As used in this section:

105 (a) "Division" means the Division of Adult Probation and Parole created in Section
106 64-14-202.

107 (b)(i) "Qualifying domestic violence offense" means the same as that term is defined
108 in [~~Subsection 77-36-1.1(4)~~] Section 77-36-1.1.

109 (ii) "Qualifying domestic violence offense" does not include criminal mischief as
110 described in Section 76-6-106.

111 (c) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

112 (d) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

113 (2) Except as provided in Subsection (3), a county jail official may release an individual
114 from a jail facility on the individual's own recognizance if:

115 (a) the individual was arrested without a warrant;

116 (b) the individual was not:

117 (i) arrested for a violent criminal offense as defined in Section [~~76-3-201.10~~]
118 76-3-203.10;

119 (ii) arrested for a qualifying offense;

120 (iii) arrested for the offense of driving under the influence or driving with a
121 measurable controlled substance in the body if the offense results in death or
122 serious bodily injury to an individual;

123 (iv) arrested for an offense described in Subsection 76-9-101(3)(b);

124 (v) arrested for possession of any composition or mixture, including pills, that
125 contains 100 grams or more of fentanyl or a fentanyl-related substance; or

126 (vi) previously booked into the same jail within the immediately preceding 12-month
127 period;

128 (c) law enforcement has not submitted a probable cause statement to a court or
129 magistrate;

130 (d) the individual agrees in writing to appear for any future criminal proceedings related
131 to the arrest; and

- 132 (e) the individual qualifies for release under the written policy described in Subsection
133 (4) for the county.
- 134 (3) A county jail official may not release an individual from a jail facility if the individual is
135 subject to a 72-hour hold placed on the individual by the Department of Corrections as
136 described in Section 64-14-205.
- 137 (4)(a) A county sheriff shall create and approve a written policy for the county that
138 governs the release of an individual on the individual's own recognizance.
- 139 (b) The written policy shall describe the criteria an individual shall meet to be released
140 on the individual's own recognizance.
- 141 (c) A county sheriff may include in the written policy the criteria for release relating to:
142 (i) criminal history;
143 (ii) prior instances of failing to appear for a mandatory court appearance;
144 (iii) current employment;
145 (iv) residency, including immigration status;
146 (v) ties to the community;
147 (vi) an offense for which the individual was arrested;
148 (vii) any potential criminal charges that have not yet been filed;
149 (viii) the individual's health condition;
150 (ix) any potential risks to a victim, a witness, or the public; and
151 (x) any other similar factor a sheriff determines is relevant.
- 152 (5)(a)(i) Except as provided in Subsection [~~(5)(b)(ii)~~] (5)(a)(ii), a jail facility shall
153 detain an individual for no fewer than eight hours and up to 24 hours from
154 booking if the individual is on supervised probation or parole and that information
155 is reasonably available.
- 156 (ii) Notwithstanding Subsection (5)(a)(i), an individual may be released earlier than
157 eight hours if:
158 (A) the entity supervising the individual on probation or parole informs the jail
159 that the supervising entity does not intend to place a hold on the individual; and
160 (B) a court or magistrate has ordered a release.
- 161 (b) Before any release, a jail facility shall:
162 (i) notify the entity supervising the individual's probation or parole that the individual
163 is being detained and provide that entity an opportunity to place a hold on the
164 individual; and
165 (ii) only release the individual:

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

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

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

171 (6) This section does not prohibit a court and a county from entering into an agreement
172 regarding release, except that any such agreement shall apply only to an individual who
173 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.**

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

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

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

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

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

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

193 (ii) subject to Subsection (4)(c), designates a condition, or a combination of
194 conditions, to be imposed upon the individual's release during the time the
195 individual awaits trial or other resolution of criminal charges, subject to the
196 requirements of Subsection (1)(c).

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

200 magistrate finds:

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

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

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

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

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

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

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

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

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

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

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

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

222 (iii) if there is good cause to delay the issuance.

223 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection
224 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
225 the issuance of a pretrial status order.

226 (d) A request for a pretrial release that has not been fully presented to and ruled upon by
227 the magistrate or judge at an initial appearance does not constitute a pretrial detention
228 hearing under Section 77-20-206.

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

231 (i) except as provided in Subsection (4)(b), release the individual on the individual's
232 own recognizance during the time the individual awaits trial or other resolution of
233 criminal charges;

- 234 (ii) subject to Subsection (4)(c), designate a condition, or a combination of
235 conditions, to be imposed upon the individual's release during the time the
236 individual awaits trial or other resolution of criminal charges; or
- 237 (iii) subject to the requirements of Subsection [(10)] (11), order the individual to be
238 detained during the time that individual awaits trial or other resolution of criminal
239 charges.
- 240 (b) In making a determination about pretrial release in a pretrial status order, the
241 magistrate or judge may not give any deference to a magistrate's decision in a
242 temporary pretrial status order.
- 243 (4)(a) As used in this Subsection (4), "traffic offense" means the same as that term is
244 defined in Section 77-40a-101.
- 245 (b) A magistrate or judge may not release an individual arrested for or charged with an
246 offense on the individual's own recognizance if the magistrate or judge finds that:
- 247 (i) there is substantial evidence to support the offense; and
248 (ii) within three years before the day on which the individual was arrested for the
249 offense, the individual was:
- 250 (A) arrested for a misdemeanor or felony offense that was not a traffic offense at
251 least five times; and
- 252 (B) convicted of a misdemeanor or felony offense that was not a traffic offense at
253 least one time.
- 254 (c)(i) A magistrate or judge may release an individual described in Subsection (4)(b)
255 if the magistrate or judge imposes one or more of the following conditions:
- 256 (A) a condition described in Subsection (6)(g), (h), (r), (s), or (t); or
257 (B) a financial condition described in Subsection (6)(u) other than an unsecured
258 bond.
- 259 (ii) Subsection (4)(c)(i) does not prevent a magistrate or judge from imposing any
260 condition described in Subsection (6) in addition to a condition described in
261 Subsection (4)(c)(i)(A) or (4)(c)(i)(B).
- 262 [(4)] (5) In making a determination about pretrial release, a magistrate or judge shall impose:
- 263 (a) only conditions of release that are reasonably available; and
- 264 (b) conditions of release that reasonably ensure:
- 265 (i) the individual's appearance in court when required;
- 266 (ii) the safety of any witnesses or victims of the offense allegedly committed by the
267 individual;

- 268 (iii) the safety and welfare of the public; and
269 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice
270 process.
- 271 ~~[(5)]~~ (6) Except as provided in Subsection (1)(c) or ~~[(6)]~~ (7), a magistrate or judge may
272 impose a condition, or combination of conditions, for pretrial release that requires an
273 individual to:
- 274 (a) not commit a federal, state, or local offense during the period of pretrial release;
275 (b) avoid contact with a victim of the alleged offense;
276 (c) avoid contact with a witness who:
277 (i) may testify concerning the alleged offense; and
278 (ii) is named in the pretrial status order;
279 (d) not consume alcohol or any narcotic drug or other controlled substance unless
280 prescribed by a licensed medical practitioner;
281 (e) submit to drug or alcohol testing;
282 (f) complete a substance abuse evaluation and comply with any recommended treatment
283 or release program;
284 (g) submit to electronic monitoring or location device tracking;
285 (h) participate in inpatient ~~[or outpatient]~~ medical, behavioral, psychological, or
286 psychiatric treatment;
287 (i) participate in outpatient medical, behavioral, psychological, or psychiatric treatment;
288 ~~[(i)]~~ (j) maintain employment or actively seek employment if unemployed;
289 ~~[(j)]~~ (k) maintain or commence an education program;
290 ~~[(k)]~~ (l) comply with limitations on where the individual is allowed to be located or the
291 times that the individual shall be, or may not be, at a specified location;
292 ~~[(l)]~~ (m) comply with specified restrictions on personal associations, place of residence,
293 or travel;
294 ~~[(m)]~~ (n) report to a law enforcement agency, pretrial services program, or other
295 designated agency at a specified frequency or on specified dates;
296 ~~[(n)]~~ (o) comply with a specified curfew;
297 ~~[(o)]~~ (p) forfeit or refrain from possession of a firearm or other dangerous weapon;
298 ~~[(p)]~~ (q) if the individual is charged with an offense against a child, limit or prohibit
299 access to any location or occupation where children are located, including any
300 residence where children are on the premises, activities where children are involved,
301 locations where children congregate, or where a reasonable person would know that

- 302 children congregate;
- 303 ~~[(q)]~~ (r) comply with requirements for house arrest;
- 304 ~~[(t)]~~ (s) return to custody for a specified period of time following release for
- 305 employment, schooling, or other limited purposes;
- 306 ~~[(s)]~~ (t) remain in custody of one or more designated individuals who agree to:
- 307 (i) supervise and report on the behavior and activities of the individual; and
- 308 (ii) encourage compliance with all court orders and attendance at all required court
- 309 proceedings;
- 310 ~~[(t)]~~ (u) comply with a financial condition; or
- 311 ~~[(t)]~~ (v) comply with any other condition that is reasonably available and necessary to
- 312 ensure compliance with Subsection ~~[(4)]~~ (5).
- 313 ~~[(6)]~~ (7)(a) If a county or municipality has established a pretrial services program, the
- 314 magistrate or judge shall consider the services that the county or municipality has
- 315 identified as available in determining what conditions of release to impose.
- 316 (b) The magistrate or judge may not order conditions of release that would require the
- 317 county or municipality to provide services that are not currently available from the
- 318 county or municipality.
- 319 (c) Notwithstanding Subsection ~~[(6)(a)]~~ (7)(a), the magistrate or judge may impose
- 320 conditions of release not identified by the county or municipality ~~[so long as]~~ if the
- 321 condition does not require assistance or resources from the county or municipality.
- 322 ~~[(7)]~~ (8)(a) If the magistrate or judge determines that a financial condition, other than an
- 323 unsecured bond, is necessary to impose as a condition of release, the magistrate or
- 324 judge shall, when determining the amount of the financial condition, refer to the
- 325 financial condition schedule in Section 77-20-205.5 and consider the individual's risk
- 326 of failing to appear and ability to pay.
- 327 (b) If the magistrate or judge determines that a financial condition is necessary to impose
- 328 as a condition of release, and a county jail official fixed a financial condition for the
- 329 individual under Section 77-20-204, the magistrate or judge may not give any
- 330 deference to:
- 331 (i) the county jail official's action to fix a financial condition; or
- 332 (ii) the amount of the financial condition that the individual was required to pay for
- 333 pretrial release.
- 334 (c) If a magistrate or judge orders a financial condition as a condition of release, the
- 335 judge or magistrate shall set the financial condition at a single amount per case.

- 336 ~~(8)~~ (9) In making a determination about pretrial release, the magistrate or judge may:
- 337 (a) rely upon information contained in:
- 338 (i) the indictment or information;
- 339 (ii) any sworn or probable cause statement or other information provided by law
- 340 enforcement;
- 341 (iii) a pretrial risk assessment;
- 342 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 343 (v) witness statements or testimony;
- 344 (vi) the results of a lethality assessment completed in accordance with Section
- 345 77-36-2.1; or
- 346 (vii) any other reliable record or source, including proffered evidence; and
- 347 (b) consider:
- 348 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 349 arrested for, or charged with, including:
- 350 (A) whether the offense is a violent offense; and
- 351 (B) the vulnerability of a witness or alleged victim;
- 352 (ii) the nature and circumstances of the individual, including the individual's:
- 353 (A) character;
- 354 (B) physical and mental health;
- 355 (C) family and community ties;
- 356 (D) employment status or history;
- 357 (E) financial resources;
- 358 (F) past criminal conduct;
- 359 (G) history of drug or alcohol abuse; and
- 360 (H) history of timely appearances at required court proceedings;
- 361 (iii) the potential danger to another individual, or individuals, posed by the release of
- 362 the individual;
- 363 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 364 court proceeding at the time the individual allegedly committed the offense or
- 365 offenses;
- 366 (v) the availability of:
- 367 (A) other individuals who agree to assist the individual in attending court when
- 368 required; or
- 369 (B) supervision of the individual in the individual's community;

370 (vi) the eligibility and willingness of the individual to participate in various treatment
 371 programs, including drug treatment; or

372 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
 373 law if released.

374 [(9)] (10) The magistrate or judge may not base a determination about pretrial release solely:

375 (a) on the seriousness or type of offense that the individual is arrested for or charged
 376 with, unless the individual is arrested for or charged with a capital felony; or

377 (b) on an algorithm or a risk assessment tool score.

378 [(10)] (11) If the magistrate or judge issues an order [~~pursuant to~~] in accordance with

379 Subsection [~~77-20-205(3)(a)(iii)~~] (3)(a)(iii), the magistrate or judge shall make
 380 sufficiently detailed findings of fact on the risk of substantial danger or flight from the
 381 court's jurisdiction to enable a reviewing court to ensure that the magistrate's or judge's
 382 determination reasonably considered all of the evidence presented to the court.

383 [(11)] (12) An individual arrested for violation of a jail release agreement, or a jail release
 384 court order, issued in accordance with Section 78B-7-802:

385 (a) may not be released before the individual's first appearance before a magistrate or
 386 judge; and

387 (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.**

390 (1) A party may move to modify a pretrial status order:

391 (a) at any time after a pretrial status order is issued; and

392 (b) only upon a showing that there has been a material change in circumstances.

393 (2)(a) Notwithstanding Subsection (1), a defendant may move to modify a pretrial status
 394 order if:

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

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

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

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

- 404 (b) A hearing on a motion to modify a pretrial status order may be held in conjunction
405 with a preliminary hearing or any other pretrial hearing.
- 406 (4) In ruling upon a motion to modify a pretrial status order, the judge may:
- 407 (a) rely on information as provided in Subsection [~~77-20-205(8)~~] 77-20-205(9);
- 408 (b) base the judge's ruling on evidence provided at the hearing [~~so long as~~] if each party
409 is provided an opportunity to present additional evidence or information relevant to
410 pretrial release; and
- 411 (c)(i) for a motion to modify a pretrial status order under Subsection (1), modify the
412 pretrial status order, including the conditions of release, upon a finding that there
413 has been a material change in circumstances; or
- 414 (ii) for a motion to modify a pretrial status order under Subsection (2), modify the
415 pretrial status order by reducing the amount of the financial condition or imposing
416 nonfinancial conditions of release upon a finding that the defendant is unable to
417 pay the amount of the financial condition in the pretrial status order.
- 418 (5) In modifying a pretrial status order upon a motion by a party or on the court's own
419 motion, the court shall consider whether imposing a bail bond as a condition of release
420 in a modified pretrial status order will increase the likelihood of the defendant's
421 appearance when:
- 422 (a) the defendant was previously released on the defendant's own recognizance or on
423 nonfinancial conditions;
- 424 (b) the defendant willfully failed to appear at a required court appearance or has failed to
425 appear at a required court appearance more than once; and
- 426 (c) a bench warrant was issued.
- 427 (6) A court may not modify a pretrial status order to a no bail hold solely on the basis of a
428 failure to appear.
- 429 (7) Subsections 77-20-205(3) through [~~(11)~~] (12) apply to a determination about pretrial
430 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**
433 **before sentence.**

- 434 (1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who
435 is waiting imposition or execution of sentence be detained, unless the court finds, by
436 clear and convincing evidence, presented by the defendant that the defendant:
- 437 (a) is not likely to flee the jurisdiction of the court if released; and

- 438 (b) will not pose a danger to the physical, psychological, or financial and economic
439 safety or well-being of any other person or the community if released.
- 440 (2) If the court finds the defendant does not need to be detained, the court shall order the
441 release of the defendant on suitable conditions, including conditions of release described
442 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**
445 **conviction -- Conditions for release while on appeal.**

- 446 (1) The court shall order that a defendant who has been found guilty of an offense in a court
447 of record and sentenced to a term of imprisonment in jail or prison, and who has filed an
448 appeal or a petition for a writ of certiorari, be detained, unless the court finds:
- 449 (a) the appeal raises a substantial question of law or fact likely to result in:
- 450 (i) reversal;
- 451 (ii) an order for a new trial; or
- 452 (iii) a sentence that does not include a term of imprisonment in jail or prison;
- 453 (b) the appeal is not for the purpose of delay; and
- 454 (c) by clear and convincing evidence presented by the defendant, that the defendant:
- 455 (i) is not likely to flee the jurisdiction of the court if released; and
- 456 (ii) will not pose a danger to the physical, psychological, or financial and economic
457 safety or well-being of any other person or the community if released.
- 458 (2)(a) If the court makes a finding under Subsection (1) that justifies not detaining the
459 defendant, the court shall order the release of the defendant, subject [~~to~~] to
460 conditions of release that are reasonably available and necessary to reasonably ensure
461 the appearance of the defendant as required and the safety of any other individual,
462 property, and the community.
- 463 (b) The conditions under Subsection (2)(a) may include conditions described in
464 Subsection [~~77-20-205(5)~~] 77-20-205(6).
- 465 (c) The court may, in the court's discretion, amend an order granting release to impose
466 additional or different conditions of release.
- 467 (3) If the defendant is found guilty of an offense in a court not of record and files a timely
468 notice of appeal in accordance with Subsection 78A-7-118(2) for a trial de novo, the
469 court shall stay all terms of a sentence, unless at the time of sentencing the judge finds
470 by a preponderance of the evidence that the defendant poses a danger to another person
471 or the community.

- 472 (4) If a stay is ordered, the court may order postconviction restrictions on the defendant's
473 conduct as appropriate, including:
- 474 (a) continuation of any pretrial restrictions or orders;
 - 475 (b) sentencing protective orders under Section 78B-7-804;
 - 476 (c) drug and alcohol use;
 - 477 (d) use of an ignition interlock; and
 - 478 (e) posting appropriate monetary bail.
- 479 (5) The provisions of Subsections (3) and (4) do not apply to convictions for an offense
480 under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.
- 481 (6) Any stay authorized by Subsection (3) is lifted upon the dismissal of the appeal by the
482 district court.

483 **Section 8. Effective Date.**

484 This bill takes effect on May 6, 2026.