

PRETRIAL AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill outlines requirements for pretrial detention and the handling of citations.

Highlighted Provisions:

This bill:

- ▶ requires that a magistrate make the determination to hold a person in pretrial detention after arrest;
- ▶ sets out required conditions for pretrial detention or release;
- ▶ details offenses for which pretrial release may not be granted;
- ▶ allows the court to permit a person who has received a citation to pay a fine rather than appear in court;
- ▶ directs the disposition of funds paid to the court when a person does not appear; and
- ▶ makes technical and conforming corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-920, as last amended by Laws of Utah 2015, Chapter 99

17-32-1, as last amended by Laws of Utah 2015, Chapter 99



- 28 [77-7-21](#), as last amended by Laws of Utah 2020, Chapter 185
- 29 [77-7-23](#), as last amended by Laws of Utah 2018, Chapter 140
- 30 [77-18a-1](#), as last amended by Laws of Utah 2020, Chapter 185
- 31 [77-20-1](#), as last amended by Laws of Utah 2020, Chapters 142 and 185
- 32 [77-20-4](#), as last amended by Laws of Utah 2020, Chapter 185
- 33 [77-20-9](#), as last amended by Laws of Utah 2020, Chapter 185

34 ENACTS:

35 [76-5-417](#), Utah Code Annotated 1953



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

38 Section 1. Section **10-3-920** is amended to read:

39 **10-3-920. Bail commissioner -- Powers and duties.**

40 (1) With the advice and consent of the city council and the board of commissioners in
41 other cities, the mayor of a city of the third, fourth, or fifth class may appoint from among the
42 officers and members of the police department of the city one or more discreet persons as a bail
43 commissioner.

44 (2) A bail commissioner shall have authority to fix and receive monetary bail for a
45 person arrested within the corporate limits of the city in accordance with the uniform [~~bail~~] fine
46 schedule adopted by the Judicial Council or a reasonable monetary bail for city ordinances not
47 contained in the schedule for:

- 48 (a) misdemeanors under the laws of the state; or
- 49 (b) violation of the city ordinances.

50 (3) A person who has been ordered by a bail commissioner to give monetary bail may
51 deposit with the bail commissioner the amount:

52 (a) in money, by cash, certified or cashier's check, personal check with check guarantee
53 card, money order, or credit card, if the bail commissioner has chosen to establish any of those
54 options; or

55 (b) by a bond issued by a licensed bail bond surety.

56 (4) Any money or bond collected by a bail commissioner shall be delivered to the
57 appropriate court within three days of receipt of the money or bond.

58 (5) The court may review the amount of bail ordered by a bail commissioner and

59 modify the amount of bail required for good cause.

60 Section 2. Section **17-32-1** is amended to read:

61 **17-32-1. Powers and duties of bail commissioners.**

62 (1) The county executive, with the advice and consent of the county legislative body,
63 may appoint one or more responsible and discreet members of the sheriff's department of the
64 county as a bail commissioner.

65 (2) A bail commissioner may:

66 (a) receive monetary bail for persons arrested in the county for a felony; and

67 (b) fix and receive bail for persons arrested in the county for a misdemeanor under the
68 laws of the state, or for a violation of any of the county ordinances in accordance with the
69 uniform ~~[bail]~~ fine schedule adopted by the Judicial Council or a reasonable monetary bail for
70 county ordinances not contained in the schedule.

71 (3) Any person who has been ordered by a magistrate, judge, or bail commissioner to
72 give monetary bail may deposit the amount with the bail commissioner:

73 (a) in money, by cash, certified or cashier's check, personal check with check guarantee
74 card, money order, or credit card, if the bail commissioner has chosen to establish any of those
75 options; or

76 (b) by a bond issued by a licensed bail bond surety.

77 (4) Any money or bond collected by a bail commissioner shall be delivered to the
78 appropriate court within three days of receipt of the money or bond.

79 (5) The court may review the amount of monetary bail ordered by a bail commissioner
80 and may modify the amount of bail required for good cause.

81 Section 3. Section **76-5-417** is enacted to read:

82 **76-5-417. Appearance of defendant required -- Considerations by court.**

83 (1) A defendant who has been arrested for a sexual offense shall appear in person or by
84 video before the court or a magistrate within one judicial day after the day on which the arrest
85 is made.

86 (2) A defendant who has been charged by citation, indictment, or information with a
87 sexual offense but has not been arrested, shall appear before the court in person for arraignment
88 or initial appearance as soon as practicable, but no later than 14 days after the next day on
89 which court is in session following the issuance of the citation or the filing of the indictment or

90 information.

91 (3) At the time of an appearance under Subsection (1) or (2), the court shall consider
92 imposing a pretrial protective order in accordance with Section 78B-7-803.

93 (4) **Appearances required by this section are mandatory and may not be waived.**

94 Section 4. Section 77-7-21 is amended to read:

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

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

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

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

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

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

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

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

111 (v) a violation that appears to:

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

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

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

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

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

121 of this code.

122 Section 5. Section 77-7-23 is amended to read:

123 **77-7-23. Delivery of prisoner arrested without warrant to magistrate -- Transfer**
124 **to court with jurisdiction -- Transfer of duties -- Violation as misdemeanor.**

125 (1) (a) When an arrest is made without a warrant by a peace officer or private person,
126 the ~~[person]~~ individual arrested shall be ~~[taken]~~ presented without unnecessary delay to ~~[the]~~ a
127 magistrate in the district court, the precinct of the county, or the municipality in which the
128 offense occurred, except under Subsection (2). ~~[An information stating the charge against the~~
129 ~~person shall be made before the magistrate]~~ A sworn statement containing the facts known to
130 support probable cause to believe the individual has committed a crime shall be presented to
131 the magistrate in accordance with Section 77-2-1.1 and the Utah Rules of Criminal Procedure.

132 (b) If the justice court judge of the precinct or municipality or the district court judge is
133 not available, the arrested ~~[person]~~ individual shall be taken before the magistrate within the
134 same county who is nearest to the scene of the alleged offense or nearest to the jail under
135 Subsection (2), who may act as committing magistrate for arraigning the accused, setting bail,
136 or issuing warrants.

137 (2) (a) If the arrested ~~[person]~~ individual under Subsection (1) must be transported
138 from jail to a magistrate, the ~~[person]~~ individual may be taken before the magistrate nearest to
139 the jail rather than the magistrate specified in Subsection (1) for arraignment, setting bail, or
140 issuing warrants.

141 (b) The case shall then be transferred to the court having jurisdiction.

142 (3) If a jail accepts custody of ~~[a person]~~ an individual arrested under Subsection (1),
143 the duties under this section of the peace officer or private person who makes the arrest are
144 transferred to the jail and the jail's personnel.

145 (4) A magistrate shall order an individual held without bail if the magistrate determines
146 probable cause exists to believe that the individual committed:

147 (a) a capital or first degree felony;

148 (b) a felony committed while on probation or parole;

149 (c) a felony when the magistrate finds probable cause to believe that the individual
150 would constitute a substantial danger to any other individual or to the community, or is likely
151 to flee the jurisdiction of the court, if released prior to prosecutors having an opportunity to file

152 charges;

153 (d) a felony when the magistrate finds there is probable cause to believe that the
154 individual violated a material condition of release while previously on bail;

155 (e) a domestic violence offense if the magistrate finds probable cause to believe that
156 the individual would constitute a substantial danger to an alleged victim of domestic violence if
157 released prior to prosecutors having an opportunity to file charges; or

158 (f) a violation of a protective order, stalking injunction, or violation of a jail release
159 agreement or jail release order pursuant to Section [78B-7-802](#) if the magistrate finds probable
160 cause to believe that the suspect would constitute a danger to an individual protected by the
161 order, injunction, or agreement.

162 (5) For individuals arrested for any offense not described in Subsections (4)(a) through
163 (f), a magistrate shall make an initial pretrial determination by considering the factors in
164 Subsections [77-20-1\(3\)\(b\)\(i\)](#) through (iv).

165 (6) Upon the filing of charges, or upon the expiration of the time to file charges for an
166 in-custody defendant, the magistrate's order denying release, or setting conditions of release,
167 shall be superseded by the pretrial status order issued under Subsection [77-20-1\(3\)\(a\)](#).

168 ~~[(4)]~~ (7) This section does not confer jurisdiction upon a court unless otherwise
169 provided by law.

170 ~~[(5)]~~ (8) Any officer or ~~[person violating]~~ individual who violates this section is guilty
171 of a class B misdemeanor.

172 Section 6. Section **77-18a-1** is amended to read:

173 **77-18a-1. Appeals -- When proper.**

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

175 (a) a final judgment of conviction, whether by verdict or plea;

176 (b) an order made after judgment that affects the substantial rights of the defendant;

177 (c) an order adjudicating the defendant's competency to proceed further in a pending
178 prosecution; or

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

180 (d) a pretrial status order under Section [77-20-1](#).

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

- 183 (3) The prosecution may, as a matter of right, appeal from:
184 (a) a final judgment of dismissal, including a dismissal of a felony information
185 following a refusal to bind the defendant over for trial;
186 (b) a pretrial order dismissing a charge on the ground that the court's suppression of
187 evidence has substantially impaired the prosecution's case;
188 (c) an order granting a motion to withdraw a plea of guilty or no contest;
189 (d) an order arresting judgment or granting a motion for merger;
190 (e) an order terminating the prosecution because of a finding of double jeopardy or
191 denial of a speedy trial;
192 (f) an order granting a new trial;
193 (g) an order holding a statute or any part of it invalid;
194 (h) an order adjudicating the defendant's competency to proceed further in a pending
195 prosecution;
196 (i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for
197 Execution, that an inmate sentenced to death is incompetent to be executed;
198 (j) an order reducing the degree of offense pursuant to Section 76-3-402; [or]
199 (k) an illegal sentence[-]; or
200 (l) a pretrial status order under Section 77-20-1.

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

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

204 **77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing**
205 **-- Motion to modify.**

206 (1) As used in this chapter:

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

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

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

213 (d) "Pretrial status order" means an order issued by the court exercising jurisdiction

214 over an individual charged with a criminal offense that sets the terms and conditions of the
215 individual's pretrial release or denies pretrial release and orders that the individual be detained
216 pending resolution of the criminal charges.

217 (e) "Substantial evidence" means evidence that is beyond a scintilla and that a
218 reasonable mind would accept as adequate to support a conclusion. Substantial evidence does
219 not require witness testimony.

220 ~~(e)~~ (f) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

221 ~~(f)~~ (g) "Surety insurer" means the same as that term is defined in Section

222 [31A-35-102](#).

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

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

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

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

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

237 (e) domestic violence offense, or a violation of a jail release agreement or jail release
238 court order issued in accordance with Section [78B-7-802](#), if the court finds:

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

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

242 (3) (a) A court exercising jurisdiction over an individual charged with ~~[or arrested for]~~
243 a criminal offense shall issue a pretrial status order designating the conditions to be imposed
244 upon the individual's release or ordering that the individual be detained under this section

245 during the time the individual awaits trial or other resolution of the criminal charges.

246 (b) A court granting pretrial release shall impose [~~the least restrictive reasonably~~
247 ~~available conditions of release~~] on the individual who is the subject of the pretrial status order
248 [~~that the court determines will reasonably~~] only the release conditions reasonably available and
249 necessary to ensure:

250 (i) the individual's appearance in court when required;

251 (ii) the safety of any witnesses or victims of the offense allegedly committed by the
252 individual;

253 (iii) the safety and welfare of the public; and

254 (iv) that the individual will not obstruct or attempt to obstruct the criminal justice
255 process.

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

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

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

261 (B) detaining the defendant until after the motion is heard is in the interests of justice
262 and public safety.

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

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

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

272 (ii) avoid contact with a victim or victims of the alleged offense;

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

275 (iv) not use or consume alcohol, or any narcotic drug or other controlled substance

276 except as prescribed by a licensed medical practitioner;

277 (v) submit to drug or alcohol testing;

278 (vi) complete a substance abuse evaluation and comply with any recommended
279 treatment or release program;

280 (vii) submit to electronic monitoring or location device tracking;

281 (viii) participate in inpatient or outpatient medical, behavioral, psychological, or
282 psychiatric treatment;

283 (ix) maintain employment, or if unemployed, actively seek employment;

284 (x) maintain or commence an education program;

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

287 (xii) comply with specified restrictions on personal associations, place of residence, or
288 travel;

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

291 (xiv) comply with a specified curfew;

292 (xv) forfeit or refrain from possession of a firearm or other dangerous weapon;

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

298 (xvii) comply with requirements for house arrest;

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

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

304 (xx) comply with a financial condition; or

305 (xxi) comply with any other condition that is necessary to reasonably ensure
306 compliance with Subsection (3)(b).

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

310 (5) In making a determination under ~~[Subsection (3)]~~ Subsections (3) and (4), the
311 court:

312 ~~(a)~~ (a) may rely on ~~[the following: (a)]~~ information contained in any form of pretrial
313 services assessment;

314 (b) shall, if presented, consider:

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

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

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

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

326 (v) whether the individual violated a material condition of release while previously on
327 bail; and

328 (vi) other evidence relevant to the individual's likelihood of fleeing or violating the law
329 if released; and

330 (c) may consider:

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

334 ~~[(g)]~~ (ii) the eligibility and willingness of the individual to participate in various
335 treatment programs, including drug treatment~~[-or]~~.

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

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

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

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

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

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

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

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

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

358 (8) (a) If an individual is charged with a criminal offense described in Subsection
359 (8)(b) and there is substantial evidence to support the charge, there is a rebuttable presumption
360 that the individual be detained.

361 (b) Criminal charges that create a rebuttable presumption of detention under
362 Subsection (8)(a) include:

363 (i) criminal homicide as defined in Section [~~75-5-201~~] [76-5-201](#); and

364 (ii) any offense for which the term of imprisonment may include life.

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

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

369 issue the initial pretrial status order.

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

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

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

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

377 ~~[(11)]~~ (10) (a) A motion to modify the initial pretrial status order may be made by a
378 party at any time upon notice to the opposing party sufficient to permit the opposing party to
379 prepare for hearing and to permit each alleged victim to be notified and be present.

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

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

385 (c) The provisions of Subsection (5) shall govern the information and considerations
386 for determining whether to modify the pretrial release order.

387 (d) The court shall consider any violation of a jail release agreement or jail release
388 order issued under Section [78B-7-802](#).

389 (e) The court may base its ruling on evidence provided at the hearing so long as each
390 party is provided an opportunity to present additional evidence or information relevant to
391 pretrial release.

392 ~~[(12)]~~ (11) Subsequent motions to modify a pretrial status order may be made only
393 upon a showing that there has been a material change in circumstances.

394 (12) Following the issuance of a pretrial status order, if an individual fails to appear in
395 court when required, or violates any material term of a pretrial status order the court may:

396 (a) issue a no bail warrant; or

397 (b) impose any other conditions necessary to comply with Subsection (3)(b).

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

400 determination under Subsection (7).

401 (14) For purposes of this section, any [~~arrest or~~] charge for a violation of Section
402 76-5-202, Aggravated murder, is a capital felony unless:

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

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

407 **77-20-4. Bail to be posted in cash, by credit or debit card, or by written**
408 **undertaking -- Specific monetary bail methods.**

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

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

- 413 (i) in cash;
- 414 (ii) by written undertaking with sureties;
- 415 (iii) by written undertaking without sureties, at the discretion of the judge or
416 magistrate; or
- 417 (iv) by credit or debit card, at the discretion of the judge or bail commissioner.

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

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

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

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

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

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

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

436 (4) Monetary bail paid by debit or credit card, less the fee charged by the financial
437 institution, shall be tendered to the courts.

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

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

445 Section 9. Section 77-20-9 is amended to read:

446 **77-20-9. Disposition of forfeitures.**

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

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

453 ~~[(2) in all other cases:]~~

454 (2) in cases where the financial condition was paid by a surety:

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

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

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

460 (3) in cases where the financial condition was paid without the assistance of a surety:

461 (a) 75% of the forfeited amount shall be paid to the Pretrial Release Programs Special

462 Revenue Fund established in Section [63M-7-215](#); and

463 (b) 25% of the forfeited amount shall be paid to the General Fund.