

Representative Colin W. Jack proposes the following substitute bill:

CRIMINAL JUSTICE CHANGES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Colin W. Jack

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- ▶ modifies the penalties for drug offenses to address possession and distribution of fentanyl, methamphetamine, heroin, and cocaine in certain amounts;
- ▶ removes an unsecured bond as a method of payment for a financial condition of pretrial release;
- ▶ clarifies requirements for a magistrate or judge ordering a condition of release;
- ▶ allows a magistrate or judge to consider the seriousness or type of offense in making a decision about pretrial release if the offense for which the individual is arrested for, or charged with, is a violent felony;
- ▶ creates a crime for a violation of a pretrial release agreement;
- ▶ allows a county sheriff to hold an individual for up to 24 hours for a violation of a pretrial release agreement; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-37-8 (Superseded 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 312,
31 329

32 **58-37-8 (Effective 07/01/24)**, as last amended by Laws of Utah 2023, Chapters 310,
33 312 and 329

34 **58-37f-201**, as last amended by Laws of Utah 2023, Chapters 329, 415

35 **58-37f-704**, as last amended by Laws of Utah 2022, Chapter 116

36 **77-11b-102**, as last amended by Laws of Utah 2023, Chapters 415, 422 and renumbered
37 and amended by Laws of Utah 2023, Chapter 448

38 **77-20-102**, as last amended by Laws of Utah 2023, Chapter 408

39 **77-20-204**, as last amended by Laws of Utah 2023, Chapters 34, 408

40 **77-20-205**, as last amended by Laws of Utah 2023, Chapters 408, 447

41 **77-20-402**, as renumbered and amended by Laws of Utah 2021, Second Special
42 Session, Chapter 4

43 **77-40a-101**, as last amended by Laws of Utah 2023, Chapter 265

44 ENACTS:

45 **77-20-210**, Utah Code Annotated 1953



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

48 Section 1. Section **58-37-8 (Superseded 07/01/24)** is amended to read:

49 **58-37-8 (Superseded 07/01/24). Prohibited acts -- Penalties.**

50 (1) Prohibited acts A -- Penalties and reporting:

51 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
52 intentionally:

53 (i) produce, manufacture, or dispense, or to possess with intent to produce,
54 manufacture, or dispense, a controlled or counterfeit substance;

55 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
56 arrange to distribute a controlled or counterfeit substance;

57 (iii) possess a controlled or counterfeit substance with intent to distribute; or
58 (iv) engage in a continuing criminal enterprise where:
59 (A) the person participates, directs, or engages in conduct that results in a violation of
60 this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
61 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
62 Clandestine Drug Lab Act, that is a felony; and

63 (B) the violation is a part of a continuing series of two or more violations of this
64 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
65 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
66 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
67 more persons with respect to whom the person occupies a position of organizer, supervisor, or
68 any other position of management.

69 (b) ~~[A person convicted of violating Subsection (1)(a) with respect to]~~ Except as
70 provided in Subsection (1)(c), (d), (e), or (f), a violation of Subsection (1)(a) is:

71 (i) for a substance or a counterfeit of a substance classified in Schedule I or II, a
72 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III [is guilty of
73 a second degree felony, punishable by imprisonment for not more than 15 years, and upon a
74 second or subsequent conviction is guilty of]:

75 (A) a second degree felony and punishable by imprisonment for not more than 15 years
76 upon a first conviction; or

77 (B) a first degree felony upon a second or subsequent conviction;

78 (ii) for a substance or a counterfeit of a substance classified in Schedule III or IV, or
79 marijuana, or a substance listed in Section 58-37-4.2 [is guilty of a third degree felony, and
80 upon a second or subsequent conviction is guilty of]:

81 (A) a third degree felony upon a first conviction; or

82 (B) a second degree felony upon a second or subsequent conviction; or

83 (iii) for a substance or a counterfeit of a substance classified in Schedule V [is guilty of
84 a class A misdemeanor and upon a second or subsequent conviction is guilty of]:

85 (A) a class A misdemeanor upon a first conviction; or

86 (B) a third degree felony upon a second or subsequent conviction.

87 (c) A violation of Subsection (1)(a)(ii) is a first degree felony if the controlled or

88 counterfeit substance is:

- 89 (i) fentanyl, methamphetamine, heroin, or cocaine in any amount; and
 90 (ii) the distribution resulted in a serious injury or death of an individual.

91 (d) A violation of Subsection (1)(a)(iii) is:

- 92 (i) a first degree felony if the controlled or counterfeit substance is:
 93 (A) fentanyl in an amount of 500 or more pills or 10 grams or more;
 94 (B) methamphetamine in an amount of 453 grams or more;
 95 (C) heroin in an amount of 112 grams or more; or
 96 (D) cocaine in an amount of 453 grams or more; or

97 (ii) except as provided in Subsection (1)(d)(i), a second degree felony if the controlled
 98 or counterfeit substance is fentanyl, methamphetamine, heroin, or cocaine in any amount.

99 ~~[(e)]~~ (e) (i) ~~[A]~~ The court may sentence a person who has been convicted of a violation
 100 of Subsection (1)(a)(ii) or (iii) [may be sentenced] to imprisonment for an indeterminate term
 101 [as provided by law, but if] as described in Title 76, Chapter 3, Punishments.

102 (ii) If the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried,
 103 or possessed on the person or in the person's immediate possession during the commission or in
 104 furtherance of the offense[-];

105 (A) the court shall additionally sentence the person convicted for a term of one year to
 106 run consecutively and not concurrently; and

107 (B) the court may additionally sentence the person convicted for an indeterminate term
 108 not to exceed five years to run consecutively and not concurrently.

109 ~~[(d)]~~ (f) (i) ~~[A person convicted of violating]~~ A violation of Subsection (1)(a)(iv) is
 110 [guilty of] a first degree felony punishable by imprisonment for an indeterminate term of not
 111 less than:

112 (A) seven years and which may be for life; or

113 (B) 15 years and which may be for life if the trier of fact determined that the defendant
 114 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
 115 was under 18 years old.

116 (ii) Imposition or execution of the sentence may not be suspended, and the person is
 117 not eligible for probation.

118 (iii) Subsection ~~[(1)(d)(i)(B)]~~ (1)(f)(i)(B) does not apply to any defendant who, at the

119 time of the offense, was under 18 years old.

120 ~~[(e)]~~ (g) The Administrative Office of the Courts shall report to the Division of
121 Professional Licensing the name, case number, date of conviction, and if known, the date of
122 birth of each person convicted of violating Subsection (1)(a).

123 (2) Prohibited acts B -- Penalties and reporting:

124 (a) It is unlawful:

125 (i) for a person knowingly and intentionally to possess or use a controlled substance
126 analog or a controlled substance, unless it was obtained under a valid prescription or order,
127 directly from a practitioner while acting in the course of the person's professional practice, or as
128 otherwise authorized by this chapter;

129 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
130 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
131 by persons unlawfully possessing, using, or distributing controlled substances in any of those
132 locations; or

133 (iii) for a person knowingly and intentionally to possess an altered or forged
134 prescription or written order for a controlled substance.

135 ~~[(b) A person convicted of violating Subsection (2)(a)(i) with respect to:]~~

136 ~~[(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree
137 felony; or]~~

138 ~~[(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
139 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
140 conviction if each prior offense was committed within seven years before the date of the
141 offense upon which the current conviction is based is guilty of a third degree felony.]~~

142 (b) A violation of Subsection (2)(a)(i) is:

143 (i) for all other controlled substances not included in Subsection (2)(b)(ii), (iii), or (iv),
144 including a substance listed in Section 58-37-4.2 or marijuana:

145 (A) a class B misdemeanor upon a first or second conviction;

146 (B) a class A misdemeanor upon a third conviction if each prior offense was
147 committed within seven years before the date of the offense upon which the current conviction
148 is based; or

149 (C) a third degree felony upon a fourth or subsequent conviction if each prior offense

150 was committed within seven years before the date of the offense upon which the current
151 conviction is based;

152 (ii) except as provided in Subsection (2)(b)(iii) and (iv), for a substance classified in
153 Schedule I or II or a controlled substance analog:

154 (A) a class A misdemeanor on a first or second conviction; or

155 (B) a third degree felony on a third or subsequent conviction if each prior offense was
156 committed within seven years before the date of the offense upon which the current conviction
157 is based;

158 (iii) a third degree felony if the substance is:

159 (A) fentanyl in an amount of 19 pills or fewer or in an amount less than one gram;

160 (B) methamphetamine in an amount of 28 grams or more but less than 56 grams;

161 (C) heroin in an amount less than 112 grams; or

162 (D) cocaine in an amount of 28 grams or more but less than 56 grams; or

163 (iv) a second degree felony if the substance is:

164 (A) fentanyl in an amount of 20 to 499 pills or an amount of less than 10 grams but
165 more than one gram;

166 (B) methamphetamine in an amount of 56 grams or more but less than 453 grams;

167 (C) heroin in an amount of 14 grams or more but less than 112 grams;

168 (D) cocaine in an amount of 56 grams or more but less than 453 grams; or

169 (E) marijuana in an amount of 100 pounds or more.

170 ~~[(e) Upon a person's conviction of a violation of this Subsection (2) subsequent to a~~
171 ~~conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater~~
172 ~~penalty than provided in this Subsection (2).]~~

173 ~~[(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled~~
174 ~~substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section~~
175 ~~58-37-4.2, or marijuana, is guilty of a class B misdemeanor.]~~

176 ~~[(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior~~
177 ~~offense was committed within seven years before the date of the offense upon which the~~
178 ~~current conviction is based.]~~

179 ~~[(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree~~
180 ~~felony if each prior offense was committed within seven years before the date of the offense~~

181 upon which the current conviction is based.]

182 [~~(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior~~
183 ~~boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a~~
184 ~~public jail or other place of confinement shall be sentenced to a penalty one degree greater than~~
185 ~~provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as~~
186 ~~listed in:]~~

187 [~~(i) Subsection (2)(b), the person may be sentenced to imprisonment for an~~
188 ~~indeterminate term as provided by law, and:]~~

189 [~~(A) the court shall additionally sentence the person convicted to a term of one year to~~
190 ~~run consecutively and not concurrently, and]~~

191 [~~(B) the court may additionally sentence the person convicted for an indeterminate~~
192 ~~term not to exceed five years to run consecutively and not concurrently, and]~~

193 [~~(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an~~
194 ~~indeterminate term as provided by law, and the court shall additionally sentence the person~~
195 ~~convicted to a term of six months to run consecutively and not concurrently:]~~

196 [(f)] (c) A [~~person convicted of violating~~] violation of Subsection (2)(a)(ii) or (iii) is:

197 (i) [~~on a first conviction, guilty of~~] a class B misdemeanor upon a first conviction;

198 (ii) [~~on a second conviction, guilty of~~] a class A misdemeanor upon a second
199 conviction; and

200 (iii) [~~on a third or subsequent conviction, guilty of~~] a third degree felony upon a third
201 or subsequent conviction.

202 (d) If a person is convicted of a violation of this Subsection (2) subsequent to a
203 conviction under Subsection (1)(a), a court shall sentence the person to a penalty one degree
204 greater than provided in this Subsection (2).

205 (e) If a person is convicted of a violation described in Subsection (2)(b)(ii), (iii) or (iv)
206 and the violation occurred while inside the exterior boundaries of property occupied by a
207 correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement:

208 (i) the court shall sentence the person to a penalty one degree greater than provided in
209 Subsection (2)(b);

210 (ii) the court may sentence the individual to imprisonment for an indeterminate term as
211 described in Title 76, Chapter 3, Punishments, except that the court shall additionally sentence

212 the person to a term of one year to run consecutively and not concurrently; and

213 (iii) the court may additionally sentence the person to an indeterminate term not to
214 exceed five years to run consecutively and not concurrently.

215 [~~g~~] (f) The Administrative Office of the Courts shall report to the Division of
216 Professional Licensing the name, case number, date of conviction, and if known, the date of
217 birth of each person convicted of violating Subsection (2)(a).

218 (3) Prohibited acts C -- Penalties:

219 (a) It is unlawful for a person knowingly and intentionally:

220 (i) to use in the course of the manufacture or distribution of a controlled substance a
221 license number which is fictitious, revoked, suspended, or issued to another person or, for the
222 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
223 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
224 person;

225 (ii) to acquire or obtain possession of, to procure or attempt to procure the
226 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
227 attempting to acquire or obtain possession of, or to procure the administration of a controlled
228 substance by misrepresentation or failure by the person to disclose receiving a controlled
229 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
230 prescription or written order for a controlled substance, or the use of a false name or address;

231 (iii) to make a false or forged prescription or written order for a controlled substance,
232 or to utter the same, or to alter a prescription or written order issued or written under the terms
233 of this chapter; or

234 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
235 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
236 device of another or any likeness of any of the foregoing upon any drug or container or labeling
237 so as to render a drug a counterfeit controlled substance.

238 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
239 misdemeanor.

240 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
241 degree felony.

242 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

243 (4) Prohibited acts D -- Penalties:

244 (a) Notwithstanding other provisions of this section, a person not authorized under this
245 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
246 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
247 of fact finds the act is committed:

248 (i) in a public or private elementary or secondary school or on the grounds of any of
249 those schools during the hours of 6 a.m. through 10 p.m.;

250 (ii) in a public or private vocational school or postsecondary institution or on the
251 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

252 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
253 facility's hours of operation;

254 (iv) in a public park, amusement park, arcade, or recreation center when the public or
255 amusement park, arcade, or recreation center is open to the public;

256 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

257 (vi) in or on the grounds of a library when the library is open to the public;

258 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
259 in Subsections (4)(a)(i) through (vi);

260 (viii) in the presence of a person younger than 18 years old, regardless of where the act
261 occurs; or

262 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
263 distribution of a substance in violation of this section to an inmate or on the grounds of a
264 correctional facility as defined in Section 76-8-311.3.

265 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
266 and shall be imprisoned for a term of not less than five years if the penalty that would
267 otherwise have been established but for this Subsection (4) would have been a first degree
268 felony.

269 (ii) Imposition or execution of the sentence may not be suspended, and the person is
270 not eligible for probation.

271 (c) If the classification that would otherwise have been established would have been
272 less than a first degree felony but for this Subsection (4), a person convicted under this
273 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that

274 offense.

275 (d) (i) If the violation is of Subsection (4)(a)(ix):

276 (A) the person may be sentenced to imprisonment for an indeterminate term as
277 provided by law, and the court shall additionally sentence the person convicted for a term of
278 one year to run consecutively and not concurrently; and

279 (B) the court may additionally sentence the person convicted for an indeterminate term
280 not to exceed five years to run consecutively and not concurrently; and

281 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
282 the mental state required for the commission of an offense, directly or indirectly solicits,
283 requests, commands, coerces, encourages, or intentionally aids another person to commit a
284 violation of Subsection (4)(a)(ix).

285 (e) It is not a defense to a prosecution under this Subsection (4) that:

286 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
287 the offense or was unaware of the individual's true age; or

288 (ii) the actor mistakenly believed that the location where the act occurred was not as
289 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
290 described in Subsection (4)(a).

291 (5) A violation of this chapter for which no penalty is specified is a class B
292 misdemeanor.

293 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
294 guilty or no contest to a violation or attempted violation of this section or a plea which is held
295 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
296 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
297 abeyance agreement.

298 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
299 conviction that is:

300 (i) from a separate criminal episode than the current charge; and

301 (ii) from a conviction that is separate from any other conviction used to enhance the
302 current charge.

303 (7) A person may be charged and sentenced for a violation of this section,
304 notwithstanding a charge and sentence for a violation of any other section of this chapter.

305 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
306 of, a civil or administrative penalty or sanction authorized by law.

307 (b) When a violation of this chapter violates a federal law or the law of another state,
308 conviction or acquittal under federal law or the law of another state for the same act is a bar to
309 prosecution in this state.

310 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
311 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
312 substance or substances, is prima facie evidence that the person or persons did so with
313 knowledge of the character of the substance or substances.

314 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
315 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
316 administering controlled substances or from causing the substances to be administered by an
317 assistant or orderly under the veterinarian's direction and supervision.

318 (11) Civil or criminal liability may not be imposed under this section on:

319 (a) a person registered under this chapter who manufactures, distributes, or possesses
320 an imitation controlled substance for use as a placebo or investigational new drug by a
321 registered practitioner in the ordinary course of professional practice or research;

322 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
323 employment; or

324 (c) a healthcare facility, substance use harm reduction services program, or drug
325 addiction treatment facility that temporarily possesses a controlled or counterfeit substance to
326 conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the
327 strength, effectiveness, or purity of the substance for a public health or safety reason.

328 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
329 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
330 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
331 as defined in Section 58-37-2.

332 (b) In a prosecution alleging violation of this section regarding peyote as defined in
333 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
334 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
335 traditional Indian religion.

336 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
337 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
338 trial.

339 (ii) The notice shall include the specific claims of the affirmative defense.

340 (iii) The court may waive the notice requirement in the interest of justice for good
341 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

342 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
343 a preponderance of the evidence. If the defense is established, it is a complete defense to the
344 charges.

345 (13) (a) It is an affirmative defense that the person produced, possessed, or
346 administered a controlled substance listed in Section 58-37-4.2 if the person was:

347 (i) engaged in medical research; and

348 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

349 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
350 a controlled substance listed in Section 58-37-4.2.

351 (14) It is an affirmative defense that the person possessed, in the person's body, a
352 controlled substance listed in Section 58-37-4.2 if:

353 (a) the person was the subject of medical research conducted by a holder of a valid
354 license to possess controlled substances under Section 58-37-6; and

355 (b) the substance was administered to the person by the medical researcher.

356 (15) The application of any increase in penalty under this section to a violation of
357 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
358 Subsection (15) takes precedence over any conflicting provision of this section.

359 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
360 listed in Subsection (16)(b) that the person or bystander:

361 (i) reasonably believes that the person or another person is experiencing an overdose
362 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
363 controlled substance or other substance;

364 (ii) reports, or assists a person who reports, in good faith the overdose event to a
365 medical provider, an emergency medical service provider as defined in Section 26B-4-101, a
366 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the

367 person is the subject of a report made under this Subsection (16);

368 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
369 actual location of the overdose event that facilitates responding to the person experiencing the
370 overdose event;

371 (iv) remains at the location of the person experiencing the overdose event until a
372 responding law enforcement officer or emergency medical service provider arrives, or remains
373 at the medical care facility where the person experiencing an overdose event is located until a
374 responding law enforcement officer arrives;

375 (v) cooperates with the responding medical provider, emergency medical service
376 provider, and law enforcement officer, including providing information regarding the person
377 experiencing the overdose event and any substances the person may have injected, inhaled, or
378 otherwise introduced into the person's body; and

379 (vi) is alleged to have committed the offense in the same course of events from which
380 the reported overdose arose.

381 (b) The offenses referred to in Subsection (16)(a) are:

382 (i) the possession or use of less than 16 ounces of marijuana;

383 (ii) the possession or use of a scheduled or listed controlled substance other than
384 marijuana; and

385 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
386 Imitation Controlled Substances Act.

387 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
388 include seeking medical assistance under this section during the course of a law enforcement
389 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

390 (17) If any provision of this chapter, or the application of any provision to any person
391 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
392 invalid provision or application.

393 (18) A legislative body of a political subdivision may not enact an ordinance that is
394 less restrictive than any provision of this chapter.

395 (19) If a minor who is under 18 years old is found by a court to have violated this
396 section or Subsection [76-5-102.1\(2\)\(b\)](#) or [76-5-207\(2\)\(b\)](#), the court may order the minor to
397 complete:

- 398 (a) a screening as defined in Section 41-6a-501;
- 399 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
- 400 assessment to be appropriate; and
- 401 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
- 402 treatment as indicated by an assessment.

403 Section 2. Section 58-37-8 (Effective 07/01/24) is amended to read:

404 **58-37-8 (Effective 07/01/24). Prohibited acts -- Penalties.**

405 (1) Prohibited acts A -- Penalties and reporting:

406 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and

407 intentionally:

408 (i) produce, manufacture, or dispense, or to possess with intent to produce,

409 manufacture, or dispense, a controlled or counterfeit substance;

410 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or

411 arrange to distribute a controlled or counterfeit substance;

412 (iii) possess a controlled or counterfeit substance with intent to distribute; or

413 (iv) engage in a continuing criminal enterprise where:

414 (A) the person participates, directs, or engages in conduct that results in a violation of

415 this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled

416 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,

417 Clandestine Drug Lab Act, that is a felony; and

418 (B) the violation is a part of a continuing series of two or more violations of this

419 chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled

420 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,

421 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or

422 more persons with respect to whom the person occupies a position of organizer, supervisor, or

423 any other position of management.

424 (b) ~~[A person convicted of violating Subsection (1)(a) with respect to:]~~ Except as

425 provided in Subsection (1)(c), (d), (e), or (f), a violation of Subsection (1)(a) is:

426 (i) for a substance or a counterfeit of a substance classified in Schedule I or II, a

427 controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III ~~[is guilty of~~

428 ~~a second degree felony, punishable by imprisonment for not more than 15 years, and upon a~~

429 ~~second or subsequent conviction is guilty of]:~~

430 (A) a first degree felony upon a second or subsequent conviction; or

431 (B) a second degree felony and punishable by imprisonment for not more than 15 years
432 upon a first conviction;

433 (ii) for a substance or a counterfeit of a substance classified in Schedule III or IV, or
434 marijuana, or a substance listed in Section 58-37-4.2 [is guilty of a third degree felony, and
435 upon a second or subsequent conviction is guilty of]:

436 (A) a third degree felony upon a first conviction; or

437 (B) a second degree felony upon a second or subsequent conviction; or

438 (iii) for a substance or a counterfeit of a substance classified in Schedule V [is guilty of
439 a class A misdemeanor and upon a second or subsequent conviction is guilty of]:

440 (A) a class A misdemeanor upon a first conviction; or

441 (B) a third degree felony upon a second or subsequent conviction.

442 (c) A violation of Subsection (1)(a)(ii) is a first degree felony if the controlled or
443 counterfeit substance is:

444 (i) fentanyl, methamphetamine, heroin, or cocaine in any amount; and

445 (ii) the distribution resulted in a serious injury or death of an individual.

446 (d) A violation of Subsection (1)(a)(iii) is:

447 (i) a first degree felony if the controlled or counterfeit substance is:

448 (A) fentanyl in an amount of 500 or more pills or 10 grams or more;

449 (B) methamphetamine in an amount of 453 grams or more;

450 (C) heroin in an amount of 112 grams or more; or

451 (D) cocaine in an amount of 453 grams or more; or

452 (ii) except as provided in Subsection (1)(d)(i), a second degree felony if the controlled
453 or counterfeit substance is fentanyl, methamphetamine, heroin, or cocaine in any amount.

454 ~~[(c)]~~ (e) (i) [A] The court may sentence a person who has been convicted of a violation
455 of Subsection (1)(a)(ii) or (iii) [may be sentenced] to imprisonment for an indeterminate term
456 [as provided by law, but if] as described in Title 76, Chapter 3, Punishments.

457 (ii) If the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried,
458 or possessed on the person or in the person's immediate possession during the commission or in
459 furtherance of the offense[-];

460 (A) the court shall additionally sentence the person convicted for a term of one year to
461 run consecutively and not concurrently~~[; and]; and~~

462 (B) the court may additionally sentence the person convicted for an indeterminate term
463 not to exceed five years to run consecutively and not concurrently.

464 ~~[(d)]~~ (f) (i) ~~[A person convicted of violating]~~ A violation of Subsection (1)(a)(iv) is
465 ~~[guilty of]~~ a first degree felony punishable by imprisonment for an indeterminate term of not
466 less than:

467 (A) seven years and which may be for life; or

468 (B) 15 years and which may be for life if the trier of fact determined that the defendant
469 knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B)
470 was under 18 years old.

471 (ii) Imposition or execution of the sentence may not be suspended, and the person is
472 not eligible for probation.

473 (iii) Subsection ~~[(1)(d)(i)(B)]~~ (1)(f)(i)(B) does not apply to any defendant who, at the
474 time of the offense, was under 18 years old.

475 ~~[(e)]~~ (g) The Administrative Office of the Courts shall report to the Division of
476 Professional Licensing the name, case number, date of conviction, and if known, the date of
477 birth of each person convicted of violating Subsection (1)(a).

478 (2) Prohibited acts B -- Penalties and reporting:

479 (a) It is unlawful:

480 (i) for a person knowingly and intentionally to possess or use a controlled substance
481 analog or a controlled substance, unless it was obtained under a valid prescription or order,
482 directly from a practitioner while acting in the course of the person's professional practice, or as
483 otherwise authorized by this chapter;

484 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
485 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
486 by persons unlawfully possessing, using, or distributing controlled substances in any of those
487 locations; or

488 (iii) for a person knowingly and intentionally to possess an altered or forged
489 prescription or written order for a controlled substance.

490 ~~[(b) A person convicted of violating Subsection (2)(a)(i) with respect to:]~~

491 ~~[(i) marijuana, if the amount is 100 pounds or more, is guilty of a second-degree~~
492 ~~felony; or]~~

493 ~~[(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty~~
494 ~~of a class A misdemeanor on a first or second conviction, and on a third or subsequent~~
495 ~~conviction if each prior offense was committed within seven years before the date of the~~
496 ~~offense upon which the current conviction is based is guilty of a third-degree felony.]~~

497 ~~[(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a~~
498 ~~conviction under Subsection (1)(a), that person shall be sentenced to a one-degree greater~~
499 ~~penalty than provided in this Subsection (2).]~~

500 ~~[(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled~~
501 ~~substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section~~
502 ~~58-37-4.2, or marijuana, is guilty of a class B misdemeanor.]~~

503 ~~[(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior~~
504 ~~offense was committed within seven years before the date of the offense upon which the~~
505 ~~current conviction is based.]~~

506 ~~[(ii) Upon a fourth or subsequent conviction the person is guilty of a third-degree~~
507 ~~felony if each prior offense was committed within seven years before the date of the offense~~
508 ~~upon which the current conviction is based.]~~

509 ~~[(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior~~
510 ~~boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a~~
511 ~~public jail or other place of confinement shall be sentenced to a penalty one-degree greater than~~
512 ~~provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as~~
513 ~~listed in:]~~

514 ~~[(i) Subsection (2)(b), the person may be sentenced to imprisonment for an~~
515 ~~indeterminate term as provided by law, and:]~~

516 ~~[(A) the court shall additionally sentence the person convicted to a term of one year to~~
517 ~~run consecutively and not concurrently, and]~~

518 ~~[(B) the court may additionally sentence the person convicted for an indeterminate~~
519 ~~term not to exceed five years to run consecutively and not concurrently, and]~~

520 ~~[(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an~~
521 ~~indeterminate term as provided by law, and the court shall additionally sentence the person~~

522 convicted to a term of six months to run consecutively and not concurrently.]

523 (b) A violation of Subsection (2)(a)(i) is:

524 (i) for all other controlled substances not included in Subsection (2)(b)(ii), (iii), or (iv),

525 including a substance listed in Section 58-37-4.2 or marijuana:

526 (A) a class B misdemeanor upon a first or second conviction;

527 (B) a class A misdemeanor upon a third conviction if each prior offense was

528 committed within seven years before the date of the offense upon which the current conviction

529 is based; or

530 (C) a third degree felony upon a fourth or subsequent conviction if each prior offense

531 was committed within seven years before the date of the offense upon which the current

532 conviction is based;

533 (ii) except as provided in Subsection (2)(b)(iii) and (iv), for a substance classified in

534 Schedule I or II or a controlled substance analog:

535 (A) a class A misdemeanor on a first or second conviction; or

536 (B) a third degree felony on a third or subsequent conviction if each prior offense was

537 committed within seven years before the date of the offense upon which the current conviction

538 is based; or

539 (iii) a third degree felony if the substance is:

540 (A) fentanyl in an amount of 19 pills or fewer or in an amount less than one gram;

541 (B) methamphetamine in an amount of 28 grams or more but less than 56 grams;

542 (C) heroin in an amount less than 112 grams; or

543 (D) cocaine in an amount of 28 grams or more but less than 56 grams; or

544 (iv) a second degree felony if the substance is:

545 (A) fentanyl in an amount of 20 to 499 pills or an amount that is less than 10 grams but

546 more than one gram;

547 (B) methamphetamine in an amount of 56 grams or more but less than 453 grams;

548 (C) heroin in an amount of 14 grams or more but less than 112 grams;

549 (D) cocaine in an amount of 56 grams or more but less than 453 grams; or

550 (E) marijuana in an amount of 100 pounds or more.

551 ~~[(f)]~~ (c) A [person convicted of violating] a violation of Subsection (2)(a)(ii) or (iii) is:

552 (i) [on a first conviction, guilty of] a class B misdemeanor upon a first conviction;

553 (ii) [~~on a second conviction, guilty of~~] a class A misdemeanor upon a second
554 conviction; and

555 (iii) [~~on a third or subsequent conviction, guilty of~~] a third degree felony upon a third
556 or subsequent conviction.

557 (d) If a person is convicted of a violation of this Subsection (2) subsequent to a
558 conviction under Subsection (1)(a), a court shall sentence the person to a penalty one degree
559 greater than provided in this Subsection (2).

560 (e) If a person is convicted of a violation described in Subsection (2)(b)(ii), (iii), or (iv)
561 and the violation occurred while inside the exterior boundaries of property occupied by a
562 correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement:

563 (i) the court shall sentence the person to a penalty one degree greater than provided in
564 Subsection (2)(b);

565 (ii) the court may sentence the individual to imprisonment for an indeterminate term as
566 described in Title 76, Chapter 3, Punishments, except that the court shall additionally sentence
567 the person to a term of one year to run consecutively and not concurrently; and

568 (iii) the court may additionally sentence the person to an indeterminate term not to
569 exceed five years to run consecutively and not concurrently.

570 [~~(g)~~] (f) The Administrative Office of the Courts shall report to the Division of
571 Professional Licensing the name, case number, date of conviction, and if known, the date of
572 birth of each person convicted of violating Subsection (2)(a).

573 (3) Prohibited acts C -- Penalties:

574 (a) It is unlawful for a person knowingly and intentionally:

575 (i) to use in the course of the manufacture or distribution of a controlled substance a
576 license number which is fictitious, revoked, suspended, or issued to another person or, for the
577 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
578 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
579 person;

580 (ii) to acquire or obtain possession of, to procure or attempt to procure the
581 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
582 attempting to acquire or obtain possession of, or to procure the administration of a controlled
583 substance by misrepresentation or failure by the person to disclose receiving a controlled

584 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
585 prescription or written order for a controlled substance, or the use of a false name or address;

586 (iii) to make a false or forged prescription or written order for a controlled substance,
587 or to utter the same, or to alter a prescription or written order issued or written under the terms
588 of this chapter; or

589 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
590 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
591 device of another or any likeness of any of the foregoing upon any drug or container or labeling
592 so as to render a drug a counterfeit controlled substance.

593 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
594 misdemeanor.

595 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
596 degree felony.

597 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

598 (4) Prohibited acts D -- Penalties:

599 (a) Notwithstanding other provisions of this section, a person not authorized under this
600 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
601 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
602 of fact finds the act is committed:

603 (i) in a public or private elementary or secondary school or on the grounds of any of
604 those schools during the hours of 6 a.m. through 10 p.m.;

605 (ii) in a public or private vocational school or postsecondary institution or on the
606 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

607 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
608 facility's hours of operation;

609 (iv) in a public park, amusement park, arcade, or recreation center when the public or
610 amusement park, arcade, or recreation center is open to the public;

611 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

612 (vi) in or on the grounds of a library when the library is open to the public;

613 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
614 in Subsections (4)(a)(i) through (vi);

615 (viii) in the presence of a person younger than 18 years old, regardless of where the act
616 occurs; or

617 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
618 distribution of a substance in violation of this section to an inmate or on the grounds of a
619 correctional facility as defined in Section 76-8-311.3.

620 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
621 and shall be imprisoned for a term of not less than five years if the penalty that would
622 otherwise have been established but for this Subsection (4) would have been a first degree
623 felony.

624 (ii) Imposition or execution of the sentence may not be suspended, and the person is
625 not eligible for probation.

626 (c) If the classification that would otherwise have been established would have been
627 less than a first degree felony but for this Subsection (4), a person convicted under this
628 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
629 offense.

630 (d) (i) If the violation is of Subsection (4)(a)(ix):

631 (A) the person may be sentenced to imprisonment for an indeterminate term as
632 provided by law, and the court shall additionally sentence the person convicted for a term of
633 one year to run consecutively and not concurrently; and

634 (B) the court may additionally sentence the person convicted for an indeterminate term
635 not to exceed five years to run consecutively and not concurrently; and

636 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
637 the mental state required for the commission of an offense, directly or indirectly solicits,
638 requests, commands, coerces, encourages, or intentionally aids another person to commit a
639 violation of Subsection (4)(a)(ix).

640 (e) It is not a defense to a prosecution under this Subsection (4) that:

641 (i) the actor mistakenly believed the individual to be 18 years old or older at the time of
642 the offense or was unaware of the individual's true age; or

643 (ii) the actor mistakenly believed that the location where the act occurred was not as
644 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
645 described in Subsection (4)(a).

646 (5) A violation of this chapter for which no penalty is specified is a class B
647 misdemeanor.

648 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
649 guilty or no contest to a violation or attempted violation of this section or a plea which is held
650 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
651 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
652 abeyance agreement.

653 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
654 conviction that is:

655 (i) from a separate criminal episode than the current charge; and

656 (ii) from a conviction that is separate from any other conviction used to enhance the
657 current charge.

658 (7) A person may be charged and sentenced for a violation of this section,
659 notwithstanding a charge and sentence for a violation of any other section of this chapter.

660 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
661 of, a civil or administrative penalty or sanction authorized by law.

662 (b) When a violation of this chapter violates a federal law or the law of another state,
663 conviction or acquittal under federal law or the law of another state for the same act is a bar to
664 prosecution in this state.

665 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
666 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
667 substance or substances, is prima facie evidence that the person or persons did so with
668 knowledge of the character of the substance or substances.

669 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
670 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
671 administering controlled substances or from causing the substances to be administered by an
672 assistant or orderly under the veterinarian's direction and supervision.

673 (11) Civil or criminal liability may not be imposed under this section on:

674 (a) a person registered under this chapter who manufactures, distributes, or possesses
675 an imitation controlled substance for use as a placebo or investigational new drug by a
676 registered practitioner in the ordinary course of professional practice or research;

677 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
678 employment;or

679 (c) a healthcare facility, substance use harm reduction services program, or drug
680 addiction treatment facility that temporarily possesses a controlled or counterfeit substance to
681 conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the
682 strength, effectiveness, or purity of the substance for a public health or safety reason.

683 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
684 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
685 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
686 as defined in Section 58-37-2.

687 (b) In a prosecution alleging violation of this section regarding peyote as defined in
688 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
689 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
690 traditional Indian religion.

691 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
692 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
693 trial.

694 (ii) The notice shall include the specific claims of the affirmative defense.

695 (iii) The court may waive the notice requirement in the interest of justice for good
696 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

697 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
698 a preponderance of the evidence. If the defense is established, it is a complete defense to the
699 charges.

700 (13) (a) It is an affirmative defense that the person produced, possessed, or
701 administered a controlled substance listed in Section 58-37-4.2 if the person was:

702 (i) engaged in medical research; and

703 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

704 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
705 a controlled substance listed in Section 58-37-4.2.

706 (14) It is an affirmative defense that the person possessed, in the person's body, a
707 controlled substance listed in Section 58-37-4.2 if:

708 (a) the person was the subject of medical research conducted by a holder of a valid
709 license to possess controlled substances under Section 58-37-6; and

710 (b) the substance was administered to the person by the medical researcher.

711 (15) The application of any increase in penalty under this section to a violation of
712 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
713 Subsection (15) takes precedence over any conflicting provision of this section.

714 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
715 listed in Subsection (16)(b) that the person or bystander:

716 (i) reasonably believes that the person or another person is experiencing an overdose
717 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
718 controlled substance or other substance;

719 (ii) reports, or assists a person who reports, in good faith the overdose event to a
720 medical provider, an emergency medical service provider as defined in Section 53-2d-101, a
721 law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the
722 person is the subject of a report made under this Subsection (16);

723 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
724 actual location of the overdose event that facilitates responding to the person experiencing the
725 overdose event;

726 (iv) remains at the location of the person experiencing the overdose event until a
727 responding law enforcement officer or emergency medical service provider arrives, or remains
728 at the medical care facility where the person experiencing an overdose event is located until a
729 responding law enforcement officer arrives;

730 (v) cooperates with the responding medical provider, emergency medical service
731 provider, and law enforcement officer, including providing information regarding the person
732 experiencing the overdose event and any substances the person may have injected, inhaled, or
733 otherwise introduced into the person's body; and

734 (vi) is alleged to have committed the offense in the same course of events from which
735 the reported overdose arose.

736 (b) The offenses referred to in Subsection (16)(a) are:

737 (i) the possession or use of less than 16 ounces of marijuana;

738 (ii) the possession or use of a scheduled or listed controlled substance other than

739 marijuana; and

740 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
741 Imitation Controlled Substances Act.

742 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
743 include seeking medical assistance under this section during the course of a law enforcement
744 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

745 (17) If any provision of this chapter, or the application of any provision to any person
746 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
747 invalid provision or application.

748 (18) A legislative body of a political subdivision may not enact an ordinance that is
749 less restrictive than any provision of this chapter.

750 (19) If a minor who is under 18 years old is found by a court to have violated this
751 section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to
752 complete:

753 (a) a screening as defined in Section 41-6a-501;

754 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
755 assessment to be appropriate; and

756 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
757 treatment as indicated by an assessment.

758 Section 3. Section 58-37f-201 is amended to read:

759 **58-37f-201. Controlled substance database -- Creation -- Purpose.**

760 (1) There is created within the division a controlled substance database.

761 (2) The division shall administer and direct the functioning of the database in
762 accordance with this chapter.

763 (3) The division may, under state procurement laws, contract with another state agency
764 or a private entity to establish, operate, or maintain the database.

765 (4) The division shall, in collaboration with the board, determine whether to operate
766 the database within the division or contract with another entity to operate the database, based
767 on an analysis of costs and benefits.

768 (5) The purpose of the database is to contain:

769 (a) the data described in Section 58-37f-203 regarding prescriptions for dispensed

770 controlled substances;

771 (b) data reported to the division under Section 26B-2-225 regarding poisoning or
772 overdose;

773 (c) data reported to the division under Subsection 41-6a-502(5) or 41-6a-502.5(5)(b)
774 regarding convictions for driving under the influence of a prescribed controlled substance or
775 impaired driving; and

776 (d) data reported to the division under Subsection [~~58-37-8(1)(e) or 58-37-8(2)(g)~~]
777 58-37-8(1)(g) or 58-37-8(2)(f) regarding certain violations of Chapter 37, Utah Controlled
778 Substances Act.

779 (6) The division shall maintain the database in an electronic file or by other means
780 established by the division to facilitate use of the database for identification of:

781 (a) prescribing practices and patterns of prescribing and dispensing controlled
782 substances;

783 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
784 manner;

785 (c) individuals receiving prescriptions for controlled substances from licensed
786 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
787 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
788 that controlled substance;

789 (d) individuals presenting forged or otherwise false or altered prescriptions for
790 controlled substances to a pharmacy;

791 (e) individuals admitted to a general acute hospital for poisoning or overdose involving
792 a prescribed controlled substance; and

793 (f) individuals convicted for:

794 (i) driving under the influence of a prescribed controlled substance that renders the
795 individual incapable of safely operating a vehicle;

796 (ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

797 (iii) certain violations of Chapter 37, Utah Controlled Substances Act.

798 Section 4. Section 58-37f-704 is amended to read:

799 **58-37f-704. Entering certain convictions into the database.**

800 Beginning October 1, 2016, if the division receives a report from a court under

801 Subsection [~~58-37-8(1)(e) or 58-37-8(2)(g)~~], 58-37-8(1)(g) or 58-37-8(2)(f), the division shall
802 daily enter into the database the information supplied in the report.

803 Section 5. Section **77-11b-102** is amended to read:

804 **77-11b-102. Property subject to forfeiture.**

805 (1) (a) Except as provided in Subsection (2), (3), (4), or (5), an agency may seek to
806 forfeit:

807 (i) seized property that was used to facilitate the commission of an offense that is a
808 violation of federal or state law; or

809 (ii) seized proceeds.

810 (b) An agency, or the prosecuting attorney, may not forfeit the seized property of an
811 innocent owner or an interest holder.

812 (2) If seized property is used to facilitate an offense that is a violation of Section
813 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if
814 the forfeiture would constitute a prior restraint on the exercise of an affected party's rights
815 under the First Amendment to the Constitution of the United States or Utah Constitution,
816 Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's
817 rights under the First Amendment to the Constitution of the United States or Utah
818 Constitution, Article I, Section 15.

819 (3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502,
820 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1),
821 Subsection 76-5-102.1(2)(b), or Section 76-5-207, an agency may not seek forfeiture of the
822 motor vehicle, unless:

823 (a) the operator of the vehicle has previously been convicted of an offense committed
824 after May 12, 2009, that is:

825 (i) a felony driving under the influence violation under Section 41-6a-502 or
826 Subsection 76-5-102.1(2)(a);

827 (ii) a felony violation under Subsection 76-5-102.1(2)(b);

828 (iii) a violation under Section 76-5-207; or

829 (iv) operating a motor vehicle with any amount of a controlled substance in an
830 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
831 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g); or

832 (b) the operator of the vehicle was driving on a denied, suspended, revoked, or
833 disqualified license and:

834 (i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii)
835 was imposed because of a violation under:

836 (A) Section [41-6a-502](#);

837 (B) Section [41-6a-517](#);

838 (C) a local ordinance that complies with the requirements of Subsection [41-6a-510](#)(1);

839 (D) Section [41-6a-520.1](#);

840 (E) operating a motor vehicle with any amount of a controlled substance in an
841 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
842 Laws of Utah 2021, Chapter 236, Section 1, Subsection [58-37-8](#)(2)(g);

843 (F) Section [76-5-102.1](#);

844 (G) Section [76-5-207](#); or

845 (H) a criminal prohibition as a result of a plea bargain after having been originally
846 charged with violating one or more of the sections or ordinances described in Subsections
847 (3)(b)(i)(A) through (G); or

848 (ii) the denial, suspension, revocation, or disqualification described in Subsection
849 (3)(b)(i):

850 (A) is an extension imposed under Subsection [53-3-220](#)(2) of a denial, suspension,
851 revocation, or disqualification; and

852 (B) the original denial, suspension, revocation, or disqualification was imposed
853 because of a violation described in Subsection (3)(b)(i).

854 (4) If a peace officer seizes property incident to an arrest solely for possession of a
855 controlled substance under Subsection [58-37-8](#)(2)(a)(i) but not Subsection [~~[58-37-8](#)(2)(b)(i)~~]
856 [58-37-8](#)(2)(b)(iv)(E), an agency may not seek to forfeit the property that was seized in
857 accordance with the arrest.

858 (5) If a peace officer seizes an individual's firearm as the result of an offense under
859 Section [76-10-529](#), an agency may not seek to forfeit the individual's firearm if the individual
860 may lawfully possess the firearm.

861 Section 6. Section [77-20-102](#) is amended to read:

862 **77-20-102. Definitions.**

863 As used in this chapter:

864 (1) "Bail" means pretrial release.

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

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

867 (4) "Bail bond producer" means the same as that term is defined in Section

868 31A-35-102.

869 (5) "County jail official" means a county sheriff or the county sheriff's designee.

870 (6) "Exonerate" means to release and discharge a surety, or a surety's bail bond

871 producer, from liability for a bail bond.

872 (7) "Financial condition" means any monetary condition that is imposed to secure an

873 individual's pretrial release.

874 (8) "Forfeiture" means:

875 (a) to divest an individual or surety from a right to the repayment of monetary bail; or

876 (b) to enforce a pledge of assets or real or personal property from an individual or

877 surety used to secure an individual's pretrial release.

878 (9) "Magistrate" means the same as that term is defined in Section 77-1-3.

879 (10) (a) "Material change in circumstances" includes:

880 (i) an unreasonable delay in prosecution that is not attributable to the defendant;

881 (ii) a material change in the risk that an individual poses to a victim, a witness, or the
882 public if released due to the passage of time or any other relevant factor;

883 (iii) a material change in the conditions of release or the services that are reasonably
884 available to the defendant if released;

885 (iv) a willful or repeated failure by the defendant to appear at required court
886 appearances; or

887 (v) any other material change related to the defendant's risk of flight or danger to any
888 other individual or to the community if released.

889 (b) "Material change in circumstances" does not include any fact or consideration that
890 is known at the time that the pretrial status order is issued.

891 (11) "Monetary bail" means a financial condition.

892 (12) "Own recognizance" means the release of an individual without any condition of
893 release other than the individual's promise to:

894 (a) appear for all required court proceedings; and

895 (b) not commit any criminal offense.

896 (13) "Pretrial detention hearing" means a hearing described in Section [77-20-206](#).

897 (14) "Pretrial release" means the release of an individual from law enforcement custody

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

899 (15) "Pretrial risk assessment" means an objective, research-based, validated
900 assessment tool that measures an individual's risk of flight and risk of anticipated criminal
901 conduct while on pretrial release.

902 (16) "Pretrial services program" means a program that is established to:

903 (a) gather information on individuals booked into a jail facility;

904 (b) conduct pretrial risk assessments; and

905 (c) supervise individuals granted pretrial release.

906 (17) "Pretrial status order" means an order issued by a magistrate or judge that:

907 (a) releases the individual on the individual's own recognizance while the individual
908 awaits trial or other resolution of criminal charges;

909 (b) sets the terms and conditions of the individual's pretrial release while the individual
910 awaits trial or other resolution of criminal charges; or

911 (c) denies pretrial release and orders that the individual be detained while the
912 individual awaits trial or other resolution of criminal charges.

913 (18) "Principal" means the same as that term is defined in Section [31A-35-102](#).

914 (19) "Surety" means a surety insurer or a bail bond agency.

915 (20) "Surety insurer" means the same as that term is defined in Section [31A-35-102](#).

916 (21) "Temporary pretrial status order" means an order issued by a magistrate that:

917 (a) releases the individual on the individual's own recognizance until a pretrial status
918 order is issued;

919 (b) sets the terms and conditions of the individual's pretrial release until a pretrial status
920 order is issued; or

921 (c) denies pretrial release and orders that the individual be detained until a pretrial
922 status order is issued.

923 [~~(22) "Unsecured bond" means an individual's promise to pay a financial condition if~~
924 ~~the individual fails to appear for any required court appearance.~~]

925 Section 7. Section **77-20-204** is amended to read:

926 **77-20-204. County sheriff authority to release an individual from jail on**
927 **monetary bail.**

928 (1) As used in this section, "eligible felony offense" means a third degree felony
929 violation under:

- 930 (a) Section [23A-4-501](#) or [23A-4-502](#);
- 931 (b) Section [23A-5-311](#);
- 932 (c) Section [23A-5-313](#);
- 933 (d) Title 76, Chapter 6, Part 4, Theft;
- 934 (e) Title 76, Chapter 6, Part 5, Fraud;
- 935 (f) Title 76, Chapter 6, Part 6, Retail Theft;
- 936 (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;
- 937 (h) Title 76, Chapter 6, Part 8, Library Theft;
- 938 (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;
- 939 (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;
- 940 (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- 941 (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;
- 942 (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;
- 943 (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;
- 944 (o) Title 76, Chapter 6a, Pyramid Scheme Act;
- 945 (p) Title 76, Chapter 7, Offenses Against the Family;
- 946 (q) Title 76, Chapter 7a, Abortion Prohibition;
- 947 (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- 948 (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
- 949 (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 950 (u) Title 76, Chapter 9, Part 5, Libel; or
- 951 (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

952 (2) Except as provided in Subsection (7)(a), a county jail official may fix a financial
953 condition for an individual if:

- 954 (a) (i) the individual is ineligible to be released on the individual's own recognizance
955 under Section [77-20-203](#);

- 956 (ii) the individual is arrested for, or charged with:
- 957 (A) a misdemeanor offense under state law; or
- 958 (B) a violation of a city or county ordinance that is classified as a class B or C
- 959 misdemeanor offense;
- 960 (iii) the individual agrees in writing to appear for any future criminal proceedings
- 961 related to the arrest; and
- 962 (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
- 963 (b) (i) the individual is arrested for, or charged with, an eligible felony offense;
- 964 (ii) the individual is not on pretrial release for a separate criminal offense;
- 965 (iii) the individual is not on probation or parole;
- 966 (iv) the primary risk posed by the individual is the risk of failure to appear;
- 967 (v) the individual agrees in writing to appear for any future criminal proceedings
- 968 related to the arrest; and
- 969 (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- 970 (3) A county jail official may not fix a financial condition at a monetary amount that
- 971 exceeds:
- 972 (a) \$5,000 for an eligible felony offense;
- 973 (b) \$1,950 for a class A misdemeanor offense;
- 974 (c) \$680 for a class B misdemeanor offense;
- 975 (d) \$340 for a class C misdemeanor offense;
- 976 (e) \$150 for a violation of a city or county ordinance that is classified as a class B
- 977 misdemeanor; or
- 978 (f) \$80 for a violation of a city or county ordinance that is classified as a class C
- 979 misdemeanor.
- 980 (4) If an individual is arrested for more than one offense, and the county jail official
- 981 fixes a financial condition for release:
- 982 (a) the county jail official shall fix the financial condition at a single monetary amount;
- 983 and
- 984 (b) the single monetary amount may not exceed the monetary amount under Subsection
- 985 (3) for the highest level of offense for which the individual is arrested.
- 986 (5) Except as provided in Subsection (7)(b), an individual shall be released if the

987 individual posts a financial condition fixed by a county jail official in accordance with this
988 section.

989 (6) If a county jail official fixes a financial condition for an individual, law
990 enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah
991 Rules of Criminal Procedure after the county jail official fixes the financial condition.

992 (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah
993 Rules of Criminal Procedure:

994 (a) a county jail official may not fix or modify a financial condition for an individual;
995 and

996 (b) if a county jail official fixed a financial condition for the individual before the
997 magistrate's review, the individual may no longer be released on the financial condition.

998 (8) A jail facility may not release an individual subject to a 72-hour hold placed on the
999 individual by the Department of Corrections as described in Section [64-13-29](#).

1000 [~~(8)~~] (9) [~~Nothing in this section prohibits~~] This section does not prohibit a court and a
1001 county from entering into an agreement regarding release.

1002 Section 8. Section **77-20-205** is amended to read:

1003 **77-20-205. Pretrial release by a magistrate or judge.**

1004 (1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable
1005 cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure,
1006 the magistrate shall issue a temporary pretrial status order that:

1007 (i) releases the individual on the individual's own recognizance during the time the
1008 individual awaits trial or other resolution of criminal charges;

1009 (ii) designates a condition, or a combination of conditions, to be imposed upon the
1010 individual's release during the time the individual awaits trial or other resolution of criminal
1011 charges; or

1012 (iii) orders the individual be detained during the time the individual awaits trial or
1013 other resolution of criminal charges.

1014 (b) At the time that a magistrate issues a summons, the magistrate may issue a
1015 temporary pretrial status order that:

1016 (i) releases the individual on the individual's own recognizance during the time the
1017 individual awaits trial or other resolution of criminal charges; or

1018 (ii) designates a condition, or a combination of conditions, to be imposed upon the
1019 individual's release during the time the individual awaits trial or other resolution of criminal
1020 charges.

1021 (2) (a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a
1022 pretrial status order at an individual's first appearance before the court.

1023 (b) The magistrate or judge may delay the issuance of a pretrial status order at an
1024 individual's first appearance before the court:

1025 (i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for
1026 pretrial detention as described in Section [77-20-206](#);

1027 (ii) if a party requests a delay; or

1028 (iii) if there is good cause to delay the issuance.

1029 (c) If a magistrate or judge delays the issuance of a pretrial status order under
1030 Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until
1031 the issuance of a pretrial status order.

1032 (3) (a) When a magistrate or judge issues a pretrial status order, the pretrial status order
1033 shall:

1034 (i) release the individual on the individual's own recognizance during the time the
1035 individual awaits trial or other resolution of criminal charges;

1036 (ii) designate a condition, or a combination of conditions, to be imposed upon the
1037 individual's release during the time the individual awaits trial or other resolution of criminal
1038 charges; or

1039 (iii) order the individual to be detained during the time that individual awaits trial or
1040 other resolution of criminal charges.

1041 (b) In making a determination about pretrial release in a pretrial status order, the
1042 magistrate or judge may not give any deference to a magistrate's decision in a temporary
1043 pretrial status order.

1044 (4) In making a determination about pretrial release, a magistrate or judge shall
1045 impose:

1046 (a) only conditions of release that are reasonably available [~~and necessary to reasonably~~
1047 ~~ensure~~]; and

1048 (b) conditions of release that ensure:

- 1049 [~~(a)~~] (i) the individual's appearance in court when required;
- 1050 [~~(b)~~] (ii) the safety of any witnesses or victims of the offense allegedly committed by
- 1051 the individual;
- 1052 [~~(c)~~] (iii) the safety and welfare of the public; and
- 1053 [~~(d)~~] (iv) that the individual will not obstruct, or attempt to obstruct, the criminal
- 1054 justice process.
- 1055 (5) Except as provided in Subsection (6), a magistrate or judge may impose a
- 1056 condition, or combination of conditions, for pretrial release that requires an individual to:
- 1057 (a) not commit a federal, state, or local offense during the period of pretrial release;
- 1058 (b) avoid contact with a victim of the alleged offense;
- 1059 (c) avoid contact with a witness who:
- 1060 (i) may testify concerning the alleged offense; and
- 1061 (ii) is named in the pretrial status order;
- 1062 (d) not consume alcohol or any narcotic drug or other controlled substance unless
- 1063 prescribed by a licensed medical practitioner;
- 1064 (e) submit to drug or alcohol testing;
- 1065 (f) complete a substance abuse evaluation and comply with any recommended
- 1066 treatment or release program;
- 1067 (g) submit to electronic monitoring or location device tracking;
- 1068 (h) participate in inpatient or outpatient medical, behavioral, psychological, or
- 1069 psychiatric treatment;
- 1070 (i) maintain employment or actively seek employment if unemployed;
- 1071 (j) maintain or commence an education program;
- 1072 (k) comply with limitations on where the individual is allowed to be located or the
- 1073 times that the individual shall be, or may not be, at a specified location;
- 1074 (l) comply with specified restrictions on personal associations, place of residence, or
- 1075 travel;
- 1076 (m) report to a law enforcement agency, pretrial services program, or other designated
- 1077 agency at a specified frequency or on specified dates;
- 1078 (n) comply with a specified curfew;
- 1079 (o) forfeit or refrain from possession of a firearm or other dangerous weapon;

1080 (p) if the individual is charged with an offense against a child, limit or prohibit access
1081 to any location or occupation where children are located, including any residence where
1082 children are on the premises, activities where children are involved, locations where children
1083 congregate, or where a reasonable person would know that children congregate;

1084 (q) comply with requirements for house arrest;

1085 (r) return to custody for a specified period of time following release for employment,
1086 schooling, or other limited purposes;

1087 (s) remain in custody of one or more designated individuals who agree to:

1088 (i) supervise and report on the behavior and activities of the individual; and

1089 (ii) encourage compliance with all court orders and attendance at all required court
1090 proceedings;

1091 (t) comply with a financial condition; or

1092 (u) comply with any other condition that is reasonably available and necessary to
1093 ensure compliance with Subsection (4).

1094 (6) (a) If a county or municipality has established a pretrial services program, the
1095 magistrate or judge shall consider the services that the county or municipality has identified as
1096 available in determining what conditions of release to impose.

1097 (b) The magistrate or judge may not order conditions of release that would require the
1098 county or municipality to provide services that are not currently available from the county or
1099 municipality.

1100 (c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions
1101 of release not identified by the county or municipality so long as the condition does not require
1102 assistance or resources from the county or municipality.

1103 (7) (a) If the magistrate or judge determines that a financial condition[~~other than an~~
1104 ~~unsecured bond,~~] is necessary to impose as a condition of release, the magistrate or judge shall
1105 consider the individual's ability to pay when determining the amount of the financial condition.

1106 (b) If the magistrate or judge determines that a financial condition is necessary to
1107 impose as a condition of release, and a county jail official fixed a financial condition for the
1108 individual under Section 77-20-204, the magistrate or judge may not give any deference to:

1109 (i) the county jail official's action to fix a financial condition; or

1110 (ii) the amount of the financial condition that the individual was required to pay for

1111 pretrial release.

1112 (c) If a magistrate or judge orders a financial condition as a condition of release, the
1113 judge or magistrate shall set the financial condition at a single amount per case.

1114 (8) In making a determination about pretrial release, the magistrate or judge may:

1115 (a) rely upon information contained in:

1116 (i) the indictment or information;

1117 (ii) any sworn or probable cause statement or other information provided by law
1118 enforcement;

1119 (iii) a pretrial risk assessment;

1120 (iv) an affidavit of indigency described in Section [78B-22-201.5](#);

1121 (v) witness statements or testimony;

1122 (vi) the results of a lethality assessment completed in accordance with Section
1123 [77-36-2.1](#); or

1124 (vii) any other reliable record or source, including proffered evidence; and

1125 (b) consider:

1126 (i) the nature and circumstances of the offense, or offenses, that the individual was
1127 arrested for, or charged with, including:

1128 (A) whether the offense is a violent offense; and

1129 (B) the vulnerability of a witness or alleged victim;

1130 (ii) the nature and circumstances of the individual, including the individual's:

1131 (A) character;

1132 (B) physical and mental health;

1133 (C) family and community ties;

1134 (D) employment status or history;

1135 (E) financial resources;

1136 (F) past criminal conduct;

1137 (G) history of drug or alcohol abuse; and

1138 (H) history of timely appearances at required court proceedings;

1139 (iii) the potential danger to another individual, or individuals, posed by the release of
1140 the individual;

1141 (iv) whether the individual was on probation, parole, or release pending an upcoming

1142 court proceeding at the time the individual allegedly committed the offense or offenses;

1143 (v) the availability of:

1144 (A) other individuals who agree to assist the individual in attending court when
1145 required; or

1146 (B) supervision of the individual in the individual's community;

1147 (vi) the eligibility and willingness of the individual to participate in various treatment
1148 programs, including drug treatment; or

1149 (vii) other evidence relevant to the individual's likelihood of fleeing or violating the
1150 law if released.

1151 (9) The magistrate or judge may not base a determination about pretrial release solely
1152 on the seriousness or type of offense that the individual is arrested for or charged with, unless
1153 the individual is arrested for or charged with a [~~capital felony~~] violent felony as defined in
1154 Section 76-3-203.5.

1155 (10) An individual arrested for violation of a jail release agreement, or a jail release
1156 court order, issued in accordance with Section 78B-7-802:

1157 (a) may not be released before the individual's first appearance before a magistrate or
1158 judge; and

1159 (b) may be denied pretrial release by the magistrate or judge.

1160 Section 9. Section 77-20-210 is enacted to read:

1161 **77-20-210. Violation of pretrial release order -- 24-hour hold for violation.**

1162 (1) As used in this section, "pretrial release order" means a pretrial status order or a
1163 temporary pretrial status order.

1164 (2) (a) An individual commits a violation of a pretrial release order if the individual:

1165 (i) is released by a magistrate or judge upon the issuance of a pretrial release order that
1166 imposes a condition, or a combination of conditions, for the individual's pretrial release; and

1167 (ii) the individual knowingly or intentionally violates a condition in the pretrial release
1168 order.

1169 (b) A violation of Subsection (2)(a) is a class C misdemeanor.

1170 (3) (a) If a county sheriff determines that there is probable cause to believe that an
1171 individual has committed a violation of a pretrial release order as described in Subsection (2),
1172 the county sheriff may take custody of, and detain, the individual for a maximum of 24 hours

1173 without obtaining a warrant issued by a court.

1174 (b) If the county sheriff detains an individual under Subsection (3)(a), the county
1175 sheriff shall ensure that the court is notified.

1176 (4) A written order from the county sheriff is sufficient authorization for a peace
1177 officer to detain an individual if the county sheriff has determined that there is probable cause
1178 to believe that the individual has committed a violation of a pretrial release order.

1179 (5) If an individual commits a violation of a pretrial release order outside of the
1180 jurisdiction of the county sheriff supervising the individual on pretrial release, the arresting law
1181 enforcement agency is not required to hold or transport the individual to the county sheriff.

1182 (6) This section does not prohibit a county sheriff or jail facility from holding an
1183 individual in accordance with this chapter for a new criminal offense.

1184 Section 10. Section **77-20-402** is amended to read:

1185 **77-20-402. Payment of monetary bail to court -- Specific payment methods --**
1186 **Refund of monetary bail.**

1187 (1) Subject to Subsection (2), a defendant may choose to post the amount of monetary
1188 bail imposed by a judge or magistrate by any of the following methods:

1189 (a) in cash;

1190 (b) by a bail bond with a surety; or

1191 [~~(c) by an unsecured bond, at the discretion of the judge or magistrate; or]~~

1192 [~~(d)~~] (c) by credit or debit card, at the discretion of the judge or magistrate.

1193 (2) A judge or magistrate may limit a defendant to a specific method of posting
1194 monetary bail described in Subsection (1):

1195 (a) if, after charges are filed, the defendant fails to appear in the case on a bail bond
1196 and the case involves a violent offense;

1197 (b) in order to allow the defendant to voluntarily remit the fine in accordance with
1198 Section **77-7-21** and the offense with which the defendant is charged is listed in the shared
1199 master offense table as one for which an appearance is not mandatory;

1200 (c) if the defendant has failed to respond to a citation or summons and the offense with
1201 which the defendant is charged is listed in the shared master offense table as one for which an
1202 appearance is not mandatory;

1203 (d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts

1204 receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to
1205 the amount owed; or

1206 (e) if a court has entered a judgment of bail bond forfeiture under Section 77-20-505 in
1207 any case involving the defendant.

1208 (3) Monetary bail may not be accepted without receiving in writing at the time the bail
1209 is posted the current mailing address, telephone number, and email address of the surety.

1210 (4) Monetary bail posted by debit or credit card, less the fee charged by the financial
1211 institution, shall be tendered to the courts.

1212 (5) (a) Monetary bail refunded by the court may be refunded by credit to the debit or
1213 credit card or in cash.

1214 (b) The amount refunded shall be the full amount received by the court under
1215 Subsection (4), which may be less than the full amount of the monetary bail set by the judge or
1216 magistrate.

1217 (c) Before refunding monetary bail that is posted by the defendant in cash, by credit
1218 card, or by debit card, the court may apply the amount posted toward a criminal accounts
1219 receivable, as defined in Section 77-32b-102, that is owed by the defendant in the priority set
1220 forth in Section 77-38b-304.

1221 Section 11. Section 77-40a-101 is amended to read:

1222 **77-40a-101. Definitions.**

1223 As used in this chapter:

1224 (1) "Agency" means a state, county, or local government entity that generates or
1225 maintains records relating to an investigation, arrest, detention, or conviction for an offense for
1226 which expungement may be ordered.

1227 (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public
1228 Safety established in Section 53-10-201.

1229 (3) "Certificate of eligibility" means a document issued by the bureau stating that the
1230 criminal record and all records of arrest, investigation, and detention associated with a case that
1231 is the subject of a petition for expungement is eligible for expungement.

1232 (4) (a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a
1233 case:

1234 (i) where each conviction within the case is:

- 1235 (A) a misdemeanor conviction for possession of a controlled substance in violation of
1236 Subsection 58-37-8(2)(a)(i);
- 1237 (B) a class B or class C misdemeanor conviction; or
1238 (C) an infraction conviction;
- 1239 (ii) that involves an individual:
- 1240 (A) whose total number of convictions in Utah state courts, not including infractions,
1241 traffic offenses, or minor regulatory offenses, does not exceed the limits described in
1242 Subsections 77-40a-303(4) and (5) without taking into consideration the exception in
1243 Subsection 77-40a-303(7); and
- 1244 (B) against whom no criminal proceedings are pending in the state; and
1245 (iii) for which the following time periods have elapsed from the day on which the case
1246 is adjudicated:
- 1247 (A) at least five years for a class C misdemeanor or an infraction;
1248 (B) at least six years for a class B misdemeanor; and
1249 (C) at least seven years for a class A conviction for possession of a controlled
1250 substance in violation of Subsection 58-37-8(2)(a)(i).
- 1251 (b) "Clean slate eligible case" includes a case:
- 1252 (i) that is dismissed as a result of a successful completion of a plea in abeyance
1253 agreement governed by Subsection 77-2a-3(2)(b) if:
- 1254 (A) except as provided in Subsection (4)(c), each charge within the case is a
1255 misdemeanor for possession of a controlled substance in violation of Subsection
1256 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;
- 1257 (B) the individual involved meets the requirements of Subsection (4)(a)(ii); and
1258 (C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed
1259 from the day on which the case is dismissed; or
- 1260 (ii) where charges are dismissed without prejudice if each conviction, or charge that
1261 was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or
1262 (b)(i).
- 1263 (c) "Clean slate eligible case" does not include a case:
- 1264 (i) where the individual is found not guilty by reason of insanity;
1265 (ii) where the case establishes a criminal accounts receivable, as defined in Section

1266 77-32b-102, that:

1267 (A) has been entered as a civil accounts receivable or a civil judgment of restitution, as
1268 those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt
1269 Collection under Section 77-18-114; or

1270 (B) has not been satisfied according to court records; or

1271 (iii) that resulted in one or more pleas held in abeyance or convictions for the following
1272 offenses:

1273 (A) any of the offenses listed in Subsection 77-40a-303(2)(a);

1274 (B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against
1275 the Individual;

1276 (C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

1277 (D) sexual battery in violation of Section 76-9-702.1;

1278 (E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

1279 (F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence
1280 and Reckless Driving;

1281 (G) damage to or interruption of a communication device in violation of Section
1282 76-6-108;

1283 (H) a domestic violence offense as defined in Section 77-36-1; or

1284 (I) any other offense classified in the Utah Code as a felony or a class A misdemeanor
1285 other than a class A misdemeanor conviction for possession of a controlled substance in
1286 violation of Subsection 58-37-8(2)(a)(i).

1287 (5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty
1288 after trial, a plea of guilty, or a plea of nolo contendere.

1289 (6) "Criminal protective order" means the same as that term is defined in Section
1290 78B-7-102.

1291 (7) "Criminal stalking injunction" means the same as that term is defined in Section
1292 78B-7-102.

1293 (8) "Department" means the Department of Public Safety established in Section
1294 53-1-103.

1295 (9) "Drug possession offense" means an offense under:

1296 (a) Subsection 58-37-8(2), except for:

1297 (i) any offense under Subsection [~~58-37-8(2)(b)(i)~~ 58-37-8(2)(b)(iv)(E), possession of
1298 100 pounds or more of marijuana;

1299 (ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional
1300 facility; or

1301 (iii) driving with a controlled substance illegally in the person's body and negligently
1302 causing serious bodily injury or death of another, as codified before May 4, 2022,
1303 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

1304 (b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

1305 (c) Section 58-37b-6, possession or use of an imitation controlled substance; or

1306 (d) any local ordinance which is substantially similar to any of the offenses described
1307 in this Subsection (9).

1308 (10) "Expunge" means to seal or otherwise restrict access to the individual's record
1309 held by an agency when the record includes a criminal investigation, detention, arrest, or
1310 conviction.

1311 (11) "Jurisdiction" means a state, district, province, political subdivision, territory, or
1312 possession of the United States or any foreign country.

1313 (12) (a) "Minor regulatory offense" means, except as provided in Subsection (12)(c), a
1314 class B or C misdemeanor offense or a local ordinance.

1315 (b) "Minor regulatory offense" includes an offense under Section 76-9-701 or
1316 76-10-105.

1317 (c) "Minor regulatory offense" does not include:

1318 (i) any drug possession offense;

1319 (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
1320 Reckless Driving;

1321 (iii) an offense under Sections 73-18-13 through 73-18-13.6;

1322 (iv) except as provided in Subsection (12)(b), an offense under Title 76, Utah Criminal
1323 Code; or

1324 (v) any local ordinance that is substantially similar to an offense listed in Subsections
1325 (12)(c)(i) through (iv).

1326 (13) "Petitioner" means an individual applying for expungement under this chapter.

1327 (14) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

1328 (15) (a) "Traffic offense" means, except as provided in Subsection (15)(b):
1329 (i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
1330 under Title 41, Chapter 6a, Traffic Code;
1331 (ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
1332 under Title 53, Chapter 3, Part 2, Driver Licensing Act;
1333 (iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense
1334 under Title 73, Chapter 18, State Boating Act; and
1335 (iv) all local ordinances that are substantially similar to an offense listed in Subsections
1336 (15)(a)(i) through (iii).
1337 (b) "Traffic offense" does not mean:
1338 (i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and
1339 Reckless Driving;
1340 (ii) an offense under Sections 73-18-13 through 73-18-13.6; or
1341 (iii) any local ordinance that is substantially similar to an offense listed in Subsection
1342 (15)(b)(i) or (ii).
1343 (16) "Traffic offense case" means that each offense in the case is a traffic offense.
1344 Section 12. **Effective date.**
1345 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.
1346 (2) The actions affecting Section 58-37-8 (Effective 07/01/24) take effect on July 1,
1347 2024.