

**JAIL RELEASE AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Stephen G. Handy

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**LONG TITLE**

**General Description:**

This bill modifies Title 77, Chapter 20, Bail.

**Highlighted Provisions:**

This bill:

► clarifies that a person arrested for violation of a jail release agreement or jail release order:

- may not be released before the accused's first judicial appearance; and
- may be denied bail under Section 77-20-2.5; and

► makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-20-1**, as last amended by Laws of Utah 2008, Chapter 373

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

Section 1. Section **77-20-1** is amended to read:

**77-20-1. Right to bail -- Denial of bail -- Hearing.**

(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:

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

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

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

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

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

46 (a) ensure the appearance of the accused;

47 (b) ensure the integrity of the court process;

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

50 (d) ensure the safety of the public.

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

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

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

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

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

59 (a) the indictment or information;

60 (b) any sworn probable cause statement;

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

62 (d) any other reliable record or source.

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

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

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

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

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

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

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

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