

Utah Code § 77-20-1. Right to bail - Pretrial status order - Denial of bail - Detention hearing - Motion to modify

Legislative History | May 18, 2021

Utah Code § 77-20-1 was enacted by the Utah Legislature in the 1980 General Session as part of a major recodification of the Utah Code of Criminal Procedure. It has been amended 22 times in the intervening 41 years. What follows is a chronological history of the statute, illustrating all substantive amendments made to Utah Code § 77-20-1. Purely technical amendments have been omitted, but information on these amendments may be found in footnotes.

1980 General Session

[H.B. 32, Utah Code of Criminal Procedure](#)

Section 77-20-1 was **enacted** as follows:

A person charged with or arrested for a public offense shall be admitted to bail as a matter of right in all cases except where the proof is evident or the presumption of guilt is strong that the accused committed:

(1) A capital offense;

(2) A felony while he was free on bail awaiting trial on a previous felony; or

(3) A felony while he was on probation or parole for a felony.

In these cases the accused may be admitted to bail only by a magistrate or upon the circuit or district court's refusal, and upon good cause shown, by a justice of the supreme court, after hearing and finding that the interests of justice do not require detention without bail.

1988 General Session

[H.B. 79, Bail Amendments, Rep. Skousen](#)

Section 77-20-1 was amended as follows:

(1) A person charged with or arrested for a public offense shall be admitted to bail as a matter of right ~~in all cases~~, except where the proof is evident or the presumption of guilt is strong that the accused committed a:

~~[(1)-A]~~ (a) capital offense;

~~[(2)-A]~~ (b) felony while he was free on bail awaiting trial on a previous felony; or

~~[(3)-A]~~ (c) felony while he was on probation or parole for a felony.

(2) ~~In these cases~~ Under Subsection (1), the accused may be admitted to bail only by a ~~magistrate~~ circuit or district court judge, or upon the circuit or district court's refusal~~;~~ and upon good cause shown, by a ~~judge of the Court of Appeals, or a~~ justice of the supreme court, after hearing and finding that the interests of justice do not require detention without bail.

1988 Second Special Session

[S.B. 4, Bail Amendment, Sen. Richards](#)

Section 77-20-1 was amended as follows:

(1) A person charged with or arrested for a ~~public~~ criminal offense shall be admitted to bail as a matter of right, except ~~where the proof is evident or the presumption of guilt is strong that the accused committed~~ if the person is charged with a:

(a) capital offense, when there is substantial evidence to support the charge;

(b) felony while ~~he was free~~ on probation or parole, or while free on bail awaiting trial on a previous felony charge, when there is substantial evidence to support the current felony charge; or

(c) felony ~~[while he was on probation or parole for a felony]~~ when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail.

(2) Under Subsection (1), the accused may be ~~[admitted to]~~ denied bail only by a circuit or district court judge ~~[, or upon the circuit or district court's refusal and upon good cause shown, by a judge of the Court of Appeals, or a]~~. If bail is denied, a justice of the Supreme Court[,] or a judge of the Court of Appeals may, after a hearing and finding that the interests of justice do not require detention without bail, order that the accused be admitted to bail.

1992 General Session

[H.B. 394, Court Jurisdiction, Rep. Jensen](#)

Section 77-20-1 was amended as follows:

...

~~(2) [Under Subsection (1), the accused may be denied bail only by a circuit or district court judge. If bail is denied, a justice of the Supreme Court or a judge of the Court of Appeals may, after a hearing and finding that the interests of justice do not require detention without bail, order that the accused be admitted to bail]~~ Bail set or denied prior to bind over may be redetermined after bind over.

(3) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (1).

1996 General Session

[S.B. 143, Bail Hearing Amendments, Sen. Taylor](#)

Section 77-20-1 was amended as follows:

...

~~[(2) Bail set or denied prior to bind over may be redetermined after bind over.]~~

(2) Any person who may be admitted to bail may likewise be released on his own recognizance or without posting a bond on conditions imposed in the discretion of the magistrate or court.

(3) The initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest or by the magistrate or court presiding over the accused's first judicial appearance.

The magistrate or court may rely upon information contained in:

(a) the indictment or information;

(b) any sworn probable cause statement;

(c) information provided by any pretrial services agency; or

(d) any other reliable record or source.

(4) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present. Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing. The magistrate or court may rely on information as provided in Subsection (3)(a) through (d) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(5) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

~~[(6)]~~ (6) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (1).

1998 General Session

[H.B. 376, Bail Reform, Rep. Curtis](#)

Section 77-20-1 was amended as follows:

(1) A person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the person is charged with a:

(a) capital offense, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail~~[-]~~; or

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the person violated a material condition of the release while previously on bail.

(2) Any person who may be admitted to bail may ~~[likewise]~~ be released either on his own recognizance or ~~[without posting a bond on]~~ upon posting bail, on condition that he appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court~~[-]~~ that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

...

2001 General Session

[H.B. 258, Criminal Sentencing Amendments, Rep. Daniels](#)

Section 77-20-1 was amended as follows:

(1) A person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the person is charged with a:

(a) capital ~~[offense]~~ felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail; or

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the person violated a material condition of the release while previously on bail.

...

2003 General Session

[H.B. 57, Expansion of Protective Order, Rep. Shurtliff](#)

Section 77-20-1 was amended as follows:

...

(3) The initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest or by the magistrate or court presiding over the accused's first judicial appearance. A person arrested for a violation of a criminal protective order issued pursuant to Section 77-36-2.5 may not be released prior to the accused's first judicial appearance.

(4) The magistrate or court may rely upon information contained in:

- (a) the indictment or information;
- (b) any sworn probable cause statement;
- (c) information provided by any pretrial services agency; or
- (d) any other reliable record or source.

~~(4)~~ (5) A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present. Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing. The magistrate or court may rely on information as provided in Subsection ~~(3)~~(4)(a) through (d) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

~~(5)~~ (6) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

~~(6)~~ (7) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (1).

2008 General Session

[S.B. 187, Bail in Capital Offense Cases, Sen. Greiner](#)

Section 77-20-1 was amended as follows:

...

(2) Any person who may be admitted to bail may be released either on ~~his~~ the person's own recognizance or upon posting bail, on condition that ~~he~~ the person appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

- (a) ensure the appearance of the accused;
- (b) ensure the integrity of the court process;
- (c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and
- (d) ensure the safety of the public.

(3)~~(a)~~ The initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest or by the magistrate or court presiding over the accused's first judicial appearance.

(b) A person arrested for a violation of a criminal protective order issued pursuant to Section 77-36-2.5 may not be released prior to the accused's first judicial appearance.

...

(5)~~(a)~~ A motion to modify the initial order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit any victim to be notified and be present.

(b) Hearing on a motion to modify may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in ~~[Subsection (4)(a) through (d)] Subsection (4)~~ and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(6) Subsequent motions to modify bail orders may be made only upon a showing that there has been a material change in circumstances.

~~[(6)]~~ (7) An appeal may be taken from an order of any court denying bail to the Supreme Court, which shall review the determination under Subsection (1).

(8) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

2013 General Session

[S.B. 156, Jail Release Amendments, Sen. Adams](#)

Section 77-20-1 was amended as follows:

...

(3)(a) The initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest or by the magistrate or court presiding over the accused's first judicial appearance.

(b) A person arrested for a violation of a ~~[criminal protective]~~ jail release agreement or jail release order issued pursuant to Section 77-36-2.5:

(i) may not be released ~~[prior to]~~ before the accused's first judicial appearance~~[-];~~ and

(ii) may be denied bail by the court under Subsection 77-36-2.5(8) or (12).

...

2015 General Session

[S.B. 141, Judiciary Amendments, Sen. Hillyard](#)

Section 77-20-1 was amended as follows:

...

(3)(a) ~~[The]~~ Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest ~~[or by the magistrate or court presiding over the accused's first judicial appearance]~~.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

~~[(b)]~~ (d) A person arrested for a violation of a jail release agreement or jail release order issued pursuant to Section 77-36-2.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied bail by the court under Subsection 77-36-2.5(8) or (12).

...

2016 General Session

[S.B. 105, Bail Amendments, Sen. Hillyard](#)

Section 77-20-1 was amended as follows:

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

~~(1)~~ (2) A person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the person is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the person would constitute a substantial danger to any other person or to the community, or is likely to flee the jurisdiction of the court, if released on bail; or

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the person violated a material condition of the release while previously on bail.

[Subsequent subsections renumbered accordingly].

...

2017 General Session¹

[S.B. 167, Bail Amendments, Sen. Adams](#)

Section 77-20-1 was amended as follows:

...

(3) Any person who may be admitted to bail may be released ~~[either]~~ by written undertaking or an equal amount of cash bail, or on the person's own recognizance or upon posting bail, on condition that the person appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

...

2019 General Session

[H.B. 428, Bail Bond Amendments, Rep. Lisonbee](#)

Section 77-20-1 was amended as follows:

...

(3) Any person who may be admitted to bail may be released by ~~[written undertaking or an equal amount of cash bail]~~ posting bail in the form and manner provided in Section 77-20-4, or on the person's own recognizance or upon posting bail, on condition that the person appear in court for

¹ 2017 H.B. 248, Domestic Violence Related Amendments, and 2017 H.B. 208, Jail Release Orders Amendments, made minor technical changes to Subsection (4)(d).

future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

- (a) ensure the appearance of the accused;
- (b) ensure the integrity of the court process;
- (c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and
- (d) ensure the safety of the public.

...

[H.B. 19, Pretrial Release Amendments, Rep. Romero](#)

Section 77-20-1 was amended as follows:

...

(2) ~~[A person]~~ An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the ~~[person]~~ individual is charged with a:

- (a) capital felony, when the court finds there is substantial evidence to support the charge;
- (b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or
- (c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the ~~[person]~~ individual would constitute a substantial danger to any other ~~[person]~~ individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail; ~~[or]~~
- (d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the ~~[person]~~ individual violated a material condition of the release while previously on bail~~[-];~~ or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

(3) Any ~~[person]~~ individual who may be admitted to bail may be released by written undertaking or an equal amount of cash bail, or on the ~~[person's]~~ individual's own recognizance or upon posting bail, on condition that the ~~[person]~~ individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:

- (a) ensure the appearance of the accused;
- (b) ensure the integrity of the court process;
- (c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and
- (d) ensure the safety of the public.

(4)(a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

(d) ~~[A person]~~ An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 77-20-3.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied bail by the court under Subsection ~~[-77-20-3.5(9) or (11)]~~ (2).

(5) The magistrate or court may rely upon information contained in:

- (a) the indictment or information;
- (b) any sworn probable cause statement;
- (c) information provided by any pretrial services agency; or
- (d) any other reliable record or source.

...

2020 General Session

H.B. 206, Bail and Pretrial Release Amendments, Rep. Pitcher

Section 77-20-1 was amended as follows:

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.

(c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.

(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.

~~[(b)]~~ (e) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

~~[(e)]~~ (f) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and it finds by clear and convincing evidence that the individual violated a material condition of the release while previously on bail; or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

~~[(3) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance or upon posting bail, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court that will reasonably:]~~

~~[(a) ensure the appearance of the accused;]~~

~~[(b) ensure the integrity of the court process;]~~

~~[(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and]~~

~~[(d) ensure the safety of the public.]~~

(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.

(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will reasonably ensure:

- (i) the individual's appearance in court when required;
- (ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;
- (iii) the safety and welfare of the public; and
- (iv) that the individual will not obstruct or attempt to obstruct the criminal justice process.
- (c) (i) The court shall issue the pretrial status order without unnecessary delay.
- (ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:
 - (A) the prosecutor's motion states a reasonable case for detention; and
 - (B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.
- (4) (a) Except as otherwise provided in this section or Section 77-20-3.5, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).
- (b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:
 - (i) not commit a federal, state, or local offense during the period of release;
 - (ii) avoid contact with a victim or victims of the alleged offense;
 - (iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;
 - (iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;
 - (v) submit to drug or alcohol testing;
 - (vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;
 - (vii) submit to electronic monitoring or location device tracking;
 - (viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;
 - (ix) maintain employment, or if unemployed, actively seek employment;
 - (x) maintain or commence an education program;
 - (xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;
 - (xii) comply with specified restrictions on personal associations, place of residence, or travel;
 - (xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
 - (xiv) comply with a specified curfew;
 - (xv) forfeit or refrain from possession of a firearm or other dangerous weapon;
 - (xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;
 - (xvii) comply with requirements for house arrest;
 - (xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
 - (xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;
 - (xx) comply with a financial condition; or

(xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).

(c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.

(5) In making a determination under Subsection (3), the court may rely on the following:

(a) any form of pretrial services assessment;

(b) the nature and circumstances of the offense or offenses charged, including whether the charges include a violent offense and the vulnerability of witnesses or alleged victims;

(c) the nature and circumstances of the individual, including the individual's character, physical and mental health, family and community ties, employment status and history, financial resources, past criminal conduct, history of drug or alcohol abuse, and history of timely appearances at required court proceedings;

(d) the potential danger to another individual or individuals posed by the release of the individual;

(e) if the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense;

(f) the availability of other individuals who agree to assist the individual in attending court when required or other evidence relevant to the individual's opportunities for supervision in the individual's community;

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

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

(6) (a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.

(b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on the matter as soon as practicable.

(c) The individual who is the subject of the detention hearing has the right to be represented by counsel at the pretrial detention hearing and, if a court finds the individual is indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(d) The court shall give both parties the opportunity to make arguments and to present relevant evidence at the detention hearing.

(7) After hearing evidence on a motion for pretrial detention, the court may detain the individual if:

(a) the individual is accused of committing an offense that qualifies the individual for detention under Subsection (2) or Utah Constitution, Article I, Section 8;

(b) the prosecution demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I, Section 8; and

(c) the court finds that no conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b).

(8) (a) If an individual is charged with a criminal offense described in Subsection (8)(b), there is a rebuttable presumption that the individual be detained.

(b) Criminal charges that create a rebuttable presumption of detention under Subsection (8)(a) include:

(i) criminal homicide as defined in Section 75-5-201; and

(ii) any offense for which the term of imprisonment may include life.

(c) The individual may rebut the presumption of detention by demonstrating, by a preponderance of the evidence, that specified conditions of release will reasonably ensure compliance with Subsection (3)(b).

~~[(4)(a)]~~ (9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order ~~[denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest].~~

~~[(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.]~~

~~[(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.]~~

~~[(d)]~~ (10)(a) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 77-20-3.5:

(i) may not be released before the accused's first judicial appearance; and

(ii) may be denied ~~[bail]~~ pretrial release by the court under Subsection (2).

~~[(5) The magistrate or court may rely upon information contained in:]~~

~~[(a) the indictment or information;]~~

~~[(b) any sworn probable cause statement;]~~

~~[(c) information provided by any pretrial services agency; or]~~

~~[(d) any other reliable record or source.]~~

(b) Nothing in this section precludes or nullifies a jail release agreement or jail release order required under Section 77-20-3.5.

~~[(6)]~~ (11)(a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit ~~[any victim]~~ each alleged victim to be notified and be present.

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

(c) The ~~[magistrate or]~~ court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

~~[(7)]~~ (12) Subsequent motions to modify ~~[bail orders]~~ a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

~~[(8)]~~ (13) An appeal may be taken from an order of ~~[any]~~ a court denying bail to the [Supreme Court] Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the determination under Subsection ~~[(2)]~~ (7).

~~[(9)]~~ (14) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

[H.B. 403, Protective Order and Stalking Injunction, Rep. Snow²](#)

Section 77-20-1 was amended as follows:

...

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;
 (b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;
 or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and ~~(i)~~ the court finds by clear and convincing evidence that the individual violated a material condition of the release while previously on bail; or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial 55 danger to an alleged victim of domestic violence if released on bail.

...

(4)(a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a 119 warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with 121 Sections 10-3-920 and 17-32-1.

(d) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section ~~[77-20-3.5]~~ 78B-7-802:

~~[(i) may not be released before the accused's first judicial appearance; and]~~

~~[(ii)]~~ (i) may be denied bail by the court under Subsection (2)~~[-]~~; and

(ii) if denied bail, may not be released before the individual's initial appearance before the court.

...

² H.B. 403 contained a coordination clause with the following instructions:

“If this H.B. 403 and H.B. 206, Bail and Pretrial Release Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, change the terminology in Subsection 77-20-1(4)(d)(ii) of H.B. 403 from "bail" to "pretrial release.”

2021 General Session

[H.B. 220, Pretrial Detention Amendments, Rep. Schultz](#)

Section 77-20-1 was amended as follows:

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

~~[(b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.]~~

~~[(c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.]~~

~~[(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.]~~

~~[(e)]~~ (b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

~~[(f)]~~ (c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual violated a material condition of the release while previously on bail; or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

~~[(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.~~

~~(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will reasonably ensure:~~

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

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

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

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

~~(e) (i) The court shall issue the pretrial status order without unnecessary delay.~~

~~(ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:~~

~~(A) the prosecutor's motion states a reasonable case for detention; and~~

~~(B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.~~

- (4) (a) Except as otherwise provided in this section or Section 77-20-3.5, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).
- (b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:
- (i) not commit a federal, state, or local offense during the period of release;
 - (ii) avoid contact with a victim or victims of the alleged offense;
 - (iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;
 - (iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;
 - (v) submit to drug or alcohol testing;
 - (vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;
 - (vii) submit to electronic monitoring or location device tracking;
 - (viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;
 - (ix) maintain employment, or if unemployed, actively seek employment;
 - (x) maintain or commence an education program;
 - (xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;
 - (xii) comply with specified restrictions on personal associations, place of residence, or travel;
 - (xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
 - (xiv) comply with a specified curfew;
 - (xv) forfeit or refrain from possession of a firearm or other dangerous weapon;
 - (xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;
 - (xvii) comply with requirements for house arrest;
 - (xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
 - (xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;
 - (xx) comply with a financial condition; or
 - (xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).
- (c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.
- (5) In making a determination under Subsection (3), the court may rely on the following:
- (a) any form of pretrial services assessment;
 - (b) the nature and circumstances of the offense or offenses charged, including whether the charges include a violent offense and the vulnerability of witnesses or alleged victims;
 - (c) the nature and circumstances of the individual, including the individual's character, physical and mental health, family and community ties, employment status and history, financial resources, past criminal conduct, history of drug or alcohol abuse, and history of timely appearances at required court proceedings;

- (d) the potential danger to another individual or individuals posed by the release of the individual;
- (e) if the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense;
- (f) the availability of other individuals who agree to assist the individual in attending court when required or other evidence relevant to the individual's opportunities for supervision in the individual's community;
- (g) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or
- (h) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
- (6) (a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.
- (b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on the matter as soon as practicable.
- (c) The individual who is the subject of the detention hearing has the right to be represented by counsel at the pretrial detention hearing and, if a court finds the individual is indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual in accordance with Section 78B-22-203.
- (d) The court shall give both parties the opportunity to make arguments and to present relevant evidence at the detention hearing.
- (7) After hearing evidence on a motion for pretrial detention, the court may detain the individual if:
- (a) the individual is accused of committing an offense that qualifies the individual for detention under Subsection (2) or Utah Constitution, Article I, Section 8;
- (b) the prosecution demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I, Section 8; and
- (c) the court finds that no conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b).
- (8) (a) If an individual is charged with a criminal offense described in Subsection (8)(b), there is a rebuttable presumption that the individual be detained.
- (b) Criminal charges that create a rebuttable presumption of detention under Subsection (8)(a) include:
- (i) criminal homicide as defined in Section 75-5-201; and
- (ii) any offense for which the term of imprisonment may include life.
- (c) The individual may rebut the presumption of detention by demonstrating, by a preponderance of the evidence, that specified conditions of release will reasonably ensure compliance with Subsection (3)(b).
- (9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order.}]
- (3) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court in a pretrial status order setting the terms and conditions of the individual's pretrial release that will reasonably:
- (a) ensure the appearance of the accused;
- (b) ensure the integrity of the court process;
- (c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and
- (d) ensure the safety of the public.
- (4) (a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.
- (b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.
- (c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.
- ~~[(10)(a)]~~ (d) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 78B-7-802:

- (i) may be denied pretrial release by the court under Subsection (2); and
- (ii) if denied pretrial release, may not be released before the individual's initial appearance before the court.

~~[(b) Nothing in this section precludes or nullifies a jail release agreement or jail release order required under Section 77-20-3.5.]~~

(5) The magistrate or court may rely upon information contained in:

(a) the indictment or information;

(b) any sworn statement or sworn probable cause statement or other information provided by law enforcement;

(c) any form of pretrial services assessment;

(d) witness statements or testimony; or

(e) any other reliable record or source, including proffered evidence.

(6) (a) Except as provided by Subsection (6)(b), the prosecution and defendant have a right to subpoena witnesses to testify at a pretrial detention hearing.

(b) If a defendant seeks to subpoena an alleged victim who did not willingly testify at a pretrial detention hearing, at the conclusion of the hearing, a defendant may issue a subpoena compelling the alleged victim to testify at a subsequent pretrial detention hearing only if the court finds that the testimony sought by the subpoena:

(i) is material to the substantial evidence or clear and convincing evidence determinations described in Subsection (2) in light of all information presented to the court; and

(ii) would not unnecessarily intrude on the rights of the victim.

(c) An alleged victim has the right to be heard at a hearing on a motion for pretrial detention.

~~[(11)]~~ (7)(a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit each alleged victim to be notified and be present.

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

(c) The magistrate or court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

~~[(12)]~~ (8) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

~~[(13)]~~ (9) An appeal may be taken from an order of a court denying bail to the Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the determination under Subsection ~~[(7)]~~ (2).

~~[(14)]~~ (10) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

[H.B. 58, Riot Amendments, Rep. Wilcox](#)

Section 77-20-1 was amended as follows:

...

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with **[a]**:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or

(c) felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual violated a material condition of the release while previously on bail; **[or]**

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail; or

(f) a felony violation of Section 76-9-101 if there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual is not likely to appear for a subsequent court appearance.

...

(4) (a) Except as otherwise provided in this section, Section 76-9-101, or Section 77-20-3.5, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).

(b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:

(i) not commit a federal, state, or local offense during the period of release;

(ii) avoid contact with a victim or victims of the alleged offense;

(iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;

(iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;

(v) submit to drug or alcohol testing;

(vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(vii) submit to electronic monitoring or location device tracking;

(viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(ix) maintain employment, or if unemployed, actively seek employment;

(x) maintain or commence an education program;

(xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;

- (xii) comply with specified restrictions on personal associations, place of residence, or travel;
 - (xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
 - (xiv) comply with a specified curfew;
 - (xv) forfeit or refrain from possession of a firearm or other dangerous weapon;
 - (xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;
 - (xvii) comply with requirements for house arrest;
 - (xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
 - (xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;
 - (xx) comply with a financial condition; or
 - (xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).
- (c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.

...

Coordination Clause for H.B. 220 and H.B. 58 reads:

If this H.B. 220 and H.B. 58, Riot Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 77-20-1(3) in H.B. 220 to read:

"(3) (a) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court in a pretrial status order setting the terms and conditions of the individual's pretrial release that will reasonably:

- (i) ensure the appearance of the accused;
- (ii) ensure the integrity of the court process;
- (iii) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and
- (iv) ensure the safety of the public.

(b) An individual arrested for a violation of Subsection 76-9-101(4) may not be released from custody before the individual appears before a magistrate or a judge."

[H.B. 47, DUI Revisions, Rep. Eliason](#)

Section 77-20-1 was amended as follows:

...

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with **[a]**:

(a) **a** capital felony, when the court finds there is substantial evidence to support the charge;

(b) **a** felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge; or

(c) **a** felony when there is substantial evidence to support the charge the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) **a** felony when the court finds there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual violated a material condition of the release while previously on bail; ~~[or]~~

(e) **a** domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail~~[-]~~; or

(f) the offense of driving under the influence or driving with a measurable controlled substance in the body if:

(i) the offense results in death or serious bodily injury to an individual; and

(ii) the court finds:

(A) that there is substantial evidence to support the charge; and

(B) by clear and convincing evidence that the person would constitute a substantial danger to the community if released on bail.

(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.

(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will reasonably ensure:

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

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

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

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

(c) (i) The court shall issue the pretrial status order without unnecessary delay.

(ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:

(A) the prosecutor's motion states a reasonable case for detention; and

(B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.

(d) Victim testimony is not required at a hearing on a motion to detain if an appearance by the victim would present an undue burden upon the victim.

(e) Notwithstanding any other provisions of this section, there is a rebuttable presumption that an individual is a substantial danger to the community:

(i) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for or charged with the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(ii) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for or charged with the offense of driving with a measurable controlled substance in the body, and the offense resulted in death or serious bodily injury to an individual.

...

Coordination Clause for H.B. 220 and H.B. 47 reads:

If this H.B. 220 and H.B. 47, DUI Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) amending Subsection 77-20-1(6)(b)(ii) in H.B. 220 to read:

"(ii) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.";

(2) not making the changes to Subsection 77-20-1(3) in H.B. 47; and

(3) adding a new Subsection 77-20-1(11) to read:

"(11) Notwithstanding any other provisions of this section, there is a rebuttable presumption that an individual is a substantial danger to the community:

(a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for or charged with the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for or charged with the offense of driving with a measurable controlled substance in the body, and the offense resulted in death or serious bodily injury to an individual."