

## **Chapter 1**

### **Preliminary Provisions**

#### **77-1-1 Short title.**

This act shall be known and may be cited as the "Utah Code of Criminal Procedure."

Enacted by Chapter 15, 1980 General Session

#### **77-1-2 Criminal procedure prescribed.**

The procedure in criminal cases shall be as prescribed in this title, the Rules of Criminal Procedure, and such further rules as may be adopted by the Supreme Court of Utah.

Enacted by Chapter 15, 1980 General Session

#### **77-1-3 Definitions.**

For the purpose of this act:

- (1) "Criminal action" means the proceedings by which a person is charged, accused, and brought to trial for a public offense.
- (2) "Indictment" means an accusation in writing presented by a grand jury to the district court charging a person with a public offense.
- (3) "Information" means an accusation, in writing, charging a person with a public offense which is presented, signed, and filed in the office of the clerk where the prosecution is commenced in accordance with Section 77-2-2.2.
- (4) "Magistrate" means a justice or judge of a court of record or not of record or a commissioner of such a court appointed in accordance with Section 78A-5-107, except that the authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial council. The judicial council rules shall not exceed constitutional limitations upon the delegation of judicial authority.
- (5) "Risk and needs assessment" means an actuarial tool validated on offenders that determines:
  - (a) an individual's risk of reoffending; and
  - (b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

Amended by Chapter 260, 2021 General Session

#### **77-1-4 Conviction to precede punishment.**

No person shall be punished for a public offense until convicted in a court having jurisdiction.

Enacted by Chapter 15, 1980 General Session

#### **77-1-5 Prosecuting party.**

A criminal action for any violation of a state statute shall be prosecuted in the name of the state of Utah. A criminal action for violation of any county or municipal ordinance shall be prosecuted in the name of the governmental entity involved.

Enacted by Chapter 15, 1980 General Session

#### **77-1-6 Rights of defendant.**

- (1) In criminal prosecutions the defendant is entitled to:
  - (a) appear in person and defend in person or by counsel;
  - (b) receive a copy of the accusation filed against the defendant;
  - (c) testify in the defendant's own behalf;
  - (d) be confronted by the witnesses against the defendant;
  - (e) have compulsory process to insure the attendance of witnesses in the defendant's behalf;
  - (f) a speedy public trial by an impartial jury of the county or district where the offense is alleged to have been committed;
  - (g) the right of appeal in all cases; and
  - (h) be admitted to bail in accordance with provisions of law, or be entitled to a trial within 30 days after arraignment if unable to post bail and if the business of the court permits.
- (2) In addition:
  - (a) no person shall be put twice in jeopardy for the same offense;
  - (b) no accused person shall, before final judgment, be compelled to advance money or fees to secure rights guaranteed by the Constitution or the laws of Utah, or to pay the costs of those rights when received;
  - (c) no person shall be compelled to give evidence against himself or herself;
  - (d) an individual may not be compelled to testify against the individual's spouse; and
  - (e) no person shall be convicted unless by verdict of a jury, or upon a plea of guilty or no contest, or upon a judgment of a court when trial by jury has been waived or, in case of an infraction, upon a judgment by a magistrate.

Amended by Chapter 302, 2025 General Session

**77-1-7 Dismissal without trial -- Custody or discharge of defendant.**

- (1)
  - (a) Further prosecution for an offense is not barred if the court dismisses an information or indictment based on the ground:
    - (i) there was unreasonable delay;
    - (ii) the court is without jurisdiction;
    - (iii) the offense was not properly alleged in the information or indictment; or
    - (iv) there was a defect in the impaneling or the proceedings relating to the grand jury.
  - (b) The court may make orders regarding custody of the defendant pending the filing of new charges as the interest of justice may require. Otherwise, the defendant shall be discharged and bail exonerated.
- (2) An order of dismissal based upon unconstitutional delay in bringing the defendant to trial or upon the statute of limitations is a bar to any other prosecution for the offense charged.

Enacted by Chapter 7, 1990 General Session