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~~{deleted text}~~ shows text that was in HB0220 but was deleted in HB0220S02.

inserted text shows text that was not in HB0220 but was inserted into HB0220S02.

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Senator Kirk A. Cullimore proposes the following substitute bill:

PRETRIAL DETENTION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Schultz

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill ~~{removes the substantive changes to the bail system that were made by 2020 General Session H.B. 206, Bail and Pretrial Release Amendments}~~ addresses requirements for pretrial release and detention.

Highlighted Provisions:

This bill:

- ~~{—————→ provides procedural changes to law enforcement issued citations;~~
- ~~}~~ ▶ removes the presumption of release for a person arrested for certain criminal offenses while the person awaits trial;
- ~~{—————→ removes the list of specific offenses for which a person cannot avoid a personal appearance by remitting a fine and other penalties;~~
- ~~}~~ ▶ removes the requirement that a person who is eligible for pretrial release be released

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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;
- ▶ ~~{removes the specified}~~ alters procedures for pretrial detention hearings;
- ▶ changes the time allowance for bail forfeiture;

~~{ → removes a special revenue fund for pretrial services programs;~~

- ~~}~~
- ▶ 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:

~~{ None }~~ This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

77-7-20, as last amended by Laws of Utah 2020, Chapter 185

77-7-21, as last amended by Laws of Utah 2020, Chapter 185

77-17-8, as last amended by Laws of Utah 2020, Chapter 185

77-18a-1, as last amended by Laws of Utah 2020, Chapter 185

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

77-20-1.1, as enacted by Laws of Utah 2020, Chapter 185

77-20-4, as last amended by Laws of Utah 2020, Chapter 185

77-20-7, as last amended by Laws of Utah 2020, Chapter 185

77-20-8, as last amended by Laws of Utah 2020, Chapter 185

77-20-8.5, as last amended by Laws of Utah 2020, Chapter 185

77-20-9, as last amended by Laws of Utah 2020, Chapter 185

77-20-10, as last amended by Laws of Utah 2020, Chapters 142 and 185

77-20b-101, as last amended by Laws of Utah 2020, Chapter 185

77-20b-102, as last amended by Laws of Utah 2020, Chapter 185

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77-20b-104, as last amended by Laws of Utah 2020, Chapter 185

78A-2-220, as last amended by Laws of Utah 2020, Chapter 185

ENACTS:

77-20-3.1, Utah Code Annotated 1953

~~{REPEALS AND REENACTS}~~ Utah Code Sections Affected by Coordination Clause:

~~{77-7-19}~~ 77-20-1, as last amended by Laws of Utah 2020, ~~{Chapter 185~~

~~———— 77-7-21, as last amended by Laws of Utah 2020, Chapter 185~~

REPEALS:

~~———— 63M-7-215, as enacted by Laws of Utah 2020, Chapter 185~~

~~{~~ Chapters 142 and 185

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

~~{~~ ~~———— Section 1. Section 77-7-19 is repealed and reenacted to read:~~

~~———— 77-7-19. Appearance required by citation -- Arrest for failure to appear --~~

~~Transfer of cases -- Disposition of fines and costs.~~

~~———— (1) A person who receives a citation issued pursuant to Section 77-7-18 shall appear before the magistrate designated in the citation on or before the time and date specified in the citation unless the uniform bail schedule adopted by the Judicial Council or Subsection 77-7-21(1) permits forfeiture of bail for the offense charged.~~

~~———— (2) A citation may not require a person to appear sooner than five days or later than 14 days following the day on which the citation is issued.~~

~~———— (3) (a) A person who receives a citation and who fails to comply with Section 77-7-21 on or before the time and date and at the court specified is subject to arrest.~~

~~———— (b) The magistrate may issue a warrant of arrest based upon a citation that was served and filed in accordance with Section 77-7-20.~~

~~———— (4) Except where otherwise provided by law, a citation or information issued for violations of Title 41, Motor Vehicles, shall state that the person receiving the citation or information shall appear before the magistrate who has jurisdiction over the offense charged.~~

~~———— (5) Any justice court judge may, upon the motion of either the defense attorney or prosecuting attorney, based on a lack of territorial jurisdiction or the disqualification of the judge, transfer a case to a justice court with territorial jurisdiction or the district court within~~

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~~the county.~~

~~—— (6) (a) Clerks and other administrative personnel serving the courts shall ensure that all citations for violation of Title 41, Motor Vehicles, are filed in a court with jurisdiction and venue and shall refuse to receive citations that should be filed in another court.~~

~~—— (b) Fines, fees, costs, and forfeitures imposed or collected for violations of Title 41, Motor Vehicles, that are filed contrary to this section shall be paid to the entitled municipality or county by the state, county, or municipal treasurer who receives the fines, fees, costs, or forfeitures from the court that collected them.~~

~~—— (c) The accounting and remitting of sums due shall be at the close of the fiscal year of the municipality or county that receives fines, fees, costs, or forfeitures as a result of any improperly filed citations.~~

‡ Section ~~{2}~~1. Section 77-7-20 is amended to read:

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

Contents of citations.

(1) Except as provided in Subsection (4), a peace officer or other authorized official who issues a citation pursuant to Section 77-7-18 shall give the citation to the individual cited and shall, within five business days, electronically file the data from Subsections (2)(a) through (2)(h) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

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

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

(b) the name ~~{ff}~~ and date of birth ~~{ff}~~ of the individual cited;

(c) a brief description of the offense charged;

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

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

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

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

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- (h) whether the offense is a domestic violence offense; and
- (i) a notice containing substantially the following language:

READ CAREFULLY

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

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

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

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

(c) the court to which the defendant was directed to appear ~~{}~~ has jurisdiction over the offense charged ~~{}~~ is the proper court pursuant to Section 77-7-21.

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

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

- (i) the defendant consents to the filing; and
- (ii) the court finds the interests of justice would be best served by accepting the filing.

Section ~~{3}~~ 2. Section 77-7-21 is ~~repealed and reenacted to read:~~

~~77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature required -- Information, when required.~~

~~(1) (a) A copy of the citation issued under Section 77-7-18 that is filed with the magistrate may be used in lieu of an information to which the person cited may plead guilty or no contest and be sentenced or on which bail may be forfeited.~~

~~(b) With the magistrate's approval, a person may voluntarily forfeit bail without appearance being required in case of a class B misdemeanor or less.~~

~~(c) Voluntary forfeiture of bail shall be entered as a conviction and treated the same as if the accused pleaded guilty.~~

~~(d) If the person cited is under 18 years old, and if any of the charges allege a violation~~

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~~of Title 41, Motor Vehicles, the court shall promptly mail a copy or notice of the citation to the address as shown on the citation, to the attention of the parent or guardian of the defendant.~~

~~— (2) An information shall be filed and proceedings held in accordance with the Rules of Criminal Procedure and all other applicable provisions of this code if the person cited pleads not guilty to the offense charged.~~

~~— (3) (a) The information is an original pleading.~~

~~— (b) If a person cited waives by written agreement the filing of the information, the prosecution may proceed on the citation.~~ **amended to read:**

77-7-21. Proceeding on citation -- Voluntary ~~{forfeiture}~~ remittance of ~~{bail}~~ fine
-- Parent signature required -- Information, when required.

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

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

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

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

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

(iv) a violation of a local ordinance similar to the offenses described in Subsections (1)(b)(i) through (iii); or

(v) a violation that appears to:

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

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

(c) The remittal of fines and other penalties shall be entered as a conviction and treated the same as if the accused pleaded no contest.

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

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guardian of the defendant.

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

Section ~~(4)~~3. Section 77-17-8 is amended to read:

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

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

Section ~~(5)~~4. Section 77-18a-1 is amended to read:

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

- (1) A defendant may, as a matter of right, appeal from:
 - (a) a final judgment of conviction, whether by verdict or plea;
 - (b) an order made after judgment that affects the substantial rights of the defendant;
 - (c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or
 - (d) an order denying bail, as provided in ~~[Section 77-20-1]~~ Subsection 77-20-1(8).
- (2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.
- (3) The prosecution may, as a matter of right, appeal from:
 - (a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;
 - (b) a pretrial order dismissing a charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;
 - (c) an order granting a motion to withdraw a plea of guilty or no contest;
 - (d) an order arresting judgment or granting a motion for merger;
 - (e) an order terminating the prosecution because of a finding of double jeopardy or

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denial of a speedy trial;

(f) an order granting a new trial;

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

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

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

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

(k) an illegal sentence.

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

Section ~~76-3-5~~5. Section **77-20-1** is amended to read:

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

(1) As used in this chapter:

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

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

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

~~[(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.]~~

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

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

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

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

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

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

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

(e) domestic violence offense if the court finds:

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

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

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

~~[(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will 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:]~~

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

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

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

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

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

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

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

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

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

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

~~[(v) submit to drug or alcohol testing;]~~

~~[(vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;]~~

~~[(vii) submit to electronic monitoring or location device tracking;]~~

~~[(viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;]~~

~~[(ix) maintain employment, or if unemployed, actively seek employment;]~~

~~[(x) maintain or commence an education program;]~~

~~[(xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;]~~

~~[(xii) comply with specified restrictions on personal associations, place of residence, or travel;]~~

~~[(xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;]~~

~~[(xiv) comply with a specified curfew;]~~

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~~[(xv) forfeit or refrain from possession of a firearm or other dangerous weapon;]~~

~~[(xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;]~~

~~[(xvii) comply with requirements for house arrest;]~~

~~[(xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;]~~

~~[(xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;]~~

~~[(xx) comply with a financial condition, or]~~

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

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

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

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

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

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

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

~~[(e) if the individual was on probation, parole, or release pending an upcoming court~~

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proceeding at the time the individual allegedly committed the offense;]

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

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

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

~~[(6)(a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.]~~

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

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

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

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

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

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

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

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

~~[(b) Criminal charges that create a rebuttable presumption of detention under~~

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Subsection (8)(a) include:]

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

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

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

~~[(9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order.]~~

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

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

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

(d) ensure the safety of the public.

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

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

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

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

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

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

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

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

(a) the indictment or information;

(b) any sworn ~~statement or sworn~~ probable cause statement~~;~~

~~(c) ;~~ or other information provided by law enforcement;

(c) any form of pretrial services ~~agency~~ assessment;

(d) witness statements or testimony; or

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

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

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

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

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

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

~~[(11)]~~ ~~(~~6~~)~~ (7) (a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit each alleged victim to be notified and be present.

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

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

~~[(12)]~~ ~~(~~7~~)~~ (8) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

~~[(13)]~~ ~~(~~8~~)~~ (9) An appeal may be taken from an order of a court denying bail to the Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the

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determination under Subsection [(7)] (2).

[(14)] ~~(9)~~ 10. For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

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

Section ~~(7)~~ 6. Section **77-20-1.1** is amended to read:

77-20-1.1. Release data requirements.

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

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

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

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

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

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

- (A) an individual's own recognizance;
- (B) a financial condition; and
- (C) a [pretrial] release condition other than a financial condition; and

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(b) at the end of the preceding calendar year:

(i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody, in accordance with Section 77-20-1, under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a [~~pretrial~~] release condition other than a financial condition;

(ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and

(iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

(A) a first degree felony;

(B) a second degree felony;

(C) a third degree felony;

(D) a class A misdemeanor;

(E) a class B misdemeanor; and

(F) a class C misdemeanor.

(2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:

(a) the number of individuals released upon payment of monetary bail before appearing before a court;

(b) the number of individuals released on the individual's own recognizance before appearing before a court; and

(c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail.

(3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

Section ~~78~~7. Section **77-20-3.1** is enacted to read:

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

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(1) Any person who may be admitted to bail may likewise be released on the person's own recognizance in ~~{the discretion of the magistrate or court}~~ accordance with Subsection 77-20-1(3).

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

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

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

Section ~~79~~8. Section **77-20-4** is amended to read:

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

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

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

(i) in cash;

(ii) by written undertaking with sureties;

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

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

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

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

(b) in order to allow the defendant to voluntarily ~~[forfeit {} monetary {} bail]~~ remit the fine in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

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

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

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limited to the amount owed; or

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

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

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

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

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

Section ~~110~~⁹. Section 77-20-7 is amended to read:

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

(1) (a) Except as provided in Subsection (1)(b), the principal and the sureties on [~~a bond or other~~] the written undertaking are liable on the [~~bond or other written~~] undertaking during all proceedings and for all court appearances required of the defendant up to and including the surrender of the defendant for sentencing, irrespective of any contrary provision in the [~~bond or other written~~] undertaking. Any failure of the defendant to appear when required is a breach of the conditions of the [~~bond or other written~~] undertaking or bail and subjects [~~the bond~~] it to forfeiture, regardless of whether or not notice of appearance was given to the sureties. Upon sentencing the bail bond [~~or other written undertaking~~] shall be exonerated without motion.

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

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

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

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

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

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

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

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

~~[(3)(a) A request to extend time shall:]~~

~~[(i) be served on any surety and the defendant or the defendant's attorney; and]~~

~~[(ii) be granted for a period of up to 60 days.]~~

~~[(b) A court may grant a request to extend time for a period of up to 120 days upon a showing of good cause:]~~

~~[(c) An extension of time does not prohibit the proper filing of charges against a person at any time.]~~

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

(a) filing a notice for extension with the court; and

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(b) serving the notice for extension upon the sureties and the person or the person's attorney.

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

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

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

Section ~~+11~~10. Section 77-20-8 is amended to read:

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

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

(2) If the court finds the defendant does not need to be detained, the court shall order the release of the defendant on suitable conditions, which may include the conditions under Subsection ~~[77-20-1(4)]~~ 77-20-10(2).

Section ~~+12~~11. Section 77-20-8.5 is amended to read:

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

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

(b) To effect surrender, a certified copy of the surety's undertaking from the court in which it was posted or a copy of the ~~[monetary]~~ bail agreement with the defendant shall be delivered to the on-duty jailer, who shall detain the defendant in the on-duty jailer's custody as upon a commitment, and shall in writing acknowledge the surrender upon the copy of the undertaking or ~~[monetary]~~ bail agreement. The certified copy of the undertaking or copy of the ~~[monetary]~~ bail agreement upon which the acknowledgment of surrender is endorsed shall be filed with the court. The court may then, upon proper application, order the undertaking

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exonerated and ~~[shall]~~ may order a refund of any paid premium, or part of a premium, as it finds just.

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

(a) arrest the defendant:

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

(ii) at any place within the state; and

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

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

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

Section ~~{13}~~ 12. Section **77-20-9** is amended to read:

77-20-9. Disposition of forfeitures.

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

~~{ — (1) the forfeited bail in a case in or appealed from a district court shall be distributed as provided in Section 78A-5-110;~~

~~{ }~~ ~~{ } (1) { } (2) }~~ the forfeited ~~{ }~~ amount ~~{ bail }~~ in cases in precinct justice courts or in municipal justice courts shall be distributed as provided in Sections 78A-7-120 and 78A-7-121; ~~{ }~~ and ~~{ }~~

~~{ } (2)~~ in all other cases: ~~{ }~~

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

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

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

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

~~— (3) the forfeited bail in a case in justice court where the offense is not triable in that~~

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court}; and

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

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

(ii) 25% of the forfeited amount shall be paid to the General Fund~~}; and~~

~~———— (4) the forfeited bail in a case not provided for in this section shall be paid 50% to the state treasurer and the remaining 50% to the county treasurer in the county in which the violation occurred or the forfeited bail is collected}.~~

Section ~~{14}~~ 13. Section 77-20-10 is amended to read:

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

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

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

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

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

(a) post appropriate bail;

(b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in an

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amount necessary to ensure the appearance of the defendant as required;

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

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

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

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

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

(g) maintain or commence an educational program;

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

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

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

(k) comply with a specified curfew;

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

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

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

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

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

(q) if convicted of committing a sexual offense or an assault or other offense involving

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violence against a child 17 years old or younger, is limited or denied access to any location or occupation where children are, including:

- (i) any residence where children are on the premises;
- (ii) activities, including organized activities, in which children are involved; and
- (iii) locations where children congregate, or where a reasonable person should know that children congregate.

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

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

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

- (a) continuation of any pre-trial restrictions or orders;
- (b) sentencing protective orders under Section 78B-7-804;
- (c) drug and alcohol use;
- (d) use of an ignition interlock; and
- (e) posting appropriate [monetary] bail.

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

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

Section ~~†15~~14. Section **77-20b-101** is amended to read:

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

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

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(a) ~~{{}} email {{}} mail~~ notice of nonappearance ~~{{}} to {{}} by certified mail, return receipt requested, within 30 days to the address of~~ the surety ~~[or surety insurer]~~ at the email address provided on the bond~~{{}}~~;

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

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

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

~~—— (e) mail notice of the failure to appear to the bail bond agency and the surety insurer. —— };~~

(2) The prosecutor may ~~{{}} email {{}} mail~~ notice of nonappearance~~{{}} by certified mail, return receipt requested, {{}}~~ to the address of the surety ~~[or surety insurer]~~ as listed on the bail bond within 37 days after the date of the defendant's failure to appear.

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

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

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

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

(c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest,

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or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the bail bond.

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

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

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

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

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

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

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

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

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

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

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

Section ~~46~~15. Section **77-20b-102** is amended to read:

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

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

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

- (a) files a motion for extension with the court; and
- (b) mails the motion for extension and a notice of hearing on the motion to the

prosecutor.

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

Section ~~{17}~~16. Section **77-20b-104** is amended to read:

77-20b-104. Forfeiture of bail.

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

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

(b) ~~{f}~~emailing~~{f mailing}~~ a copy of the motion to the surety ~~[or surety insurer]~~.

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

(a) the defendant failed to appear as required;

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

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

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

(3) If the surety ~~[or surety insurer]~~ shows by a preponderance of the evidence that it has failed to bring the defendant before the court because the defendant is deceased through no act

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of the surety [~~or surety insurer~~], the court may not enter judgment of [~~bond~~] bail forfeiture and the bail bond is exonerated.

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

- (a) identify the surety [~~or surety insurer~~] against whom judgment is granted;
- (b) specify the amount of [~~the bond~~] bail forfeited;
- (c) grant the forfeiture of the bail bond; and
- (d) be docketed by the clerk of the court in the civil judgment docket.

(5) A prosecutor may immediately commence collection proceedings to execute a judgment of bail bond forfeiture against the assets of the surety.

Section ~~{18}~~ 17. Section **78A-2-220** is amended to read:

78A-2-220. Authority of magistrate.

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

- (a) commit a person to incarceration prior to trial;
- (b) set or deny bail under Section 77-20-1 and release upon the payment of [~~monetary~~]
bail and satisfaction of any other conditions of release;

(c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;

- (d) conduct an initial appearance;
- (e) conduct arraignments;
- (f) conduct a preliminary examination to determine probable cause;
- (g) appoint attorneys and order recoupment of attorney fees;
- (h) order the preparation of presentence investigations and reports;
- (i) issue temporary orders as provided by rule of the Judicial Council; and
- (j) perform any other act or function authorized by statute.

(2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

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

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

Section ~~{19. Repealer:~~

~~— This bill repeals:~~

~~— Section 63M-7-215, Pretrial}~~ 18. Coordinating H.B. 220 with H.B. 58 --

Substantive amendments.

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

"(3) (a) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court in a pretrial status order setting the terms and conditions of the individual's pretrial release ~~{programs special revenue fund -- Funding -- Uses:~~

~~that will reasonably:~~

(i) ensure the appearance of the accused;

(ii) ensure the integrity of the court process;

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

(iv) ensure the safety of the public.

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

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

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

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

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

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

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

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

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

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