{deleted text} shows text that was in SB0171S02 but was deleted in SB0171S03.

inserted text shows text that was not in SB0171S02 but was inserted into SB0171S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Todd D. Weiler proposes the following substitute bill:

PRETRIAL DETENTION REVISIONS

2021 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Todd D. Weiler

H	louse	Sponsor:		

LONG TITLE

General Description:

This bill {makes changes to the pretrial detention process and }creates a task force.

Highlighted Provisions:

This bill:

- makes changes to the pretrial detention process;
 - allows for a defendant to appeal the denial of pretrial release;
- reates the Pretrial Services and Detention Task Force \{; and\}.
- * makes technical and conforming changes.

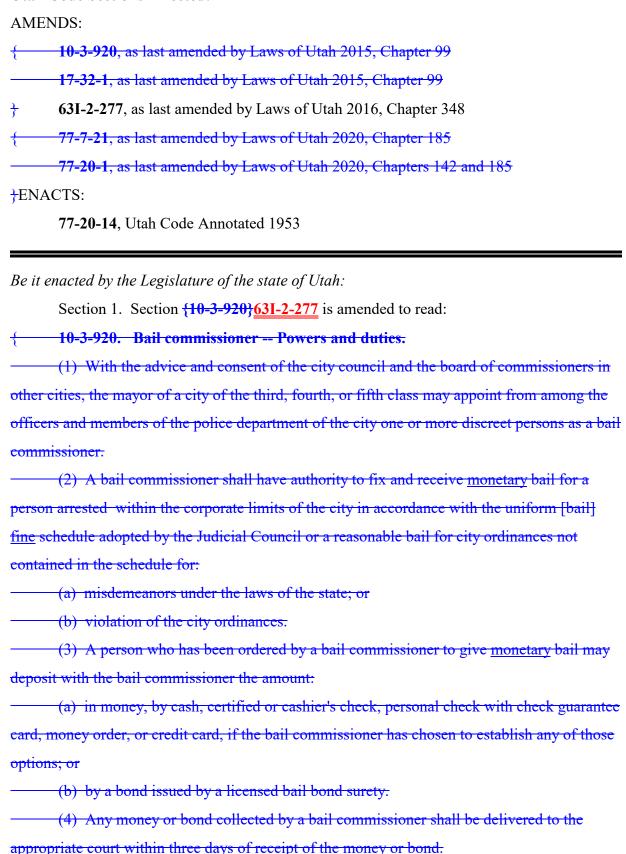
†Money Appropriated in this Bill:

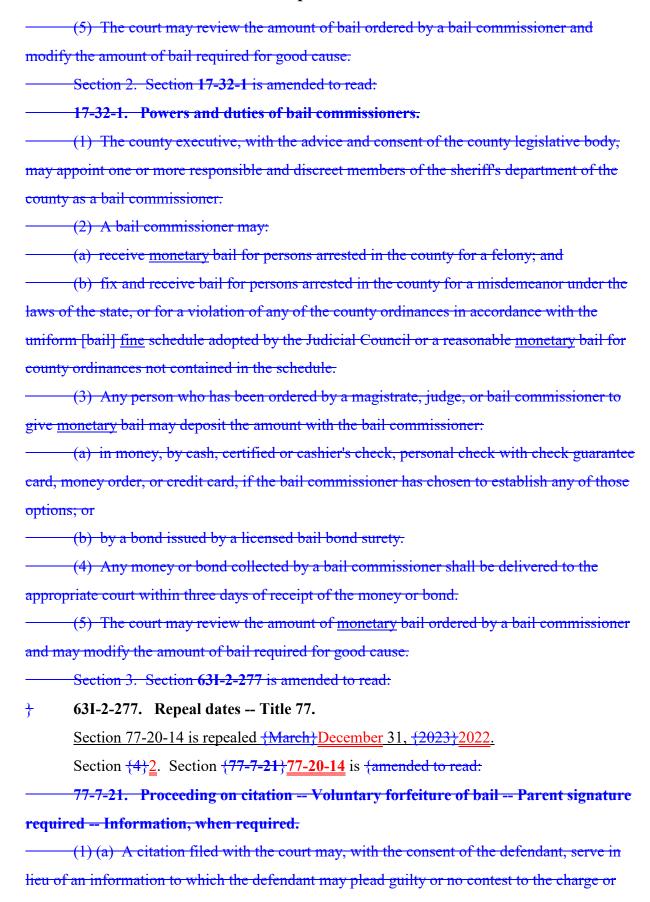
None

Other Special Clauses:

None

Utah Code Sections Affected:

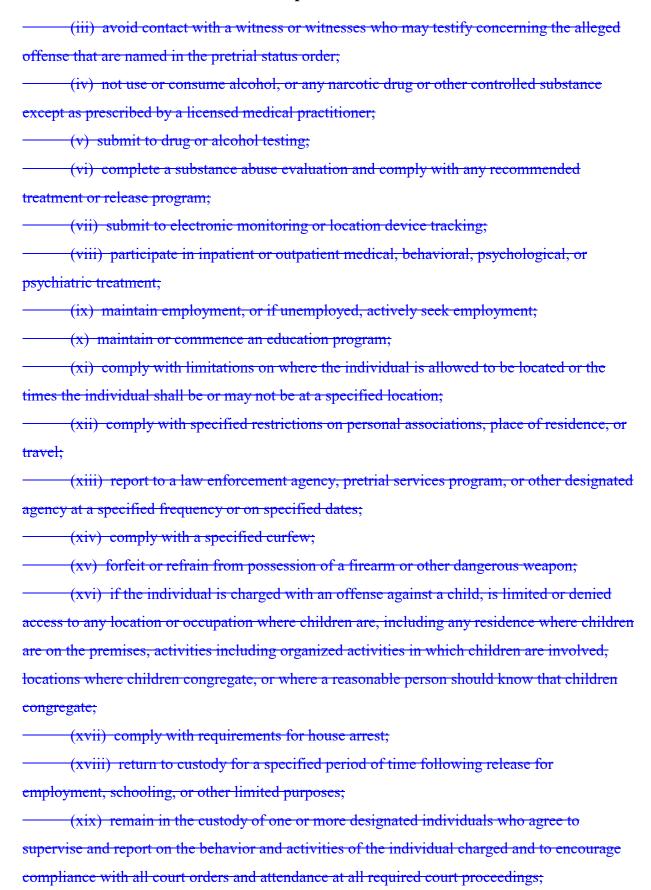


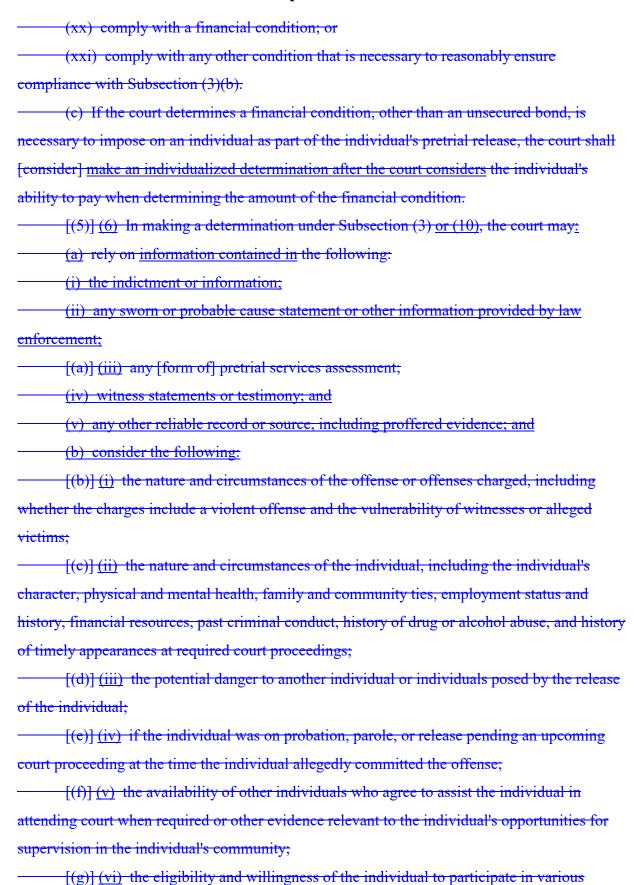


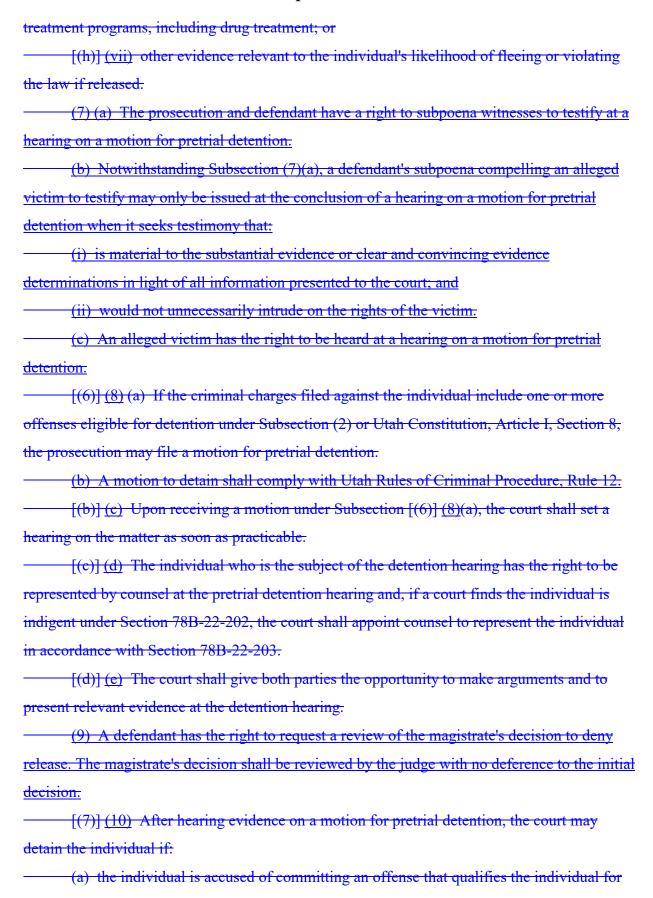
charges listed and be sentenced accordingly. (b) If provided by the uniform fine schedule described in Section 76-3-301.5, or with the court's approval, an individual may remit the fine and other penalties without a personal appearance before the court in any case charging a class B misdemeanor or lower 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 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 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) "Surety" and "sureties" mean a surety insurer or a bail bond agency. (f) "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; (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)] (8), 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 (B) detaining the defendant until after the motion is heard is in the interests of justice and public safety. (4) (a) If a county has established a pretrial services program, the court shall consider the services the county has identified as available in determining what conditions to impose. The court may not order conditions which would require the county to provide services which are not currently available from the county. (b) Notwithstanding Subsection (4)(a), the court may impose conditions not identified by the county as long as the condition does not require county assistance or resources. [(4)] (5) (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;







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 reasonably available conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b). [(8)] (11) (a) If an individual is charged with a criminal offense described in Subsection [(8)] (11)(b), there is a rebuttable presumption that the individual be detained. (b) Criminal charges that create a rebuttable presumption of detention under Subsection [(8)] (11)(a) include: (i) criminal homicide as defined in Section [75-5-201] 76-5-201; 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)] (12) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order. [(10)] (13) (a) 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. -[(11)] (14) (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 court may rely on information as provided in Subsection [(5)] (6) 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)] (15) 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)] (16) 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 determination under Subsection [(7)] (10).
- [(14)] (17) 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 6. Section 77-20-14 is }enacted to read:
- 77-20-14. Pretrial Services and Detention Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties -- Report.
- (1) As used in this section "pretrial services and detention" means determinations of whether to detain or release an individual in custody from the time of an initial arrest or charge until the adjudication of one or more criminal charges. It includes any terms imposed as conditions of release.
- (2) There is created a Pretrial Services and Detention Task Force consisting of the following {twenty-one}21 members:
- (a) two members of the Senate, not from the same political party, appointed by the president of the Senate;
- (b) two members of the House of Representatives, not from the same political party, appointed by the speaker of the House of Representatives;
- (c) The speaker of the House of Representatives and the president of the Senate shall jointly appoint the following two members:
- (i) a representative of an organization that specializes in civil rights or civil liberties on behalf of incarcerated individuals; and
- (ii) a representative of an organization that represents the interests of the bail bond industry;

- (d) a district court judge familiar with pretrial services appointed by the chief justice;
- (e) the state court administrator or the state court administrator's designee;
- (f) the commissioner of the Department of Public Safety or the commissioner's designee;
- (g) the attorney general or {an attorney designated by }the attorney {general}general's designee;
- (h) the president of the {chiefs} Chiefs of {police association} Police Association or a chief of police designated by the association's president;
- (i) the president of the {sheriffs' association} Sheriffs' Association or a sheriff designated by the association's president;
- (j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;
- (k) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;
- (1) the executive director of the Salt Lake Legal Defender Association or the executive director's designee;
 - (m) the chair of the Utah Indigent Defense Commission or the chair's designee;
- (n) the Salt Lake County District Attorney or the {District Attorney's} district attorney's designee;
- (o) a representative of the {statewide association} Statewide Association of {public attorneys} Prosecutors and Public Attorneys designated by the association's officers to represent prosecutors from a county of the second through sixth class;
- (p) an attorney who primarily represents indigent defendants in the courts of a county of the third through sixth class, recommended by the chair of the Indigent Defense

 Commission; and
- (q) the executive director of the Commission on Criminal and Juvenile Justice, or the executive director's designee.
- (3) A vacancy in a position appointed under Subsection (2)(a), (b), or (c) shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2)(a), (b), or (c).
 - (4) (a) The president of the Senate shall designate a senator appointed under

- Subsection (2)(a) as a co-chair of the task force.
- (b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a co-chair of the task force.
- (5) (a) The task force shall meet quarterly beginning July 1, 2021. A quorum consists of {twelve} 12 members.
 - (b) The action of a majority of a quorum constitutes an action of the task force.
- (6) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
 - (b) A member of the task force who is not a legislator:
- (i) may not receive compensation or benefits for the member's service associated with the task force; and
- (ii) may receive per diem and travel expenses incurred as a member of the task force at the rates established by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The Office of Legislative Research and General Counsel shall provide staff support to the task force.
 - (8) The task force shall:
- (a) seek input from various stakeholders, about how pretrial services are being implemented statewide;
- (b) identify barriers to effective implementation of pretrial services and develop model protocols and procedures to overcome those barriers;
- (c) identify and discuss the implementation of pretrial services and make legislative recommendations to continue to improve them; and
- (d) develop and make legislative recommendations regarding best practices related to pretrial services, including:
 - (i) legal procedures and requirements around pretrial services; and
- (ii) pretrial services which should be available and, where necessary, funded statewide as alternatives to pretrial detention, including monetary bail ::
 - (9) (a) On or before November 30, 2022, the task force shall provide a report to the

Law Enforcement and Criminal Justice Interim Committee.

- (b) The report shall include:
- (i) a summary of the task force's findings under Subsection (8);
- (ii) recommendations for improvements in pretrial services in Utah; and
- (iii) recommended legislation, if necessary.