***Effective 5/6/2026***

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

(1)

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

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

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

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

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

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

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

(c) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order of detention under Subsection (1)(a)(iii) if the individual is arrested for a felony offense and the magistrate finds:

(i) there is substantial evidence to support the individual's arrest for the felony offense;

(ii) the individual committed the felony offense while:

(A) the individual was on parole or probation for a conviction of a felony offense; or

(B) the individual was released and awaiting trial on a previous charge for a felony offense; and

(iii) based on information reasonably available to the magistrate, the individual:

(A) is a habitual offender as defined in Section 77-18-102; or

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

(d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in Subsection (1)(c).

(2)

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

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

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

(ii) if a party requests a delay; or

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

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

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

(3)
(a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:
(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;
(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or
(iii) subject to the requirements of Subsection (10), order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.
(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.
(4) In making a determination about pretrial release, a magistrate or judge shall impose:
(a) only conditions of release that are reasonably available; and
(b) conditions of release that 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.
(5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:
(a) not commit a federal, state, or local offense during the period of pretrial release;
(b) avoid contact with a victim of the alleged offense;
(c) avoid contact with a witness who:
(i) may testify concerning the alleged offense; and
(ii) is named in the pretrial status order;
(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;
(e) submit to drug or alcohol testing;
(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;
(g) submit to electronic monitoring or location device tracking;
(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;
(i) maintain employment or actively seek employment if unemployed;
(j) maintain or commence an education program;
(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;
(l) comply with an off-limits order entered under Section 78B-7-1302;
(m) comply with specified restrictions on personal associations, place of residence, or travel;
(n) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;
(o) comply with a specified curfew;
(p) forfeit or refrain from possession of a firearm or other dangerous weapon;
(q) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;
(r) comply with requirements for house arrest;

(s) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;
(t) remain in custody of one or more designated individuals who agree to:
(i) supervise and report on the behavior and activities of the individual; and
(ii) encourage compliance with all court orders and attendance at all required court proceedings;
(u) comply with a financial condition; or
(v) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).
(6)
(a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.
(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.
(c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.
(7)
(a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall, when determining the amount of the financial condition, refer to the financial condition schedule in Section 77-20-205.5 and consider the individual's risk of failing to appear and ability to pay.
(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:
(i) the county jail official's action to fix a financial condition; or
(ii) the amount of the financial condition that the individual was required to pay for pretrial release.
(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.
(8) In making a determination about pretrial release, the magistrate or judge may:
(a) rely upon information contained in:
(i) the indictment or information;
(ii) any sworn or probable cause statement or other information provided by law enforcement;
(iii) a pretrial risk assessment;
(iv) an affidavit of indigency described in Section 78B-22-201.5;
(v) witness statements or testimony;
(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or
(vii) any other reliable record or source, including proffered evidence; and
(b) consider:
(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:
(A) whether the offense is a violent offense; and
(B) the vulnerability of a witness or alleged victim;
(ii) the nature and circumstances of the individual, including the individual's:
(A) character;

(B) physical and mental health;
(C) family and community ties;
(D) employment status or history;
(E) financial resources;
(F) past criminal conduct;
(G) history of drug or alcohol abuse; and
(H) history of timely appearances at required court proceedings;
(iii) the potential danger to another individual, or individuals, posed by the release of the individual;
(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;
(v) the availability of:
(A) other individuals who agree to assist the individual in attending court when required; or
(B) supervision of the individual in the individual's community;
(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or
(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.
(9) The magistrate or judge may not base a determination about pretrial release solely:
(a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony; or
(b) on an algorithm or a risk assessment tool score.
(10) If the magistrate or judge issues an order in accordance with Subsection (3)(a)(iii), the magistrate or judge shall make sufficiently detailed findings of fact on the risk of substantial danger or flight from the court's jurisdiction to enable a reviewing court to ensure that the magistrate's or judge's determination reasonably considered all of the evidence presented to the court.
(11) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:
(a) may not be released before the individual's first appearance before a magistrate or judge; and
(b) may be denied pretrial release by the magistrate or judge.

Amended by Chapter 113, 2026 General Session