

Brady Brammer proposes the following substitute bill:

Bail Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matt MacPherson

Senate Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses bail.

Highlighted Provisions:

This bill:

- defines terms;
- requires the reporting of certain information related to pretrial release;
- 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;
- makes technical and conforming changes; and
- includes a coordination clause to coordinate changes between this bill and S.B. 323, Criminal and Juvenile Justice Recodification, if both bills pass and become law.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

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

29 **77-20-301**, as last amended by Laws of Utah 2023, Chapter 408

30 **77-20-302**, as last amended by Laws of Utah 2023, Chapters 113, 408

31 ENACTS:

32 **77-20-104**, Utah Code Annotated 1953

33 **Utah Code Sections affected by Coordination Clause:**

34 **77-20-104 (05/06/26)**, as enacted in 2026 H.B. 593

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

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

38 **77-17-8 . Mistake in charging offense -- Procedure -- Witnesses.**

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

42 (a) release the individual on the individual's own recognizance, as defined in Section
43 **77-20-102**, during the time the individual awaits trial or other resolution of criminal
44 charges;

45 (b) designate a condition, or a combination of conditions, described in Subsection [
46 ~~77-20-205(4)~~] **77-20-205(6)**, to be imposed upon the individual's release during the
47 time the individual awaits trial or other resolution of criminal charges; or

48 (c) order the individual be detained during the time the individual awaits trial or other
49 resolution of criminal charges.

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

52 *The following section is affected by a coordination clause at the end of this bill.*

53 Section 2. Section **77-20-104** is enacted to read:

54 **77-20-104 . Pretrial release data reporting.**

55 (1) On or before April 30, 2027, and each year thereafter on or before April 30, a law
56 enforcement agency, pretrial services program, or other designated agency that
57 supervises individuals in accordance with Subsection **77-20-205(4)(c)(iii)** shall report to
58 the Commission on Criminal and Juvenile Justice the following information for the
59 preceding calendar year:

60 (a) the number of individuals who were supervised in accordance with Subsection
61 **77-20-205(4)(c)(iii)**;

62 (b) the number of individuals who were supervised in accordance with Subsection

63 77-20-205(4)(c)(iii) and charged with a new offense while being supervised;
64 (c) the number of times that the agency or program made a report described in
65 Subsections 77-20-205(4)(d)(i), (ii), (iii), (iv), and (v); and
66 (d) the number of times that a report described in Subsection 77-20-205(4)(d) resulted in
67 revocation of the individual's pretrial release.

68 (2) On or before October 31, 2027, and each year thereafter on or before October 31:

69 (a) the Commission on Criminal and Juvenile Justice shall:

70 (i) compile the information from the reports described in Subsection (1); and

71 (ii) submit the compilation to the Judiciary Interim Committee; and

72 (b) the Administrative Office of the Courts shall report to the Judiciary Interim

73 Committee the number of individuals released under Subsection 77-20-205(4)(g).

74 Section 3. Section **77-20-202** is amended to read:

75 **77-20-202 . Collection of pretrial information.**

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

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

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

82 (ii) the individual's date of birth;

83 (iii) the individual's state identification number;

84 (iv) the individual's mobile phone number;

85 (v) the individual's email address; and

86 (vi) the individual's immigration status, if the individual is not a United States citizen
87 or national;

88 (b) the individual's residential address;

89 (c) any pending criminal charge or warrant for the individual, including the offense
90 tracking number of the current offense for which the individual is booked;

91 (d) the individual's probation or parole supervision status;

92 (e) whether the individual was on pretrial release for another criminal offense ~~[prior to]~~
93 before the booking of the individual for the current criminal offense if the employee
94 knows that the individual was on pretrial release for a prior criminal offense;

95 (f) the individual's financial circumstances to the best of the individual's knowledge at
96 the time of booking, including:

- 97 (i) the individual's current employer;
- 98 (ii) the individual's monthly income, including any alimony or child support that
99 contributes to the individual's monthly income;
- 100 (iii) the individual's monthly expenses, including any alimony or child support
101 obligation that the individual is responsible for paying;
- 102 (iv) the individual's ownership of, or any interest in, personal or real property,
103 including any savings or checking accounts or cash;
- 104 (v) the number, ages, and relationships of any dependents;
- 105 (vi) any financial support or benefit that the individual receives from a state or
106 federal government; and
- 107 (vii) any other information about the individual's financial circumstances that may be
108 relevant;
- 109 (g) any ties the individual has to the community, including:
- 110 (i) the length of time that the individual has been at the individual's residential
111 address;
- 112 (ii) any enrollment in a local college, university, or trade school; and
- 113 (iii) the name and contact information for any family member or friend that the
114 individual believes would be willing to provide supervision of the individual;
- 115 (h) the results of a lethality assessment completed in accordance with Section 77-36-2.1,
116 if any; and
- 117 (i) whether the individual is under the influence of alcohol or a controlled substance to a
118 degree that would endanger the individual or another individual if the individual is
119 released.
- 120 (2) ~~Upon~~ Notwithstanding any other provision of law, upon request, the jail facility, or the
121 pretrial services program, shall provide the information described in Subsection (1) to
122 the individual, the individual's attorney, or the prosecuting attorney.
- 123 (3) Any information collected from an individual under Subsection (1) is inadmissible in
124 any court proceeding other than:
- 125 (a) a criminal proceeding addressing the individual's pretrial release or indigency for the
126 offense, or offenses, for which the individual was arrested or charged with; or
- 127 (b) another criminal proceeding regarding prosecution for providing a false statement
128 under Subsection (1).
- 129 (4) Nothing in this section prohibits a court and a county from entering into an agreement
130 regarding information to be submitted to the court with a probable cause statement.

131 Section 4. Section **77-20-203** is amended to read:

132 **77-20-203 . County sheriff authority to release an individual from jail on own**
133 **recognizance.**

134 (1) As used in this section:

135 (a) "Division" means the Division of Adult Probation and Parole created in Section
136 64-14-202.

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

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

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

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

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

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

146 (b) the individual was not:

147 (i) arrested for a violent criminal offense as defined in Section [~~76-3-201.10~~]
148 76-3-203.10;

149 (ii) arrested for a qualifying offense;

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

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

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

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

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

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

162 (e) the individual qualifies for release under the written policy described in Subsection
163 (4) for the county.

164 (3) A county jail official may not release an individual from a jail facility if the individual is

165 subject to a 72-hour hold placed on the individual by the Department of Corrections as
166 described in Section 64-14-205.

167 (4)(a) A county sheriff shall create and approve a written policy for the county that
168 governs the release of an individual on the individual's own recognizance.

169 (b) The written policy shall describe the criteria an individual shall meet to be released
170 on the individual's own recognizance.

171 (c) A county sheriff may include in the written policy the criteria for release relating to:

172 (i) criminal history;

173 (ii) prior instances of failing to appear for a mandatory court appearance;

174 (iii) current employment;

175 (iv) residency, including immigration status;

176 (v) ties to the community;

177 (vi) an offense for which the individual was arrested;

178 (vii) any potential criminal charges that have not yet been filed;

179 (viii) the individual's health condition;

180 (ix) any potential risks to a victim, a witness, or the public; and

181 (x) any other similar factor a sheriff determines is relevant.

182 (5)(a)(i) Except as provided in Subsection [~~(5)(b)(ii)~~] (5)(a)(ii), a jail facility shall

183 detain an individual for no fewer than eight hours and up to 24 hours from

184 booking if the individual is on supervised probation or parole and that information

185 is reasonably available.

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

188 (A) the entity supervising the individual on probation or parole informs the jail

189 that the supervising entity does not intend to place a hold on the individual; and

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

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

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

195 (ii) only release the individual:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 233 ~~[(B)]~~ (ii) the individual committed the felony offense while:
- 234 ~~[(H)]~~ (A) the individual was on parole or probation for a conviction of a felony
- 235 offense; or
- 236 ~~[(H)]~~ (B) the individual was released and awaiting trial on a previous charge for a
- 237 felony offense; and
- 238 ~~[(C)]~~ (iii) based on information reasonably available to the magistrate, the individual:
- 239 ~~[(H)]~~ (A) is a habitual offender as defined in Section 77-18-102; or
- 240 ~~[(H)]~~ (B) will be a habitual offender as defined in Section 77-18-102 if the
- 241 individual is convicted of the felony offense.
- 242 ~~[(H)]~~ (d) ~~[This]~~ Subsection (1)(c) does not limit or prohibit a magistrate's authority to
- 243 detain an individual who does not meet the requirements described in ~~[this]~~
- 244 Subsection (1)(c).
- 245 (2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
- 246 pretrial status order at an individual's first appearance before the court.
- 247 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
- 248 individual's first appearance before the court:
- 249 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion
- 250 for pretrial detention as described in Section 77-20-206;
- 251 (ii) if a party requests a delay; or
- 252 (iii) if there is good cause to delay the issuance.
- 253 (c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection
- 254 (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
- 255 the issuance of a pretrial status order.
- 256 (d) A request for a pretrial release that has not been fully presented to and ruled upon by
- 257 the magistrate or judge at an initial appearance does not constitute a pretrial detention
- 258 hearing under Section 77-20-206.
- 259 (3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order
- 260 shall:
- 261 (i) except as provided in Subsection (4), release the individual on the individual's
- 262 own recognizance during the time the individual awaits trial or other resolution of
- 263 criminal charges;
- 264 (ii) subject to Subsection (4)(c), designate a condition, or a combination of
- 265 conditions, to be imposed upon the individual's release during the time the
- 266 individual awaits trial or other resolution of criminal charges; or

- 267 (iii) subject to the requirements of Subsection [~~(10)~~] (11), order the individual to be
268 detained during the time that individual awaits trial or other resolution of criminal
269 charges.
- 270 (b) In making a determination about pretrial release in a pretrial status order, the
271 magistrate or judge may not give any deference to a magistrate's decision in a
272 temporary pretrial status order.
- 273 (4)(a) As used in this Subsection (4), "traffic offense" means the same as that term is
274 defined in Section 77-40a-101.
- 275 (b) Except as provided in Subsection (4)(g), a magistrate or judge may not release an
276 individual arrested for or charged with an offense on the individual's own
277 recognizance if the magistrate or judge finds that:
- 278 (i) there is substantial evidence to support the offense; and
- 279 (ii) based on information reasonably available to the magistrate or judge, within three
280 years before the day on which the individual was arrested for the offense, the
281 individual was:
- 282 (A) charged with a misdemeanor or felony offense that was not a traffic offense at
283 least five times; and
- 284 (B) convicted of at least two misdemeanor offenses or one felony offense.
- 285 (c) A magistrate or judge may release an individual described in Subsection (4)(b) if the
286 magistrate or judge imposes one or more of the following conditions:
- 287 (i) a condition described in Subsection (6)(g), (h), (r), (s), (t), or (v);
- 288 (ii) a financial condition described in Subsection (6)(u) other than an unsecured bond;
289 or
- 290 (iii) a condition described in Subsection (6)(n) if the law enforcement agency, pretrial
291 services program, or other designated agency:
- 292 (A) conducts a public safety assessment or risk and needs assessment of the
293 individual;
- 294 (B) conducts in-person pretrial meetings with the individual;
- 295 (C) monitors the individual for contact with law enforcement, criminal behavior,
296 violations of pretrial release conditions, and new arrests; and
- 297 (D) conducts random drug testing of the individual if the magistrate or judge
298 orders the individual to submit to random drug testing.
- 299 (d) If a magistrate or judge imposes a condition described in Subsection (4)(c)(iii), the
300 law enforcement agency, pretrial services program, or other designated agency shall

301 report to the magistrate or judge, the prosecuting attorney, and the defense attorney if
302 the individual:

303 (i) fails to report for supervision within seven days after being ordered to report;

304 (ii) fails to comply with a condition of pretrial release imposed by the magistrate or
305 judge;

306 (iii) refuses to submit or appear for a random drug test;

307 (iv) is removed from a substance abuse or mental health treatment program that the
308 magistrate or judge ordered as a condition of pretrial release; or

309 (v) is arrested for or charged with a new misdemeanor or felony offense.

310 (e) A law enforcement agency, pretrial services program, or other designated agency
311 may supervise an individual in accordance with Subsection (4)(c)(iii) while the
312 individual receives a service from another agency or program.

313 (f) Subsection (4)(c) does not prevent a magistrate or judge from imposing any condition
314 described in Subsection (6) in addition to a condition described in Subsection (4)(c).

315 (g) A judge or magistrate may release an individual described in Subsection (4)(b) on
316 the individual's own recognizance if the judge or magistrate finds that:

317 (i)(A) the conditions described in Subsection (4)(c) are not available for the
318 individual; or

319 (B) the imposition of a condition in Subsection (4)(c) would result in the
320 individual being held in custody;

321 (ii) there is insufficient capacity to hold the individual in custody without releasing
322 another individual from custody; and

323 (iii) releasing the individual on the individual's own recognizance is not a significant
324 threat to public safety.

325 [~~(4)~~] (5) In making a determination about pretrial release, a magistrate or judge shall impose:

326 (a) only conditions of release that are reasonably available; and

327 (b) conditions of release that reasonably ensure:

328 (i) the individual's appearance in court when required;

329 (ii) the safety of any witnesses or victims of the offense allegedly committed by the
330 individual;

331 (iii) the safety and welfare of the public; and

332 (iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice
333 process.

334 [~~(5)~~] (6) Except as provided in Subsection (1)(c) or [~~(6)~~] (7), a magistrate or judge may

- 335 impose a condition, or combination of conditions, for pretrial release that requires an
336 individual to:
- 337 (a) not commit a federal, state, or local offense during the period of pretrial release;
 - 338 (b) avoid contact with a victim of the alleged offense;
 - 339 (c) avoid contact with a witness who:
 - 340 (i) may testify concerning the alleged offense; and
 - 341 (ii) is named in the pretrial status order;
 - 342 (d) not consume alcohol or any narcotic drug or other controlled substance unless
 - 343 prescribed by a licensed medical practitioner;
 - 344 (e) submit to drug or alcohol testing;
 - 345 (f) complete a substance abuse evaluation and comply with any recommended treatment
 - 346 or release program;
 - 347 (g) submit to electronic monitoring or location device tracking;
 - 348 (h) participate in inpatient [~~or outpatient~~] medical, behavioral, psychological, or
 - 349 psychiatric treatment;
 - 350 (i) participate in outpatient medical, behavioral, psychological, or psychiatric treatment;
 - 351 ~~(j)~~ (j) maintain employment or actively seek employment if unemployed;
 - 352 ~~(k)~~ (k) maintain or commence an education program;
 - 353 ~~(l)~~ (l) comply with limitations on where the individual is allowed to be located or the
 - 354 times that the individual shall be, or may not be, at a specified location;
 - 355 ~~(m)~~ (m) comply with specified restrictions on personal associations, place of residence,
 - 356 or travel;
 - 357 ~~(n)~~ (n) report to a law enforcement agency, pretrial services program, or other
 - 358 designated agency at a specified frequency or on specified dates;
 - 359 ~~(o)~~ (o) comply with a specified curfew;
 - 360 ~~(p)~~ (p) forfeit or refrain from possession of a firearm or other dangerous weapon;
 - 361 ~~(q)~~ (q) if the individual is charged with an offense against a child, limit or prohibit
 - 362 access to any location or occupation where children are located, including any
 - 363 residence where children are on the premises, activities where children are involved,
 - 364 locations where children congregate, or where a reasonable person would know that
 - 365 children congregate;
 - 366 ~~(r)~~ (r) comply with requirements for house arrest;
 - 367 ~~(s)~~ (s) return to custody for a specified period of time following release for
 - 368 employment, schooling, or other limited purposes;

- 369 ~~[(s)]~~ (t) remain in custody of one or more designated individuals who agree to:
- 370 (i) supervise and report on the behavior and activities of the individual; and
- 371 (ii) encourage compliance with all court orders and attendance at all required court
- 372 proceedings;
- 373 ~~[(t)]~~ (u) comply with a financial condition;~~[-or]~~
- 374 (v) comply with an order of involuntary commitment issued by a court under Section
- 375 26B-5-332; or
- 376 ~~[(u)]~~ (w) comply with any other condition that is reasonably available and necessary to
- 377 ensure compliance with Subsection ~~[(4)]~~ (5).
- 378 ~~[(6)]~~ (7)(a) If a county or municipality has established a pretrial services program, the
- 379 magistrate or judge shall consider the services that the county or municipality has
- 380 identified as available in determining what conditions of release to impose.
- 381 (b) The magistrate or judge may not order conditions of release that would require the
- 382 county or municipality to provide services that are not currently available from the
- 383 county or municipality.
- 384 (c) Notwithstanding Subsection ~~[(6)(a)]~~ (7)(a), the magistrate or judge may impose
- 385 conditions of release not identified by the county or municipality ~~[so long as]~~ if the
- 386 condition does not require assistance or resources from the county or municipality.
- 387 ~~[(7)]~~ (8)(a) If the magistrate or judge determines that a financial condition, other than an
- 388 unsecured bond, is necessary to impose as a condition of release, the magistrate or
- 389 judge shall, when determining the amount of the financial condition, refer to the
- 390 financial condition schedule in Section 77-20-205.5 and consider the individual's risk
- 391 of failing to appear and ability to pay.
- 392 (b) If the magistrate or judge determines that a financial condition is necessary to impose
- 393 as a condition of release, and a county jail official fixed a financial condition for the
- 394 individual under Section 77-20-204, the magistrate or judge may not give any
- 395 deference to:
- 396 (i) the county jail official's action to fix a financial condition; or
- 397 (ii) the amount of the financial condition that the individual was required to pay for
- 398 pretrial release.
- 399 (c) If a magistrate or judge orders a financial condition as a condition of release, the
- 400 judge or magistrate shall set the financial condition at a single amount per case.
- 401 ~~[(8)]~~ (9) In making a determination about pretrial release, the magistrate or judge may:
- 402 (a) rely upon information contained in:

- 403 (i) the indictment or information;
- 404 (ii) any sworn or probable cause statement or other information provided by law
- 405 enforcement;
- 406 (iii) a pretrial risk assessment;
- 407 (iv) an affidavit of indigency described in Section 78B-22-201.5;
- 408 (v) witness statements or testimony;
- 409 (vi) the results of a lethality assessment completed in accordance with Section
- 410 77-36-2.1; or
- 411 (vii) any other reliable record or source, including proffered evidence; and
- 412 (b) consider:
- 413 (i) the nature and circumstances of the offense, or offenses, that the individual was
- 414 arrested for, or charged with, including:
- 415 (A) whether the offense is a violent offense; and
- 416 (B) the vulnerability of a witness or alleged victim;
- 417 (ii) the nature and circumstances of the individual, including the individual's:
- 418 (A) character;
- 419 (B) physical and mental health;
- 420 (C) family and community ties;
- 421 (D) employment status or history;
- 422 (E) financial resources;
- 423 (F) past criminal conduct;
- 424 (G) history of drug or alcohol abuse; and
- 425 (H) history of timely appearances at required court proceedings;
- 426 (iii) the potential danger to another individual, or individuals, posed by the release of
- 427 the individual;
- 428 (iv) whether the individual was on probation, parole, or release pending an upcoming
- 429 court proceeding at the time the individual allegedly committed the offense or
- 430 offenses;
- 431 (v) the availability of:
- 432 (A) other individuals who agree to assist the individual in attending court when
- 433 required; or
- 434 (B) supervision of the individual in the individual's community;
- 435 (vi) the eligibility and willingness of the individual to participate in various treatment
- 436 programs, including drug treatment; or

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

439 ~~[(9)]~~ (10) The magistrate or judge may not base a determination about pretrial release solely:

- 440 (a) on the seriousness or type of offense that the individual is arrested for or charged
441 with, unless the individual is arrested for or charged with a capital felony; or
442 (b) on an algorithm or a risk assessment tool score.

443 ~~[(10)]~~ (11) If the magistrate or judge issues an order ~~[pursuant to]~~ in accordance with
444 Subsection ~~[77-20-205(3)(a)(iii)]~~ (3)(a)(iii), the magistrate or judge shall make
445 sufficiently detailed findings of fact on the risk of substantial danger or flight from the
446 court's jurisdiction to enable a reviewing court to ensure that the magistrate's or judge's
447 determination reasonably considered all of the evidence presented to the court.

448 ~~[(11)]~~ (12) An individual arrested for violation of a jail release agreement, or a jail release
449 court order, issued in accordance with Section 78B-7-802:

- 450 (a) may not be released before the individual's first appearance before a magistrate or
451 judge; and
452 (b) may be denied pretrial release by the magistrate or judge.

453 Section 6. Section **77-20-207** is amended to read:

454 **77-20-207 . Modification of pretrial status order -- Failure to appear.**

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

- 456 (a) at any time after a pretrial status order is issued; and
457 (b) only upon a showing that there has been a material change in circumstances.

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

- 460 (i) the magistrate or judge imposed a financial condition as a condition of release in
461 the pretrial status order; and
462 (ii) the defendant is unable to pay the financial condition within seven days after the
463 day on which the pretrial status order is issued.

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

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

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

- 471 (4) In ruling upon a motion to modify a pretrial status order, the judge may:
- 472 (a) rely on information as provided in Subsection [~~77-20-205(8)~~] 77-20-205(9);
- 473 (b) base the judge's ruling on evidence provided at the hearing [~~so long as~~] if each party
- 474 is provided an opportunity to present additional evidence or information relevant to
- 475 pretrial release; and
- 476 (c)(i) for a motion to modify a pretrial status order under Subsection (1), modify the
- 477 pretrial status order, including the conditions of release, upon a finding that there
- 478 has been a material change in circumstances; or
- 479 (ii) for a motion to modify a pretrial status order under Subsection (2), modify the
- 480 pretrial status order by reducing the amount of the financial condition or imposing
- 481 nonfinancial conditions of release upon a finding that the defendant is unable to
- 482 pay the amount of the financial condition in the pretrial status order.
- 483 (5) In modifying a pretrial status order upon a motion by a party or on the court's own
- 484 motion, the court shall consider whether imposing a bail bond as a condition of release
- 485 in a modified pretrial status order will increase the likelihood of the defendant's
- 486 appearance when:
- 487 (a) the defendant was previously released on the defendant's own recognizance or on
- 488 nonfinancial conditions;
- 489 (b) the defendant willfully failed to appear at a required court appearance or has failed to
- 490 appear at a required court appearance more than once; and
- 491 (c) a bench warrant was issued.
- 492 (6) A court may not modify a pretrial status order to a no bail hold solely on the basis of a
- 493 failure to appear.
- 494 (7) Subsections 77-20-205(3) through [~~(11)~~] (12) apply to a determination about pretrial
- 495 release in a modified pretrial status order.

496 Section 7. Section **77-20-301** is amended to read:

497 **77-20-301 . Grounds for detaining or releasing defendant on conviction and**

498 **before sentence.**

- 499 (1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who
- 500 is waiting imposition or execution of sentence be detained, unless the court finds, by
- 501 clear and convincing evidence, presented by the defendant that the defendant:
- 502 (a) is not likely to flee the jurisdiction of the court if released; and
- 503 (b) will not pose a danger to the physical, psychological, or financial and economic
- 504 safety or well-being of any other person or the community if released.

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

508 Section 8. Section **77-20-302** is amended to read:

509 **77-20-302 . Grounds for detaining defendant while appealing the defendant's**
510 **conviction -- Conditions for release while on appeal.**

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

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

515 (i) reversal;

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

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

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

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

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

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

523 (2)(a) If the court makes a finding under Subsection (1) that justifies not detaining the
524 defendant, the court shall order the release of the defendant, subject [~~to~~] only to
525 conditions of release that are reasonably available and necessary to reasonably ensure
526 the appearance of the defendant as required and the safety of any other individual,
527 property, and the community.

528 (b) The conditions under Subsection (2)(a) may include conditions described in
529 Subsection [~~77-20-205(5)~~] 77-20-205(6).

530 (c) The court may, in the court's discretion, amend an order granting release to impose
531 additional or different conditions of release.

532 (3) If the defendant is found guilty of an offense in a court not of record and files a timely
533 notice of appeal in accordance with Subsection 78A-7-118(2) for a trial de novo, the
534 court shall stay all terms of a sentence, unless at the time of sentencing the judge finds
535 by a preponderance of the evidence that the defendant poses a danger to another person
536 or the community.

537 (4) If a stay is ordered, the court may order postconviction restrictions on the defendant's
538 conduct as appropriate, including:

- 539 (a) continuation of any pretrial restrictions or orders;
540 (b) sentencing protective orders under Section 78B-7-804;
541 (c) drug and alcohol use;
542 (d) use of an ignition interlock; and
543 (e) posting appropriate monetary bail.
- 544 (5) The provisions of Subsections (3) and (4) do not apply to convictions for an offense
545 under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.
546 (6) Any stay authorized by Subsection (3) is lifted upon the dismissal of the appeal by the
547 district court.

548 Section 9. **Effective Date.**

549 This bill takes effect on September 1, 2026.

550 Section 10. **Coordinating H.B. 593 with S.B. 323.**

551 If H.B. 593, Bail Amendments, and S.B. 323, Criminal and Juvenile Justice

552 Recodification, both pass and become law, the Legislature intends that, on September 1, 2026,

553 all occurrences of the term "Commission on Criminal and Juvenile Justice" in Section

554 77-20-104 enacted in H.B. 593 be replaced with "Department of Criminal Justice".