

PRETRIAL DETENTION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses requirements for pretrial release and detention.

Highlighted Provisions:

This bill:

- ▶ removes the presumption of release for a person arrested for certain criminal offenses while the person awaits trial;
- ▶ removes the requirement that a person who is eligible for pretrial release be released under the least restrictive, reasonably available conditions to ensure the appearance of the person and the safety of the public;
- ▶ removes the specific list of additional pretrial release conditions that may be ordered by the court;
- ▶ alters procedures for pretrial detention hearings;
- ▶ changes the time allowance for bail forfeiture;
- ▶ provides procedures for forfeited bail;
- ▶ modifies reporting requirements related to persons released from law enforcement custody on various conditions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

30 AMENDS:

- 31 **77-7-20**, as last amended by Laws of Utah 2020, Chapter 185
- 32 **77-7-21**, as last amended by Laws of Utah 2020, Chapter 185
- 33 **77-17-8**, as last amended by Laws of Utah 2020, Chapter 185
- 34 **77-18a-1**, as last amended by Laws of Utah 2020, Chapter 185
- 35 **77-20-1**, as last amended by Laws of Utah 2020, Chapters 142 and 185
- 36 **77-20-1.1**, as enacted by Laws of Utah 2020, Chapter 185
- 37 **77-20-4**, as last amended by Laws of Utah 2020, Chapter 185
- 38 **77-20-7**, as last amended by Laws of Utah 2020, Chapter 185
- 39 **77-20-8**, as last amended by Laws of Utah 2020, Chapter 185
- 40 **77-20-8.5**, as last amended by Laws of Utah 2020, Chapter 185
- 41 **77-20-9**, as last amended by Laws of Utah 2020, Chapter 185
- 42 **77-20-10**, as last amended by Laws of Utah 2020, Chapters 142 and 185
- 43 **77-20b-101**, as last amended by Laws of Utah 2020, Chapter 185
- 44 **77-20b-102**, as last amended by Laws of Utah 2020, Chapter 185
- 45 **77-20b-104**, as last amended by Laws of Utah 2020, Chapter 185
- 46 **78A-2-220**, as last amended by Laws of Utah 2020, Chapter 185

47 ENACTS:

48 **77-20-3.1**, Utah Code Annotated 1953

49 **Utah Code Sections Affected by Coordination Clause:**

50 **77-20-1**, as last amended by Laws of Utah 2020, Chapters 142 and 185



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

53 Section 1. Section **77-7-20** is amended to read:

54 **77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing --**

55 **Contents of citations.**

56 (1) Except as provided in Subsection (4), a peace officer or other authorized official
57 who issues a citation pursuant to Section **77-7-18** shall give the citation to the individual cited

58 and shall, within five business days, electronically file the data from Subsections (2)(a) through
59 (2)(h) with the court specified in the citation. The data transmission shall use the court's
60 electronic filing interface. A nonconforming filing is not effective.

61 (2) The citation issued under authority of this chapter shall contain the following data:

62 (a) the name, address, and phone number of the court before which the individual is to
63 appear;

64 (b) the name and date of birth of the individual cited;

65 (c) a brief description of the offense charged;

66 (d) the date, time, and place at which the offense is alleged to have occurred;

67 (e) the date on which the citation was issued;

68 (f) the name of the peace officer or official who issued the citation, and the name of the
69 arresting individual if a private party made the arrest and the citation was issued in lieu of
70 taking the arrested individual before a magistrate;

71 (g) the time and date on or date range during which the individual is to appear or a
72 statement that the court will notify the individual of the time to appear;

73 (h) whether the offense is a domestic violence offense; and

74 (i) a notice containing substantially the following language:

75 **READ CAREFULLY**

76 This citation is not an information and will not be used as an information without your
77 consent. If an information is filed you will be provided a copy by the court. You MUST
78 appear in court on or before the time set in this citation or as directed by the court. IF YOU
79 FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

80 (3) By electronically filing the data with the court, the peace officer or official affirms
81 to the court that:

82 (a) the citation or information, including the summons and complaint, was [~~delivered~~
83 to] served upon the defendant in accordance with the law;

84 (b) the defendant committed the offense [~~set forth~~] described in the [~~citation~~] served
85 documents; and

86 (c) the court to which the defendant was directed to appear has jurisdiction over the
87 offense charged.

88 (4) (a) If a citing law enforcement officer is not reasonably able to access the e-filing
89 system, the citation need not be filed electronically if being filed with a justice court.

90 (b) The court may accept an electronic filing received after five business days if:

91 (i) the defendant consents to the filing; and

92 (ii) the court finds the interests of justice would be best served by accepting the filing.

93 Section 2. Section 77-7-21 is amended to read:

94 **77-7-21. Proceeding on citation -- Voluntary remittance of fine -- Parent**
95 **signature required -- Information, when required.**

96 (1) (a) A citation filed with the court may, with the consent of the defendant, serve in
97 lieu of an information to which the defendant may plead guilty or no contest to the charge or
98 charges listed and be sentenced accordingly.

99 (b) If provided by the uniform fine schedule described in Section 76-3-301.5, or with
100 the court's approval, an individual may remit the fine and other penalties without a personal
101 appearance before the court in any case charging a class B misdemeanor or lower offense,
102 unless the charge is:

103 (i) a domestic violence offense as defined in Section 77-36-1;

104 (ii) a violation of Section 41-6a-502, driving under the influence of alcohol, drugs, or a
105 combination of both or with specified or unsafe blood alcohol concentration;

106 (iii) a violation of Section 41-6a-517, driving with any measurable controlled substance
107 in the body;

108 (iv) a violation of a local ordinance similar to the offenses described in Subsections

109 (1)(b)(i) through (iii); or

110 (v) a violation that appears to:

111 (A) affect a victim, as defined in Section 77-38a-102; or

112 (B) require restitution, as defined in Section 77-38a-102.

113 (c) The remittal of fines and other penalties shall be entered as a conviction and treated

114 the same as if the accused pleaded no contest.

115 (d) If the person cited is under 18 years of age, the court shall promptly mail a copy or
116 notice of the citation to the address as shown on the citation, to the attention of the parent or
117 guardian of the defendant.

118 (2) If the individual pleads not guilty to the offense charged, further proceedings shall
119 be held in accordance with the Rules of Criminal Procedure and all other applicable provisions
120 of this code.

121 Section 3. Section **77-17-8** is amended to read:

122 **77-17-8. Mistake in charging offense -- Procedure -- Witnesses.**

123 If, at any time before verdict or judgment, a mistake is made in charging the proper
124 offense, and there is probable cause to believe that the defendant is chargeable with another
125 offense, the court may commit the defendant or require the defendant [~~to comply with one or~~
126 ~~more pretrial release conditions in accordance with Section 77-20-1 to ensure the defendant's~~
127 ~~appearance in court]~~ to give bail under Section 77-20-1 for the defendant's appearance to
128 answer to the proper charge when filed, and may also require witnesses to give bail for their
129 appearance.

130 Section 4. Section **77-18a-1** is amended to read:

131 **77-18a-1. Appeals -- When proper.**

132 (1) A defendant may, as a matter of right, appeal from:

- 133 (a) a final judgment of conviction, whether by verdict or plea;
- 134 (b) an order made after judgment that affects the substantial rights of the defendant;
- 135 (c) an order adjudicating the defendant's competency to proceed further in a pending
136 prosecution; or

137 (d) an order denying bail, as provided in [~~Section 77-20-1~~] Subsection 77-20-1(9).

138 (2) In addition to any appeal permitted by Subsection (1), a defendant may seek
139 discretionary appellate review of any interlocutory order.

140 (3) The prosecution may, as a matter of right, appeal from:

- 141 (a) a final judgment of dismissal, including a dismissal of a felony information

142 following a refusal to bind the defendant over for trial;

143 (b) a pretrial order dismissing a charge on the ground that the court's suppression of
144 evidence has substantially impaired the prosecution's case;

145 (c) an order granting a motion to withdraw a plea of guilty or no contest;

146 (d) an order arresting judgment or granting a motion for merger;

147 (e) an order terminating the prosecution because of a finding of double jeopardy or
148 denial of a speedy trial;

149 (f) an order granting a new trial;

150 (g) an order holding a statute or any part of it invalid;

151 (h) an order adjudicating the defendant's competency to proceed further in a pending
152 prosecution;

153 (i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for
154 Execution, that an inmate sentenced to death is incompetent to be executed;

155 (j) an order reducing the degree of offense pursuant to Section 76-3-402; or

156 (k) an illegal sentence.

157 (4) In addition to any appeal permitted by Subsection (3), the prosecution may seek
158 discretionary appellate review of any interlocutory order entered before jeopardy attaches.

159 Section 5. Section 77-20-1 is amended to read:

160 **77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing**
161 **-- Motion to modify.**

162 (1) As used in this chapter:

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

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

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

169 ~~[(d) "Pretrial status order" means an order issued by the court exercising jurisdiction~~

170 ~~over an individual charged with a criminal offense that sets the terms and conditions of the~~
171 ~~individual's pretrial release or denies pretrial release and orders that the individual be detained~~
172 ~~pending resolution of the criminal charges.]~~

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

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

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

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

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

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

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

189 (e) domestic violence offense if the court finds:

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

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

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

197 ~~[(b) A court granting pretrial release shall impose the least restrictive reasonably~~

198 ~~available conditions of release on the individual who is the subject of the pretrial status order~~
199 ~~that the court determines will reasonably ensure:]~~

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

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

203 ~~[(iii) the safety and welfare of the public; and]~~

204 ~~[(iv) that the individual will not obstruct or attempt to obstruct the criminal justice~~
205 ~~process:]~~

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

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

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

210 ~~[(B) detaining the defendant until after the motion is heard is in the interests of justice~~
211 ~~and public safety:]~~

212 ~~[(4) (a) Except as otherwise provided in this section or Section 78B-7-802, the court~~
213 ~~shall order that an individual charged with a criminal offense be released on the individual's~~
214 ~~own recognizance, on condition that the individual appear at all required court proceedings, if~~
215 ~~the court finds that additional conditions are not necessary to reasonably ensure compliance~~
216 ~~with Subsection (3)(b):]~~

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

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

221 ~~[(ii) avoid contact with a victim or victims of the alleged offense;]~~

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

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

- 226 ~~[(v) submit to drug or alcohol testing;]~~
- 227 ~~[(vi) complete a substance abuse evaluation and comply with any recommended~~
- 228 ~~treatment or release program;]~~
- 229 ~~[(vii) submit to electronic monitoring or location device tracking;]~~
- 230 ~~[(viii) participate in inpatient or outpatient medical, behavioral, psychological, or~~
- 231 ~~psychiatric treatment;]~~
- 232 ~~[(ix) maintain employment, or if unemployed, actively seek employment;]~~
- 233 ~~[(x) maintain or commence an education program;]~~
- 234 ~~[(xi) comply with limitations on where the individual is allowed to be located or the~~
- 235 ~~times the individual shall be or may not be at a specified location;]~~
- 236 ~~[(xii) comply with specified restrictions on personal associations, place of residence, or~~
- 237 ~~travel;]~~
- 238 ~~[(xiii) report to a law enforcement agency, pretrial services program, or other~~
- 239 ~~designated agency at a specified frequency or on specified dates;]~~
- 240 ~~[(xiv) comply with a specified curfew;]~~
- 241 ~~[(xv) forfeit or refrain from possession of a firearm or other dangerous weapon;]~~
- 242 ~~[(xvi) if the individual is charged with an offense against a child, is limited or denied~~
- 243 ~~access to any location or occupation where children are, including any residence where children~~
- 244 ~~are on the premises, activities including organized activities in which children are involved,~~
- 245 ~~locations where children congregate, or where a reasonable person should know that children~~
- 246 ~~congregate;]~~
- 247 ~~[(xvii) comply with requirements for house arrest;]~~
- 248 ~~[(xviii) return to custody for a specified period of time following release for~~
- 249 ~~employment, schooling, or other limited purposes;]~~
- 250 ~~[(xix) remain in the custody of one or more designated individuals who agree to~~
- 251 ~~supervise and report on the behavior and activities of the individual charged and to encourage~~
- 252 ~~compliance with all court orders and attendance at all required court proceedings;]~~
- 253 ~~[(xx) comply with a financial condition; or]~~

254 ~~[(xxi) comply with any other condition that is necessary to reasonably ensure~~
255 ~~compliance with Subsection (3)(b).]~~

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

260 ~~[(5) In making a determination under Subsection (3), the court may rely on the~~
261 ~~following:]~~

262 ~~[(a) any form of pretrial services assessment;]~~

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

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

269 ~~[(d) the potential danger to another individual or individuals posed by the release of the~~
270 ~~individual;]~~

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

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

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

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

280 ~~[(6) (a) If the criminal charges filed against the individual include one or more offenses~~
281 ~~eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the~~

282 prosecution may file a motion for pretrial detention.]

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

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

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

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

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

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

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

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

302 ~~[(b) Criminal charges that create a rebuttable presumption of detention under~~
303 ~~Subsection (8)(a) include:]~~

304 ~~[(i) criminal homicide as defined in Section 75-5-201; and]~~

305 ~~[(ii) any offense for which the term of imprisonment may include life.]~~

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

309 ~~[(9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall~~

310 ~~issue the initial pretrial status order.]~~

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

316 (a) ensure the appearance of the accused;

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

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

320 (d) ensure the safety of the public.

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

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

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

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

329 (i) may be denied pretrial release by the court under Subsection (2); and

330 (ii) if denied pretrial release, may not be released before the individual's initial
331 appearance before the court.

332 ~~[(b) Nothing in this section precludes or nullifies a jail release agreement or jail release~~
333 ~~order required under Section 78B-7-802.]~~

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

335 (a) the indictment or information;

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

338 (c) any form of pretrial services assessment;

339 (d) witness statements or testimony; or

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

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

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

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

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

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

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

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

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

361 ~~[(I2)]~~ (8) Subsequent motions to modify a pretrial status order may be made only upon
362 a showing that there has been a material change in circumstances.

363 ~~[(I3)]~~ (9) An appeal may be taken from an order of a court denying bail to the Utah
364 Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the
365 determination under Subsection ~~[(7)]~~ (2).

366 ~~[(14)]~~ (10) For purposes of this section, any arrest or charge for a violation of Section
367 76-5-202, Aggravated murder, is a capital felony unless:

- 368 (a) the prosecutor files a notice of intent to not seek the death penalty; or
- 369 (b) the time for filing a notice to seek the death penalty has expired and the prosecutor
370 has not filed a notice to seek the death penalty.

371 Section 6. Section 77-20-1.1 is amended to read:

372 **77-20-1.1. Release data requirements.**

373 (1) The Administrative Office of the Courts shall submit the following data on
374 individuals for whom the Administrative Office of the Courts has a state identification number
375 broken down by judicial district to the Commission on Criminal and Juvenile Justice before
376 July 1 of each year:

- 377 (a) for the preceding calendar year:
 - 378 (i) the number of individuals charged with a criminal offense who failed to appear at a
379 required court proceeding while on pretrial release, in accordance with Section 77-20-1, under
380 each of the following categories of release:

- 381 (A) the individual's own recognizance;
- 382 (B) a financial condition; and
- 383 (C) a [~~pretrial~~] release condition other than a financial condition;

384 (ii) the number of offenses that carry a potential penalty of incarceration an individual
385 committed while on pretrial release, in accordance with Section 77-20-1, under each of the
386 following categories of release:

- 387 (A) the individual's own recognizance;
- 388 (B) a financial condition; and
- 389 (C) a [~~pretrial~~] release condition other than a financial condition; and

390 (iii) the total amount of fees and fines, including bond forfeiture, collected by the court
391 from an individual for the individual's failure to comply with a condition of [~~pretrial~~] release
392 under each of the following categories of release:

- 393 (A) an individual's own recognizance;

- 394 (B) a financial condition; and
- 395 (C) a [~~pretrial~~] release condition other than a financial condition; and
- 396 (b) at the end of the preceding calendar year:
 - 397 (i) the total number of outstanding warrants of arrest for individuals who were released
 - 398 from law enforcement custody, in accordance with Section 77-20-1, under each of the
 - 399 following categories of release:
 - 400 (A) the individual's own recognizance;
 - 401 (B) a financial condition; and
 - 402 (C) a [~~pretrial~~] release condition other than a financial condition;
 - 403 (ii) for each of the categories described in Subsection (1)(b)(i), the average length of
 - 404 time that the outstanding warrants had been outstanding; and
 - 405 (iii) for each of the categories described in Subsection (1)(b)(i), the number of
 - 406 outstanding warrants for arrest for crimes of each of the following categories:
 - 407 (A) a first degree felony;
 - 408 (B) a second degree felony;
 - 409 (C) a third degree felony;
 - 410 (D) a class A misdemeanor;
 - 411 (E) a class B misdemeanor; and
 - 412 (F) a class C misdemeanor.
 - 413 (2) Each county jail shall submit the following data, based on the preceding calendar
 - 414 year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:
 - 415 (a) the number of individuals released upon payment of monetary bail before appearing
 - 416 before a court;
 - 417 (b) the number of individuals released on the individual's own recognizance before
 - 418 appearing before a court; and
 - 419 (c) the amount of monetary bail, any fees, and any other money paid by or on behalf of
 - 420 individuals collected by the county jail.
 - 421 (3) The Commission on Criminal and Juvenile Justice shall compile the data collected

422 under this section and shall submit the compiled data in an electronic report to the Law
423 Enforcement and Criminal Justice Interim Committee before November 1 of each year.

424 Section 7. Section 77-20-3.1 is enacted to read:

425 **77-20-3.1. Release on own recognizance -- Changing amount of bail or conditions**
426 **of release.**

427 (1) Any person who may be admitted to bail may likewise be released on the person's
428 own recognizance in accordance with Subsection 77-20-1(3).

429 (2) After releasing the defendant on the defendant's own recognizance or admitting the
430 defendant to bail, the magistrate or court may:

431 (a) impose bail or increase or decrease the amount of the bail; and

432 (b) impose or change the conditions of release under Subsection 77-20-1(3).

433 Section 8. Section 77-20-4 is amended to read:

434 **77-20-4. Bail to be posted in cash, by credit or debit card, or by written**
435 **undertaking -- Specific monetary bail methods.**

436 (1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a
437 single amount per case or charge.

438 (b) Subject to Subsection (2), a defendant may choose to post the amount described in
439 Subsection (1)(a) by any of the following methods:

440 (i) in cash;

441 (ii) by written undertaking with sureties;

442 (iii) by written undertaking without sureties, at the discretion of the judge or
443 magistrate; or

444 (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

445 (2) A judge or magistrate may limit a defendant to a specific method of posting
446 [~~monetary~~] bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

447 (a) if, after charges are filed, the defendant fails to appear in the case on a bail bond
448 and the case involves a violent offense;

449 (b) in order to allow the defendant to voluntarily [~~forfeit monetary bail~~] remit the fine

450 in accordance with Section 77-7-21 and the offense with which the defendant is charged is
451 listed in the shared master offense table as one for which an appearance is not mandatory;

452 (c) if the defendant has failed to respond to a citation or summons and the offense with
453 which the defendant is charged is listed in the shared master offense table as one for which an
454 appearance is not mandatory;

455 (d) if a warrant is issued for the defendant solely for failure to pay a criminal judgment
456 account receivable, as defined in Section 77-32a-101, and the defendant's [monetary] bail is
457 limited to the amount owed; or

458 (e) if a court has entered a judgment of [bond] bail forfeiture under Section 77-20b-104
459 in any case involving the defendant.

460 (3) [~~Monetary bail~~] Bail may not be accepted without receiving in writing at the time
461 the [monetary] bail is posted the current mailing address, telephone number, and email address
462 of the surety.

463 (4) [~~Monetary bail paid~~] Bail posted by debit or credit card, less the fee charged by the
464 financial institution, shall be tendered to the courts.

465 (5) [~~Monetary bail~~] Bail refunded by the court may be refunded by credit to the debit or
466 credit card, or cash. The amount refunded shall be the full amount received by the court under
467 Subsection (4), which may be less than the full amount of the [monetary] bail set by the court.

468 (6) Before refunding [monetary] bail that is posted by the defendant in cash, by credit
469 card, or by debit card, the court may apply the amount posted toward accounts receivable, as
470 defined in Section 77-32a-101, that are owed by the defendant in the priority set forth in
471 Section 77-38a-404.

472 Section 9. Section 77-20-7 is amended to read:

473 **77-20-7. Duration of liability on undertaking -- Notices to sureties -- Exoneration**
474 **if charges not filed.**

475 (1) (a) Except as provided in Subsection (1)(b), the principal and the sureties on [~~a~~
476 ~~bond or other~~] the written undertaking are liable on the [~~bond or other written~~] undertaking
477 during all proceedings and for all court appearances required of the defendant up to and

478 including the surrender of the defendant for sentencing, irrespective of any contrary provision
479 in the [~~bond or other written~~] undertaking. Any failure of the defendant to appear when
480 required is a breach of the conditions of the [~~bond or other written~~] undertaking or bail and
481 subjects [~~the bond~~] it to forfeiture, regardless of whether or not notice of appearance was given
482 to the sureties. Upon sentencing the bail bond [~~or other written undertaking~~] shall be
483 exonerated without motion.

484 (b) If the sentence includes a commitment to a jail or prison, the bail bond [~~or other~~
485 ~~written undertaking~~] shall be exonerated when the defendant appears at the appropriate jail or
486 prison, unless the judge does not require the defendant to begin the commitment within seven
487 days, in which case the bail bond [~~or other written undertaking~~] is exonerated upon sentencing.

488 (c) For purposes of this section, an order of the court accepting a plea in abeyance
489 agreement and holding that plea in abeyance pursuant to Title 77, Chapter 2a, Pleas in
490 Abeyance, is considered to be the same as a sentencing upon a guilty plea.

491 (d) Any suspended or deferred sentencing is not the responsibility of the surety and the
492 bail bond is exonerated without any motion, upon acceptance of the court and the defendant of
493 a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred
494 sentencing reviews or any other deferred sentencing agreement.

495 (e) If a surety issues a bail bond after sentencing, the surety is liable on the undertaking
496 during all proceedings and for all court appearances required of the defendant up to and
497 including the defendant's appearance to commence serving the sentence imposed under
498 Subsection (1).

499 [~~(2) If the prosecutor does not file an information, indictment, or request to extend time~~
500 ~~120 days after the date on which the bond or other written undertaking is received, the court~~
501 ~~shall:]~~

502 [~~(a) relieve a person from conditions of release;]~~

503 [~~(b) refund any monetary bail, as provided in Subsection 77-20-4(5); and]~~

504 [~~(c) exonerate any bond or other written undertaking without further order of the~~
505 ~~court.]~~

506 ~~[(3) (a) A request to extend time shall:]~~
507 ~~[(i) be served on any surety and the defendant or the defendant's attorney; and]~~
508 ~~[(ii) be granted for a period of up to 60 days:]~~
509 ~~[(b) A court may grant a request to extend time for a period of up to 120 days upon a~~
510 ~~showing of good cause:]~~
511 ~~[(c) An extension of time does not prohibit the proper filing of charges against a person~~
512 ~~at any time:]~~

513 (2) If no information or indictment charging a person with an offense is filed in court
514 within 120 days after the date on which the bail undertaking or cash is received, the court may
515 relieve a person from conditions of release at the person's request, and the bail bond or
516 undertaking is exonerated without further order of the court unless the prosecutor requests an
517 extension of time before the end of the 120-day period by:

518 (a) filing a notice for extension with the court; and
519 (b) serving the notice for extension upon the sureties and the person or the person's
520 attorney.

521 (3) A court may extend bail and conditions of release for good cause.

522 (4) Subsection (2) does not prohibit the filing of charges against a person at any time.

523 (5) If the court does not set on a calendar any hearings on a case within 18 months after
524 the last court docket activity on a case, the undertaking of bail is exonerated without motion.

525 Section 10. Section **77-20-8** is amended to read:

526 **77-20-8. Grounds for detaining or releasing defendant on conviction and prior to**
527 **sentence.**

528 (1) Upon conviction, by plea or trial, the court shall order that the convicted defendant
529 who is waiting imposition or execution of sentence be detained, unless the court finds by clear
530 and convincing evidence presented by the defendant that the defendant is not likely to flee the
531 jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial
532 and economic safety or well-being of any other person or the community if released.

533 (2) If the court finds the defendant does not need to be detained, the court shall order

534 the release of the defendant on suitable conditions, which may include the conditions under
535 Subsection [~~77-20-1(4)~~] 77-20-10(2).

536 Section 11. Section **77-20-8.5** is amended to read:

537 **77-20-8.5. Sureties -- Surrender of defendant -- Arrest of defendant.**

538 (1) (a) Sureties may at any time prior to a defendant's failure to appear surrender the
539 defendant and obtain exoneration of [~~monetary~~] bail, by notifying the clerk of the court in
540 which the [~~monetary~~] bail was posted of the defendant's surrender and requesting exoneration.
541 Notification shall be made immediately following the surrender by surface mail, electronic
542 mail, or fax.

543 (b) To effect surrender, a certified copy of the surety's undertaking from the court in
544 which it was posted or a copy of the [~~monetary~~] bail agreement with the defendant shall be
545 delivered to the on-duty jailer, who shall detain the defendant in the on-duty jailer's custody as
546 upon a commitment, and shall in writing acknowledge the surrender upon the copy of the
547 undertaking or [~~monetary~~] bail agreement. The certified copy of the undertaking or copy of the
548 [~~monetary~~] bail agreement upon which the acknowledgment of surrender is endorsed shall be
549 filed with the court. The court may then, upon proper application, order the undertaking
550 exonerated and [~~shall~~] may order a refund of any paid premium, or part of a premium, as it
551 finds just.

552 (2) For the purpose of surrendering the defendant, the sureties may:

553 (a) arrest the defendant:

554 (i) at any time before the defendant is finally exonerated; and

555 (ii) at any place within the state; and

556 (b) surrender the defendant to any county jail booking facility in Utah.

557 (3) An arrest under this section is not a basis for exoneration of the bail bond under
558 Section 77-20b-101.

559 (4) A surety acting under this section is subject to Title 53, Chapter 11, Bail Bond
560 Recovery Act.

561 Section 12. Section **77-20-9** is amended to read:

562 **77-20-9. Disposition of forfeitures.**

563 If by reason of the neglect of the defendant to appear, money deposited as a financial
564 condition or money paid by sureties on bond is forfeited and the forfeiture is not discharged or
565 remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment
566 of the court, pay over the money forfeited as follows:

567 (1) the forfeited amount in cases in precinct justice courts or in municipal justice courts
568 shall be distributed as provided in Sections 78A-7-120 and 78A-7-121; and

569 (2) in all other cases:

570 (a) where the financial condition was paid by a surety:

571 ~~[(a)]~~ (i) 60% of the forfeited ~~[bond]~~ amount shall be paid to the Pretrial Release
572 Programs Special Revenue Fund established in Section 63M-7-215;

573 ~~[(b)-25%]~~ (ii) 20% of the forfeited ~~[bond]~~ amount shall be paid to the General Fund;
574 and

575 ~~[(c)-15%]~~ (iii) 20% of the forfeited ~~[bond]~~ amount shall be paid to the prosecuting
576 agency that brings an action to collect under Section 77-20b-104[:]; and

577 (b) where the financial condition was paid without the assistance of a surety:

578 (i) 75% of the forfeited amount shall be paid to the Pretrial Release Programs Special
579 Revenue Fund established in Section 63M-7-215; and

580 (ii) 25% of the forfeited amount shall be paid to the General Fund.

581 Section 13. Section 77-20-10 is amended to read:

582 **77-20-10. Grounds for detaining defendant while appealing the defendant's**
583 **conviction -- Conditions for release while on appeal.**

584 (1) The court shall order that a defendant who has been found guilty of an offense in a
585 court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an
586 appeal or a petition for a writ of certiorari, be detained, unless the court finds:

587 (a) the appeal raises a substantial question of law or fact likely to result in:

588 (i) reversal;

589 (ii) an order for a new trial; or

590 (iii) a sentence that does not include a term of imprisonment in jail or prison;
591 (b) the appeal is not for the purpose of delay; and
592 (c) by clear and convincing evidence presented by the defendant that the defendant is
593 not likely to flee the jurisdiction of the court, and will not pose a danger to the physical,
594 psychological, or financial and economic safety or well-being of any other person or the
595 community if released.

596 (2) If the court makes a finding under Subsection (1) that justifies not detaining the
597 defendant, the court shall order the release of the defendant, subject to conditions that result in
598 the least restrictive [~~reasonably available~~] condition or combination of conditions that the court
599 determines will reasonably ensure the appearance of the defendant as required and the safety of
600 any other individual, property, and the community. The conditions may include [~~the conditions~~
601 ~~described in Subsection 77-20-1(4)(b).~~] that the defendant:

602 (a) post appropriate bail;

603 (b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in an
604 amount necessary to ensure the appearance of the defendant as required;

605 (c) (i) execute a written agreement to forfeit, upon failing to appear as required,
606 designated property, including money, as is reasonably necessary to ensure the appearance of
607 the defendant; and

608 (ii) post with the court indicia of ownership of the property or a percentage of the
609 money as the court may specify;

610 (d) not commit a federal, state, or local crime during the period of release;

611 (e) remain in the custody of a designated person who agrees to assume supervision of
612 the defendant and who agrees to report any violation of a release condition to the court, if the
613 designated person is reasonably able to assure the court that the defendant will appear as
614 required and will not pose a danger to the safety of any other person or the community;

615 (f) maintain employment, or if unemployed, actively seek employment;

616 (g) maintain or commence an educational program;

617 (h) abide by specified restrictions on personal associations, place of abode, or travel;

618 (i) avoid all contact with the victims of the offense and with any witnesses who
619 testified against the defendant or potential witnesses who may testify concerning the offense if
620 the appeal results in a reversal or an order for a new trial;

621 (j) report on a regular basis to a designated law enforcement agency, pretrial services
622 agency, or other designated agency;

623 (k) comply with a specified curfew;

624 (l) not possess a firearm, destructive device, or other dangerous weapon;

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

627 (n) undergo available medical, psychological, or psychiatric treatment, including
628 treatment for drug or alcohol dependency, and remain under the supervision of or in a specified
629 institution if required for that purpose;

630 (o) return to custody for specified hours following release for employment, schooling,
631 or other limited purposes;

632 (p) satisfy any other condition that is reasonably necessary to ensure the appearance of
633 the defendant as required and to ensure the safety of any other person and the community; and

634 (q) if convicted of committing a sexual offense or an assault or other offense involving
635 violence against a child 17 years old or younger, is limited or denied access to any location or
636 occupation where children are, including:

637 (i) any residence where children are on the premises;

638 (ii) activities, including organized activities, in which children are involved; and

639 (iii) locations where children congregate, or where a reasonable person should know
640 that children congregate.

641 (3) The court may, in its discretion, amend an order granting release to impose
642 additional or different conditions of release.

643 (4) If the defendant is found guilty of an offense in a court not of record and files a
644 timely notice of appeal pursuant to Subsection 78A-7-118(1) for a trial de novo, the court shall
645 stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance

646 of the evidence that the defendant poses a danger to another person or the community.

647 (5) If a stay is ordered, the court may order post-conviction restrictions on the
648 defendant's conduct as appropriate, including:

649 (a) continuation of any pre-trial restrictions or orders;

650 (b) sentencing protective orders under Section [78B-7-804](#);

651 (c) drug and alcohol use;

652 (d) use of an ignition interlock; and

653 (e) posting appropriate [~~monetary~~] bail.

654 (6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense
655 under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

656 (7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by
657 the district court.

658 Section 14. Section **77-20b-101** is amended to read:

659 **77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on**
660 **failure of timely notice.**

661 (1) If a defendant who has posted bail fails to appear before the appropriate court as
662 required, the court shall, within 30 days [~~of the failure~~] after the day on which the defendant
663 fails to appear, issue a bench warrant that includes the original case number. The court shall
664 also direct that the surety [~~or surety insurer~~] be given notice of the nonappearance. The clerk of
665 the court shall:

666 (a) email notice of nonappearance to the surety [~~or surety insurer~~] at the email address
667 provided on the bond;

668 (b) notify the surety as listed on the bail bond of the name, address, and telephone
669 number of the prosecutor;

670 [~~(b)~~] (c) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's
671 office at the same time notice is sent under Subsection (1)(a); and

672 [~~(c)~~] (d) ensure that the name, address, business email address, and telephone number
673 of the surety[~~, its agent, or surety insurer~~] or the surety's agent as listed on the bail bond is

674 stated on the bench warrant.

675 (2) The prosecutor may email notice of nonappearance to the address of the surety [~~or~~
676 ~~surety insurer~~] as listed on the bail bond within 37 days after the date of the defendant's failure
677 to appear.

678 (3) If notice of nonappearance is not emailed to a surety [~~or surety insurer~~] as listed on
679 the bail bond, other than the defendant, in accordance with Subsection (1) or (2), the surety [~~or~~
680 ~~surety insurer~~] and [~~its~~] the surety's bail bond producer are relieved of further obligation under
681 the bail bond if the [~~surety or surety insurer have listed their current name and email addresses~~
682 ~~on the bond~~] surety's current name and address or the current name and address of the bail bond
683 agency are on the bail bond in the court's file.

684 (4) (a) (i) If a defendant appears in court within [~~30~~] seven days after a missed,
685 scheduled court appearance, the court may reinstate the bail bond without further notice to the
686 surety [~~or surety insurer~~].

687 (ii) If the defendant, while in custody, appears on the case for which the bail bond was
688 posted, the court may not reinstate the bail bond without the consent of the bail bond company.

689 (b) If a defendant fails to appear within [~~30~~] seven days after a scheduled court
690 appearance, the court may not reinstate the bail bond without the consent of the surety [~~or~~
691 ~~surety insurer~~].

692 (c) If the defendant is arrested and booked into a county jail booking facility pursuant
693 to a warrant for failure to appear on the original charges and the court is notified of the arrest,
694 or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of
695 judgment of forfeiture, the court shall exonerate the bail bond.

696 (d) Unless the court makes a finding of good cause why the bond should not be
697 exonerated, it shall exonerate the bail bond if:

698 (i) the surety [~~or surety insurer~~] has delivered the defendant to the county jail booking
699 facility in the county where the original charge or charges are pending;

700 (ii) the defendant has been released on a bond secured from a subsequent surety [~~or~~
701 ~~surety insurer~~] for the original charge and the failure to appear;

702 (iii) after an arrest, the defendant has escaped from jail or has been released on the
703 defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail
704 capacity, or by a sheriff's release under Section 17-22-5.5;

705 (iv) the surety [~~or surety insurer~~] has transported or agreed to pay for the transportation
706 of the defendant from a location outside of the county back to the county where the original
707 charge is pending, and the payment is in an amount equal to government transportation
708 expenses listed in Section 76-3-201; or

709 (v) the surety [~~or surety insurer~~] demonstrates by a preponderance of the evidence that:

710 (A) at the time the surety [~~or surety insurer~~] issued the bail bond, it had made
711 reasonable efforts to determine that the defendant was legally present in the United States;

712 (B) a reasonable person would have concluded, based on the surety's [~~or surety
713 insurer's~~] determination, that the defendant was legally present in the United States; and

714 (C) the surety [~~or surety insurer~~] has failed to bring the defendant before the court
715 because the defendant is in federal custody or has been deported.

716 (e) Under circumstances not otherwise provided for in this section, the court may
717 exonerate the bail bond if it finds that the prosecutor has been given reasonable notice of a
718 surety's [~~or surety insurer's~~] motion and there is good cause for the bail bond to be exonerated.

719 (f) If a surety's [~~or surety insurer's~~] bail bond has been exonerated under this section
720 and the surety [~~or surety insurer~~] remains liable for the cost of transportation of the defendant,
721 the surety [~~or surety insurer~~] may take custody of the defendant for the purpose of transporting
722 the defendant to the jurisdiction where the charge is pending.

723 Section 15. Section 77-20b-102 is amended to read:

724 **77-20b-102. Time for bringing defendant to court.**

725 (1) If notice of nonappearance is emailed to a surety [~~or surety insurer~~] under Section
726 77-20b-101, the surety [~~or surety insurer~~] may bring the defendant before the court or surrender
727 the defendant into the custody of a county sheriff within the state within [~~90 days after~~] six
728 months after the date of nonappearance, during which time a forfeiture action on the bail bond
729 may not be brought.

730 (2) A surety [~~or surety insurer~~] may request an extension of the [~~90-day~~] six-month
731 time period in Subsection (1), if the surety [~~or surety insurer~~] within that time:

732 (a) files a motion for extension with the court; and

733 (b) mails the motion for extension and a notice of hearing on the motion to the
734 prosecutor.

735 (3) The court may extend the [~~90-day~~] six-month time in Subsection (1) for not more
736 than 60 days, if the surety [~~or surety insurer~~] has complied with Subsection (2) and the court
737 finds good cause.

738 Section 16. Section **77-20b-104** is amended to read:

739 **77-20b-104. Forfeiture of bail.**

740 (1) If a surety [~~or surety insurer~~] fails to bring the defendant before the court within the
741 time provided in Section **77-20b-102**, the prosecuting attorney may request the forfeiture of the
742 [~~bond~~] bail by:

743 (a) filing a motion for [~~bond~~] bail forfeiture with the court, supported by proof of
744 notice to the surety [~~or surety insurer~~] of the defendant's nonappearance; and

745 (b) emailing a copy of the motion to the surety [~~or surety insurer~~].

746 (2) A court shall enter judgment of [~~bond~~] bail forfeiture without further notice if the
747 court finds by a preponderance of the evidence:

748 (a) the defendant failed to appear as required;

749 (b) the surety [~~or surety insurer~~] was given notice of the defendant's nonappearance in
750 accordance with Section **77-20b-101**;

751 (c) the surety [~~or surety insurer~~] failed to bring the defendant to the court within the
752 [~~90-day~~] six-month period under Section **77-20b-102**; and

753 (d) the prosecutor has complied with the notice requirements under Subsection (1).

754 (3) If the surety [~~or surety insurer~~] shows by a preponderance of the evidence that it has
755 failed to bring the defendant before the court because the defendant is deceased through no act
756 of the surety [~~or surety insurer~~], the court may not enter judgment of [~~bond~~] bail forfeiture and
757 the bail bond is exonerated.

758 (4) The amount of [~~the bond~~] bail forfeited is the face amount of the bail bond, but if
759 the defendant is in the custody of another jurisdiction and the state extradites or intends to
760 extradite the defendant, the court may reduce the amount forfeited to the actual or estimated
761 costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5)
762 shall:

- 763 (a) identify the surety [~~or surety insurer~~] against whom judgment is granted;
 - 764 (b) specify the amount of [~~the bond~~] bail forfeited;
 - 765 (c) grant the forfeiture of the bail bond; and
 - 766 (d) be docketed by the clerk of the court in the civil judgment docket.
- 767 (5) A prosecutor may immediately commence collection proceedings to execute a
768 judgment of bail bond forfeiture against the assets of the surety.

769 Section 17. Section **78A-2-220** is amended to read:

770 **78A-2-220. Authority of magistrate.**

771 (1) Except as otherwise provided by law, a magistrate as defined in Section **77-1-3**
772 shall have the authority to:

- 773 (a) commit a person to incarceration prior to trial;
 - 774 (b) set or deny bail under Section **77-20-1** and release upon the payment of [~~monetary~~]
775 bail and satisfaction of any other conditions of release;
 - 776 (c) issue to any place in the state summonses and warrants of search and arrest and
777 authorize administrative traffic checkpoints under Section **77-23-104**;
 - 778 (d) conduct an initial appearance;
 - 779 (e) conduct arraignments;
 - 780 (f) conduct a preliminary examination to determine probable cause;
 - 781 (g) appoint attorneys and order recoupment of attorney fees;
 - 782 (h) order the preparation of presentence investigations and reports;
 - 783 (i) issue temporary orders as provided by rule of the Judicial Council; and
 - 784 (j) perform any other act or function authorized by statute.
- 785 (2) A judge of the justice court may exercise the authority of a magistrate specified in

786 Subsection (1) with the following limitations:

787 (a) a judge of the justice court may conduct an initial appearance, preliminary
788 examination, or arraignment as provided by rule of the Judicial Council; and

789 (b) a judge of the justice court may not [~~perform any act or function~~] set bail in a
790 capital felony nor deny bail in any case.

791 Section 18. **Coordinating H.B. 220 with H.B. 58 -- Substantive amendments.**

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

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

800 (i) ensure the appearance of the accused;

801 (ii) ensure the integrity of the court process;

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

804 (iv) ensure the safety of the public.

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

807 Section 19. **Coordinating H.B. 220 with H.B. 47 -- Substantive amendments and**
808 **technical renumbering.**

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

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

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

814 burden on the victim.";

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

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

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

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

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