

***Effective 5/3/2023***

***Effective until 2/16/2024***

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

- (1) As used in this section:
  - (a) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.
  - (b) "Violent felony" means the same as that term is defined in Subsection 76-3-203.5(1)(c)(i).
- (2) A county jail official may release an individual from a jail facility on the individual's own recognizance if:
  - (a) the individual was arrested without a warrant;
  - (b) the individual was not arrested for:
    - (i) a violent felony;
    - (ii) a qualifying offense;
    - (iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or
    - (iv) an offense described in Subsection 76-9-101(4);
  - (c) law enforcement has not submitted a probable cause statement to a court or magistrate;
  - (d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
  - (e) the individual qualifies for release under the written policy described in Subsection (3) for the county.
- (3)
  - (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.
  - (b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.
  - (c) A county sheriff may include in the written policy the criteria for release relating to:
    - (i) criminal history;
    - (ii) prior instances of failing to appear for a mandatory court appearance;
    - (iii) current employment;
    - (iv) residency;
    - (v) ties to the community;
    - (vi) an offense for which the individual was arrested;
    - (vii) any potential criminal charges that have not yet been filed;
    - (viii) the individual's health condition;
    - (ix) any potential risks to a victim, a witness, or the public; and
    - (x) any other similar factor a sheriff determines is relevant.
- (4) Nothing in this section prohibits a court and a county from entering into an agreement regarding release.