

## SB0087S02 compared with SB0087S01

~~{deleted text}~~ shows text that was in SB0087S01 but was deleted in SB0087S02.

inserted text shows text that was not in SB0087S01 but was inserted into SB0087S02.

**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:

### CRIMINAL PROSECUTION MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd D. Weiler**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill addresses criminal prosecutions.

##### Highlighted Provisions:

This bill:

~~{~~ → addresses a prosecuting attorney's failure to comply with Rule 16 of the Utah Rules of Criminal Procedure;

→ addresses written statements submitted as reliable hearsay evidence at preliminary hearings;

- ~~}~~ ▶ requires the Administrative Office of the Courts to collect data in regards to preliminary hearings;
- ▶ requires the State Commission on Criminal and Juvenile Justice to include preliminary hearing data gathered by the Administrative Office of the Courts in the

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annual report for the State Commission on Criminal and Juvenile Justice; and

- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

~~{ 77-1-7, as enacted by Laws of Utah 1990, Chapter 7~~

~~}~~ 78A-2-109.5, as enacted by Laws of Utah 2020, Chapter 200

~~{ENACTS:~~

~~— 77-1-8, Utah Code Annotated 1953~~

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

Section 1. Section ~~{77-1-7}~~ 78A-2-109.5 is amended to read:

~~{ 77-1-7. Dismissal for failure to comply with evidence requirements -- Dismissal without trial -- Custody or discharge of defendant.~~

~~— (1) (a) As used in this Subsection (1), "evidence" means any information, material, or evidence that is required to be disclosed by the prosecuting attorney under Rule 16 of the Utah Rules of Criminal Procedure.~~

~~— (b) If a prosecuting attorney fails to provide evidence to the defendant within the time period required by Rule 16 of the Utah Rules of Criminal Procedure, the court shall dismiss the information or indictment without prejudice.~~

~~— [(1)] (2) [(a) Further] A prosecution for an offense is not barred if the court dismisses an information or indictment based on the ground:~~

~~— [(i)] (a) there was unreasonable delay;~~

~~— [(ii)] (b) the court is without jurisdiction;~~

~~— [(iii)] (c) the offense was not properly alleged in the information or indictment; or~~

~~— [(iv)] (d) there was a defect in the impaneling or the proceedings relating to the grand jury.~~

~~— [(b)] (3) The court may make orders regarding custody of the defendant pending the~~

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~~filing of new charges as the interest of justice may require. Otherwise, the defendant shall be discharged and bail exonerated:~~

~~— [(2)] (4) An order of dismissal based upon unconstitutional delay in bringing the defendant to trial or upon the statute of limitations is a bar to any other prosecution for the offense charged:~~

~~— Section 2. Section 77-1-8 is enacted to read:~~

~~— **77-1-8. Written statements as evidence at a preliminary hearing.**~~

~~— (1) As used in this section:~~

~~— (a) "Prosecuting agency" means the office of the prosecuting attorney, including the prosecuting attorney and any staff for the office:~~

~~— (b) "Reliable hearsay evidence" means evidence defined as reliable hearsay under Rule 1102 of the Utah Rules of Evidence:~~

~~— (c) "Witness" means any individual who by reason of having relevant information is called, or is likely to be called, to testify at trial:~~

~~— (2) If a prosecuting attorney seeks to admit a written statement of a witness as reliable hearsay evidence at a preliminary hearing, the prosecuting agency may not direct, instruct, guide, influence, or suggest language to the witness in the drafting or completion of the written statement:~~

~~— Section 3. Section 78A-2-109.5 is amended to read:~~

‡ **78A-2-109.5. Court data collection and reporting.**

(1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) The Administrative Office of the Courts shall [~~compile and provide~~] submit the following information to the commission for each criminal case filed with the court:

- (a) case number;
- (b) the defendant's:
  - (i) full name;
  - (ii) offense tracking number; and
  - (iii) date of birth;
- (c) charges filed;
- (d) initial appearance date;

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(e) bail amount set by the court, if any;

(f) whether the defendant was represented by a public defender, private counsel, or pro se; and

(g) final disposition of the charges.

~~[(3) The information shall be submitted]~~

(3) (a) The Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, ~~the information shall be submitted~~ the Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the next working day.

(4) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data on cases involving individuals charged with class A misdemeanors and felonies, broken down by judicial district, to the commission for each preceding calendar year:

(a) the number of cases in which a preliminary hearing is set and placed on the court calendar;

(b) the median and range of the number of times that a preliminary hearing is continued in cases in which a preliminary hearing is set and placed on the court calendar;

(c) the number of cases, ~~and the average time to disposition for those cases,~~ in which only written statements from witnesses are submitted as probable cause at the preliminary hearing;

(d) the number of cases, ~~and the average time to disposition for those cases,~~ in which written statements and witness testimony are submitted as probable cause at the preliminary hearing;

(e) the number of cases, ~~and the average time to disposition for those cases,~~ in which only witness testimony is submitted as probable cause at the preliminary hearing; and

(f) the number of cases in which a preliminary hearing is held and the defendant is bound over for trial.

(5) The commission shall include the data collected under Subsection (4) in the commission's annual report described in Section 63M-7-205.

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